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Key Facts

CBP Issues Modification of Ruling Allowing Residual Chemicals to be entered as Empty Containers

Recently, U.S. Customs and Border Protection (CBP) issued a notice in the Customs Bulletin which modifies a ruling letter published in August 2008 that had previously allowed containers containing residual chemicals to be entered as “empty” containers. Effective August 16, 2009, CBP will require all containers (and portable tanks) with chemicals including empty containers to be manifested and entered in compliance with all Customs laws. *See* 43 Cus. Bull. & Dec. No. 28, at 138 (July 17, 2009). CBP states that it has issued this ruling in order to be consistent with its treatment of similar commodities, such as petroleum slops, and to ensure the safety and security of the transportation of such containers as well as the CBP officers who examine them. The only exception to this ruling is brand-new containers which have never transported cargo.

We are bringing this recent development to your attention in the event your company imports reusable containers and/or instruments of international traffic (IITs) which are not completely empty upon entry. For several years, these containers have been exempt from the normal entry procedures as instruments of international traffic. CBP, however, is

reversing this policy and states in the notice that “[e]mpty means an empty container. There is no de minimis allowance.” Thus, any residue left in containers imported into the United States (regardless of how minimal a percentage of the original exported quantity) must be classified, entered and manifested.

This modification could have various negative impacts on importers, especially those in the chemical and pharmaceutical industries. For example, importers of containers with residual chemicals will now be required to: declare an estimated volume and value for the residue, provide advance notice to CBP of entry and present TSCA certifications for movements where they may not have been required in the past. At a minimum, this modification is likely to increase the cost of exporting U.S. chemicals due to the added administrative burden of returning the empty containers and reporting the residue within to CBP upon entry.

For your reference, a copy of the notice is available [here](#). Please do not hesitate to contact us should you have any questions or require further clarification concerning this new requirement.

This publication is for informational purposes only and is not intended as basis for decisions in specific situations. Any specific questions regarding this information should be directed to Barnes Richardson & Colburn at any of our offices. www.barnesrichardson.com