International Trade Today's
ACE Weekly News Brief

Miscellaneous CBP Releases (October 7, 2016)

CBP issued the following releases on commercial trade and related matters:

- FDA’s ACE Interface, PNSI and ITACS will be down intermittently for maintenance, Oct. 8 (here)
- HTS Testing in ACE Certification (here)
- ICE-CBP Joint Message Regarding Hurricane Matthew (here).

New Data Capabilities in ACE Among Major Benefits to CBP

With the major components of ACE nearing completion, the next focus at CBP will be on how best to use its new data tools included in the system, said Deborah Augustin, executive director of CBP’s ACE...
Business Office, while speaking at the U.S. Air Cargo Industry Affairs Summit Oct. 4. CBP will seek to figure out how “to better leverage the data and information that we're using and that we're gaining from the system to facilitate our processes, promote more effective risk management, and keep moving towards the original goal and intent of the single window initiative,” she said. The previous reliance on paper made it difficult for CBP to create a “baseline” for “time to release,” but ACE will allow the agency to measure that data and figure out where future process improvements may be needed, Augustin said.

Despite the recent delay to the effective date for post-release functions in ACE to early 2017, CBP considers itself to have met the mandates included in a 2014 Executive Order that called for completion of the International Trade Data System by the end of 2016, she said. “From a Single Window implementation perspective, the development of the capabilities is complete,” Augustin said. “We feel that we have fulfilled the intent of the single window. We have interfaces with our Partner Government Agencies. We have electronic alternatives to the Partner Government Agency forms, and so from that perspective the formal implementation is for all intents and purposes complete. This is really an adjustment of the deployment date to account for where things stand in terms of readiness.”

New efficiencies are a necessity for agencies such as the Food and Drug Administration, which is seeing imports of goods it regulates increasing by about 10 percent per year, said Douglas Stearn, director of the FDA’s Office of Enforcement and Import Operations. There are already some recent improvements, such as the doubling of “may proceeds” and a decrease of document requests, he said. Entry processing is also down by about 18 percent, he said. Stearn also briefly mentioned an FDA proposal for new ACE requirements. While unable to discuss the final rule in detail, “I think you’ll find that we were considerate” of the comments filed, he said. The FDA is looking at other improvements too, such as an update to its product code builder, he said. The FDA’s Import Trade Auxiliary Communication System (ITACS) pilot that allows for email notices from the agency is also expected to go to “full availability” this year, Stearn said.

The FDA, like other agencies, is often caught in the middle of industry complaints that it is doing too much import sampling and political complaints that it isn’t doing enough sampling. For example, John Van Wallaghen, vice president Customs and Trade Compliance, UPS Supply Chain Solutions, noted that more than 99 percent of the goods inspected by some agencies are eventually let through, indicating there’s room to improve targeting. At the same time, others complain that only 1% of FDA-regulated goods were sampled for non-compliance, Stearn said. The low percentage of inspections continues to be a major sticking point for the consideration of the Trans-Pacific Partnership, particularly among the seafood industry, he said.

While the ACE deployment continues to be an impressive feat, whether ACE represents a true success remains to be seen, said Michael Ford, chief compliance officer at BDP International. Still unclear is if ACE will “lead” the world as a model for electronic customs processing, he said. “Is it the standard that we want and is it the standard that is going to deliver the promise?” Ford said. Companies hope to only need to develop one system that can be used internationally for customs, rather than several, he said.

Stability must be a focus in the near future, said Van Wallaghen of UPS. “It’s been a little bit of a roller coaster” with some “downtime in very critical moments,” he said. “We got to get back to where we were with [the Automated Commercial System] at the very least and stabilize the system. I know it keeps getting better but we have still had issues there.” The other agencies should also be careful not to reverse efficiency gains created in ACE by adding data elements that can be tough to acquire, he said. Still, UPS is already seeing a number of ACE-related benefits, such as the use of ACE Reports to check shipments of goods subject to antidumping or countervailing duty orders, he said. — Tim Warren
DHS Deputy Secretary Mayorkas Stepping Down

Department of Homeland Security Deputy Secretary Alejandro Mayorkas will leave DHS to join WilmerHale, the law firm said in an Oct. 5 news release (here). Mayorkas has been involved in various efforts at CBP, including the transition to ACE, said a fact sheet on his accomplishments while at DHS (here). Under Secretary for Management Russ Deyo will serve as Acting Deputy Secretary of Homeland Security beginning Oct. 29, said DHS (here).

CBP L.A. Posts Guidance on ACE Entries for Cargo Carried by Passengers

CBP Los Angeles released updated guidance on filing formal entries for cargo carried by passengers by hand in light of new ACE cargo release processes. Filers are “strongly urged” to fill out a “Passenger Hand-Carry Release for ACE Entry” sheet with information on the passenger, customs broker, flight and merchandise, pre-file it in ACE via the Document Image System along with a copy of the passenger’s passport and any pertinent entry documents, CBP L.A. said. After reviewing the entry in ACE cargo release, the CBP officer will sign and stamp the sheet and fax it to the terminal, with a “Public Note” transmitted via ACE to the filer serving as a release message. “If the passenger arrives and an entry cannot be located, the officer at the terminal will contact CBP Cargo Operations to inquire about the formal entry prior to post-entering the shipment,” CBP L.A. said. On Saturdays, Sundays and after hours on Monday through Friday, filers will be required to contact the Cargo Counter or Manifest Desk to notify CBP about the hand-carried entry, it said.

Email ITTNews@warren-news.com for a copy of the bulletin.

Miscellaneous CBP Releases (October 5, 2016)

CBP issued the following releases on commercial trade and related matters:

- Remote Location Filing and FTZ Weekly Entries—Update (here)
- September 2016 ACE Monthly Trade Update (here)
- ACE Portal Account Password Activation and Reset Capability Reminder (here)
- ACE PRODUCTION deployment, Oct. 4, impact ACE Cargo Release and ACE Entry Summary processing (here).

Kerlikowske Says ACAS Proposal Won’t Surprise Industry; Timeline Still Unclear

Coming proposed regulations for the Air Cargo Advance Screening (ACAS) program won’t differ significantly from the ongoing ACAS pilot, CBP Commissioner Gil Kerlikowske said while speaking at the U.S. Air Cargo Industry Affairs Summit on Oct. 4. While there’s been progress in finalizing the regulations, Kerlikowske declined to give a time frame for when the rules might be released. ACAS continues to operate as a pilot program as a result of several extensions.
While the Transportation Security Administration signed off on the proposal already, CBP has been slower, Kerlikowske said. There’s been a more immediate focus recently within CBP on issuing regulations related to the new customs reauthorization law and ACE, but CBP Deputy Commissioner Kevin McAleenan is renewing focus on putting out an ACAS proposal, he said. “Expect the final outcome to look very much like the work that’s going on in the pilot,” Kerlikowske said.

**APHIS Lists Workarounds for FTZ Lacey Act Submissions; NAFTZ Seeks Similar Approach on TSCA**

The Animal and Plant Health Inspection Service will allow for several “interim” measures for filing electronic Lacey Act information in ACE for goods leaving Foreign Trade Zones, the agency said in a letter to the National Association of Foreign-Trade Zones. The interim measures are necessary because the electronic CBP Form 214 (e214) system, used to provide data for Partner Government Agencies on goods admitted into an FTZ, won’t be “fully integrated for PGA data until 2017,” APHIS Administrator Kevin Shea said in a Sept. 7 letter to the NAFTZ. Entry/entry summaries for entry type 06 were required to be filed in ACE as of May 28, but the requirement won’t be enforced until after Nov. 28.

The NAFTZ filed the letter from APHIS as part of its comments (here) to CBP on a proposal to change regulations for imports subject to the Toxic Substances Control Act. “Recognizing that CBP’s e214 system will not be fully functional until 2017, FTZ filers will have one of several interim options to submit Lacey Act declaration data on or after November 28,” APHIS said to the NAFTZ. Among those options are submission through the type 06 entry in ACE or to select various disclaimers within ACE, APHIS said. Filers can select disclaimer option “C” to indicate the Lacey Act data was sent through the APHIS system, called the Lacey Act Web Governance System (LAWGS), it said. “In this scenario, Lacey Act program officials will generate/assign an 8-digit, unique identification number preceded by LAC (i.e., LACxxxxxxx) to allow users to complete the 11-digit ‘entry number’ field in LAWGS. Filers should submit Lacey Act data through LAWGS when the corresponding e214 is filed and reference the 17-digit e214 number.”

Another option is to use the disclaimer option “D” to show that Lacey Act data was sent on a paper form. Filers should only submit a hardcopy version as a “last resort, when the corresponding e214 is filed,” APHIS said. Disclaim option “B” is another option, but only if the shipment is admitted in the FTZ before Nov. 28 and will be leaving the FTZ and enter U.S. commerce on or after that date, APHIS said. “Regardless of the declaration requirement option chosen, importers must ensure that plant and plant products are in compliance with all other provisions of the Lacey Act as amended in 2008,” Shea said.

Within the NAFTZ’s comments filing, the trade group asked CBP and the Environmental Protection Agency to use an approach similar to that of APHIS in the TSCA filing regulations. “EPA should work with
CBP to attach the [Notice of Arrival] approval at the time of the e214 admission (instead of the Type 06 entry) when the e214 system is deployed in ACE in 2017,” the NAFTZ said. “This modification could be accomplished by a message set that references a NOA approval number or by upload of the approved NOA in [Document Image System] DIS. Until such time that the e214 system is available in ACE with the NOA approval attached, the NAFTZ and its members respectfully request that CBP-EPA adopt similar ‘interim’ measures as outlined by APHIS in a recent letter to the NAFTZ,” it said. “Such interim measures would offer a number of options to those FTZ users importing products subject to Negative TSCA certification until such time as the e214 development is completed, without disruption to their current zone operations.” — Tim Warren

Miscellaneous CBP Releases (October 3, 2016)

CBP issued the following releases on commercial trade and related matters:

- Clarification of 2 ACE Entry Summary items deployed 9/27/2016 (here)
- ACE Statements and Reconciliation Information Notices (here)
- Deactivation of 25 CBP Chicago Port Codes for Cargo (here)
- Publication of a Federal Register Notice Concerning the Delay for Drawback and Duty Deferral Filing in ACE (here)
- Publication of an Interim Final Rule Notice Announcing Interim Regulations for imports subject to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (here)
- ACE PRODUCTION OUTAGE, Saturday, Oct. 1 (here)
- ADDENDUM: ACE PRODUCTION OUTAGE, Saturday, Oct. 1 (here).

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