§ 10.868 Effect of noncompliance; failure to provide documentation regarding transshipment.

(a) General. If the importer fails to comply with any requirement under this subpart, including submission of a complete declaration under §10.864 of this subpart, when requested, the port director may deny preferential tariff treatment to the imported good.

(b) Failure to provide documentation regarding transshipment. Where the requirements for preferential tariff treatment set forth elsewhere in this subpart are met, the port director nevertheless may deny preferential treatment to a good if the good is shipped through or transshipped in the territory of a country other than a Party, and the importer of the good does not provide, at the request of the port director, evidence demonstrating to the satisfaction of the port director that the good was imported directly from the territory of a Party into the territory of the other Party (see §10.880 of this subpart).

§ 10.870 Filing procedures.

(a) Place of filing. A post-importation claim for a refund under §10.869 of this subpart must be filed with the director of the port at which the entry covering the good was filed.

(b) Contents of claim. A post-importation claim for a refund must be filed by presentation of the following:

1. A written declaration stating that the good qualified as an originating good at the time of importation and setting forth the number and date of the entry or entries covering the good;
2. A written statement indicating whether or not the importer of the good provided a copy of the entry summary or equivalent documentation to any other person. If such documentation was provided, the statement must identify each recipient by name, CBP identification number and address and must specify the date on which the documentation was provided; and
3. A written statement indicating whether or not any person has filed a protest relating to the good under any provision of law; and if any such protest has been filed, the statement must identify the protest by number and date.

§ 10.871 CBP processing procedures.

(a) Status determination. After receipt of a post-importation claim under §10.870 of this subpart, the port director will determine whether the entry covering the good has been liquidated and, if liquidation has taken place, whether the liquidation has become final.

(b) Pending protest or judicial review. If the port director determines that any protest relating to the good has not been finally decided, the port director will suspend action on the claim for refund filed under this subpart until the decision on the protest becomes final. If a summons involving the tariff classification or dutiability of the good is filed in the Court of International Trade, the port director will suspend action on the claim for refund filed under this subpart until judicial review has been completed.

(c) Allowance of claim. (1) Unliquidated entry. If the port director determines that a claim for a refund filed under this subpart should be allowed and the entry covering the good has not been liquidated, the port director will take into account the claim for a refund under this subpart in connection with the liquidation of the entry.

2. Liquidated entry. If the port director determines that a claim for a refund filed under this subpart should be allowed and the entry covering the good has been liquidated, the port director will determine whether the entry covering the good has been finally decided and, if liquidation has taken place, whether the liquidation has become final. If a summons involving the tariff classification or dutiability of the good is filed in the Court of International Trade, the port director will suspend action on the claim for refund filed under this subpart until judicial review has been completed.