

## **Challenges to Industry Readiness for PGA Participation in ACE**

### **ADDITIONAL COSTS FOR COLLECTING DATA:**

#### **Regulatory Authority VS. Need for the Data:**

While there is a common understanding that each of the PGAs have demonstrated regulatory authority to collect the data they have requested, has there been an effort to examine if there is a need for the data at time of entry/release of the merchandise? A recent example is one PGA that went from a small message set (generally 3-6 data elements) that is now replaced by the transmission of up to 24 data elements.

#### **Financial Cost and Time Impact to the Entire Supply Chain:**

We believe that data requirements should be limited to those needed to determine admissibility into the United States. If agencies conclude that there is a need for data at the time of entry/release, do each of the PGA's understand, or have they completed a financial cost and time impact study to understand the full implications to the supply chain of additional data required at time of entry/release? The Single Window is no longer seen by the trade as being driven by efficiency, but one that is adding significant time and cost in all parts of the transaction from the sourcing supplier base, to the foreign exporter, to the transportation entity, to the importer, and to the broker *for each data element that is added by every PGA in the process*. Has a cost-benefit analysis been completed to determine if the additional burden placed on all parts of the supply chain are benefiting the PGAs through such concrete results as increased public safety and security? A mere transfer of efficiency from all of business in the supply chain community to the agencies themselves seems like a very unworthy benefit at this point for anyone.

#### **How will the PGA Adjudicate a Targeting Finding at Time of Entry/Release:**

What steps will each PGA take, either itself or through CBP, when a finding occurs? What provisions have been made for after-hours actions on the land borders and 24-hour port operations? Will these goods be denied entry or be allowed to traverse the U.S., with a conditional release? Or, is this a data collection that can occur at a later date, in a different format, that will not inhibit the flow of goods at the border points?

### **STABLE AND FINAL SPECIFICATIONS:**

#### **Final Documentation:**

It was the trade community's understanding that the PGA Implementation Guides and the software requirements were to be finalized in May 2015. The date then slipped to June 2015 and we continue to see updates to the implementation guides published on CBP.gov (*See attached document*). Individual PGA requirements continue to be adjusted based on lessons learned in the pilots, requiring everyone to go back and reprogram. It is imperative that the PGA message sets be refined, locked down and finalized.

### **Additional Costs For Programming and Re-Programming That Are Not Recoverable in Business**

When a PGA makes adjustments to their requirements, it takes an inordinate amount of time and money for the trade community to go back and re-program with each change. One developer estimated that it costs three times more to go back and correct code than it does to write the code to a defined, set standard. These are considered to be the costs of doing business and are not recoverable to the trade community at any level. This places an undue burden on the broker specifically as the main transmitter of the information to CBP and the PGA. If the software developer passes their costs onto the broker, and the broker passes those costs onto their importer customers, the costs will eventually be borne by the U.S. consumer.

### **Additional Changes Create Uncertainty in the Supply Chain:**

Each change requires that the trade community evaluate the changes in not just programming, but possible changes to data needs and collection in each step of the process. This creates a very chaotic environment for a structured process of data flow. An effective deadline -- we propose November 1, 2015 -- needs to be established that CBP not accommodate any further adjustments to individual PGA requirements, other than to apply necessary emergency fixes to address defective code. Some order must be forced into this process, so that software developers can complete the programming, and the trade community at all steps in the supply chain can implement these programs and begin to put the necessary changes in place. Re-training of individuals and updating of materials to reflect continuous changes are yet more steps that must be taken. All in all, the trade requires a minimum of sixty days first in a stable cert environment and then in a stable operating environment.

### **An indicator of problems**

The trade community requires a stable operating environment. A litmus test of instability could be the number and percentage of cancelled files, instances where brokers have exhausted their efforts to file successfully on the first occasion and choose to re-file. NCBFAA requests these figures weekly from CBP so that brokers can evaluate the stability of the system. Instability, on the other hand, creates reluctance to adopt ACE processing due, to a substantial degree to the confusion created.

CBP issued an ACE PGA Rollout Schedule on July 28, 2015 stating that 14 PGAs would participate in controlled, technical tests starting August 19 and expanding the tests to new ports of entry through September 23<sup>rd</sup>.

As of 10/8/15, CBP's website indicates that 3 PGAs will have mandatory ACE filings effective February 28, 2016. It is noteworthy that these are the 3 PGAs that currently receive data in ACS, and that require more data elements in ACE than in ACS:

- US FDA
- NHTSA
- APHIS for Lacey Act.

A final rule (estimated publication date at the end of July 2016) will implement 13 PGA's data for:

AMS	ATF	APHIS (non Lacey)	CDC	DCMA
DDTC	DEA	E & C	EPA	FWS
FSIS	NMFS	TTB		

Individual PGA's are updating and posting their guidelines on CBP's website. These are constantly being updated and amended. We understand that some of the amendments are adjustments required or learnings from the PGA pilots underway.

Agency	File	Version	Posting Date
Agricultural Marketing Service (AMS)	<a href="#">AMS CATAIR Guidelines</a>	1.2	September 22, 2015
Animal and Plant Health Inspection Service (APHIS)	<a href="#">ACE PGA Message Set Adapted Data Element Record Layout (CORE)</a>	4.6	August 28, 2015
	<a href="#">Lacey Act Declaration ACE Guidance</a>	2.9.3	October 6, 2015
	<a href="#">Lacey Act Declaration ACE Samples</a>	2.9.3	October 6, 2015
ATF	<a href="#">Supplemental Guidance for ACE</a>	1.8	September 16, 2015
DDTC	<a href="#">Implementation Guide</a>	1.5	May 5, 2015
Environmental Protection Agency (EPA)	<a href="#">Supplemental CATAIR Guidelines</a>	6.2	May 15, 2015
	<a href="#">PGA Message Set Samples</a>	6.0	May 13, 2015
Fish and Wildlife Service (FWS)	<a href="#">Implementation Guide and Reference Tables</a>	--	August 17, 2015
Food and Drug Administration	<a href="#">Supplemental Guide</a>	2.3	August 18, 2015
National Highway Safety	<a href="#">PGA Message Set Manual</a>	-	July 23, 2015

Agency	File	Version	Posting Date
Administration (NHTSA)			
National marine Fisheries Service (NMFS)	<a href="#">PGA Message Set Guidelines</a>	-	June 15, 2015
Alcohol and Tobacco Tax and Trade Bureau (TTB)	<a href="#">Filing Instructions</a>	7.1	September 21, 2015
Food Safety Inspection Service (FSIS)	<a href="#">PGA Message Set</a>	2.0	March 9, 2015