

New Tariff Refund System – Key Updates and What Comes Next

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German American Chamber of Commerce
of the Midwest, Inc. - GACC Midwest

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What Happened at the Supreme Court

- U.S. Supreme Court struck down IEEPA tariffs as unlawful
- President issued proclamation imposing new global 10% tariff
- President then said tariff to be increased to 15%
- CBP confirmed tariff rate is 10% (so far)
- Administration initiated new Section 301 investigations

What Did SCOTUS Decide?

- Supreme Court ruled IEEPA does not authorize president to levy tariffs
 - Invalidated 'fentanyl tariffs' and 'reciprocal tariffs'
- Decision based on two concurring opinions
 - IEEPA authority to 'regulate' imports does not include power to impose tariffs
 - Relied on 'major questions' doctrine: Congress must clearly delegate authority on matters of significance (taxation - congressional power)



What About Refunds?

- Supreme Court did not address
- President indicated resolution could take years
- Only importers of record currently entitled to file refund claims
- Businesses should coordinate promptly with importers of record



Current Legal & Operational Status (IEEPA)

CIT backdrop / CAPE Created

- **March–April 2026 – Court of International Trade (CIT)**

In *Atmus Filtration* and related cases, the CIT ordered CBP to:

- Liquidate unliquidated entries without IEEPA duties
- Reliquidate liquidated-but-not-final entries without IEEPA duties
- Stay immediate compliance while CBP built an automated refund system

- **CBP created CAPE (Consolidated Administration and Processing of Entries) in ACE.**

- Phase 1 goes live April 20, 2026.
- CAPE is now the primary CBP pathway for IEEPA duty refunds.

How CBP Is Sequencing Remedies Right Now

CBP's operational posture is effectively:

1. CAPE first (mass processing, low discretion)
2. Liquidation / reliquidation handled by system
3. Protests remain a statutory backstop
4. Judicial escalation (CIT) only if administrative paths fail

CAPE – IEEPA Refund Procedure (Primary Path)

Who May File

- Importer of Record, or
- The broker that filed the entry (no third parties)

So

- Update Importer Record Info - Form 5106
- Create an ACE Portal Account
- Enroll in ACH Refund

CAPE – IEEPA Refund Procedure (Primary Path)

Filing mechanics

1. Log into ACE Secure Data Portal
2. Open the CAPE tab
3. Upload a CSV CAPE Declaration
 - Entry numbers only
 - Up to 9,999 entries per submission
4. No narrative or legal argument required

CBP then:

- Strips Chapter 99 IEEPA lines
- Recalculates duties
- Liquidates or reliquidates
- Pays refund + statutory interest via ACH

CAPE – IEEPA Refund Procedure (Primary Path)

Phase 1 – Eligible entries

CAPE Phase 1 accepts:

- Unliquidated entries
- Entries liquidated within the 80-day CAPE review period (i.e., the CBP reliquidation period)
- Entries with liquidation status:
 - Suspended
 - Extended
 - Under review
 - Warehouse / warehouse withdrawal

CAPE – IEEPA Refund Procedure (Primary Path)

Phase 1 – Excluded (for later phases)

CAPE Phase 1 excludes:

- X Entries with an open protest
- X Reconciliation entries (Type 09)
- X Drawback entries
- X AD/CVD entries pending Department of Commerce liquidation
- X Entries already finally liquidated

PORTA / ACE Protest – When It Still Matters

Why protests still matter (even with CAPE)

- CBP and the CIT have not definitively resolved treatment of finally liquidated entries outside CAPE Phase 1.
- Multiple CIT orders explicitly warn importers to remain aware of §1514 protest rights.
- **So next up, Porta!**

What “PORTA” Means in This Context

In CBP usage, PORTA refers to the ACE Protest Module (sometimes informally called the Protest/PORTA system).

Key point: **PORTA ≠ CAPE**

Expected mid to late 2026

CAPE and PORTA serve different legal purposes:

Tool	Function
CAPE	Court-authorized mass refund mechanism for IEEPA duties
PORTA (ACE Protest Module)	Statutory protest mechanism under 19 U.S.C. § 1514

PORTA / ACE Protest – When It Still Matters

When to file a protest

You should seriously consider PORTA if:

- The entry liquidated and
 - You are within 180 days of liquidation, and
 - The entry is not yet CAPE-eligible, or
- You want to preserve rights while CAPE phases evolve

Current Legal & Operational Status (IEEPA)

CBP's Updates: CAPE system

International Emergency Economic Powers Act (IEEPA) Duty Refunds
| U.S. Customs and Border Protection

<https://www.cbp.gov/trade/programs-administration/trade-remedies/ieepa-duty-refunds>

Practical Takeaways

- CAPE is now the default refund mechanism for IEEPA duties.
- Refunds are not automatic — importer action is required.
- PORTA protests remain legally significant, especially for entries nearing finality.
- Filing a protest can preserve claims even if CAPE later expands.
- Expect additional CAPE phases in mid–late 2026 to address reconciliation, drawback, and finally liquidated entries.

Thank You!

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