

## CBP Policy Change Makes Extensions for Prior Disclosures More Difficult, Lawyer Says

FORT LAUDERDALE -- A recent update to internal CBP [guidance](#) on prior disclosures significantly shortens the time frame importers and brokers have to gather information on potential violations by making it more difficult to request extensions for more time to perfect the disclosure, customs lawyer Jennifer Diaz of Diaz Trade Law said during a recent panel discussion.

Updated in November, CBP Directive No. 5350-02A on processing prior disclosure submissions now only allows for a 30-day extension after the written disclosure is initially filed, followed by a single 60-day extension, before the filer must go all the way up to CBP's assistant director of field operations-trade for any further extensions. Previously, CBP's Office of Fines, Penalties and Forfeitures could and would grant 60-day extensions "as needed, as desired, whatever your justification was," routinely up to 180 days, said Diaz, speaking at the American Association of Exporters and Importers annual conference on June 15.

Diaz, who obtained the directive by Freedom of Information Act request, said the change is a "big, big, big, big, big deal to all of us in the industry." Previously, filers of prior disclosures had plenty of time to delve deeply into five years of ACE data, finding any mistakes they made and providing CBP with a comprehensive disclosure of any potential violations.

The change could have a "chilling effect" on prior disclosures, because importers and brokers may be faced with the choice of submitting a weak disclosure or no disclosure at all, Diaz said. "It takes you time to put all of your data together, and it's going to take you more than these 90 days," she said. "You've got to get your act together prior to disclosing, and imagine if you don't have the time to get your act together prior. You have two choices. You either don't disclose," or the disclosure "doesn't really have all the juice that it really should have within it," Diaz said. "It's not really protecting you or your interest."

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“You really have to have these discussions with counsel prior to disclosing because you definitely have a limitation of the time period,” Diaz said. “Otherwise, you’re going to have to make a really juicy case” for an extension to the assistant director of field operations, she said.

In another change, prior disclosures will be initially reviewed by the Centers of Excellence and Expertise, Diaz said. Only after that initial review will the prior disclosures be sent to FP&F. The 10-day deadline for filers to submit a written prior disclosure after verbally disclosing to CBP is unchanged, she said. CBP didn’t comment.

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