



MAY 28 ACE DEADLINE

- Mandatory use of the Automated Commercial Environment (ACE) is [required](#) by May 28, 2016 for Customs entry types 01 (formal consumption), 03 (AD/CVD), 11 (informal), 23, 51, and 52 that do not include PGA data.
- Mandatory ACE use is also required for Type 06 FTZ entries and entry summaries without PGA data.

NEW MTB PROCESS

The House and Senate have passed a bill reforming the Miscellaneous Tariff Bill (MTB) ([S. 998](#)) process that is now on the President's desk for signature. The new MTB process will permit the public to submit proposals directly to the U.S. International Trade Commission (ITC). An MTB cannot exceed \$500,000 in U.S. revenue loss per year, must be available to any importer, and must not be subject to objections by a domestic producer. Contact Brian Murphy with questions about preparing proposals under the new process.

ACE EXPORT TIPS

In a May 3 Broadcast Email, Census [offered](#) several tips regarding the ACE, including:

- The term "exporter" applies to all ACE Exporter Accounts, and any Employer Identification Numbers (EINs) of subsidiaries or other related parties that are associated with those accounts;
- Freight Forwarders should not add exporter EINs to their accounts for filing on behalf of clients;
- Freight Forwarders who add client EINs to their account will create issues for their clients;
- Report authorizations are needed to file in AESDirect in ACE;
- Those with ACE Importer accounts require no further vetting for ACE export report authorization.
- Contact Chuck Ballard with questions.

MANDATORY FDA FILING IN ACE

- The Food and Drug Administration (FDA) has announced a mandatory filing deadline of June 15 for almost all entry types (including Type 01 and 06 (FTZ) entries). This is a tight transition deadline that could be a challenge for industry and FDA. Clients should be transitioning to FDA filing in ACE as soon as possible and not waiting for the deadline. 81 Fed. Reg. [30320](#) (May 16, 2016).
- Customs has [released](#) an updated FDA guide for ACE filing, dated March 31, 2016.

HTSUS UPDATE

Customs has made hundreds of updates to the Automated Broker Interface (ABI) and Harmonized Tariff Schedule of the U.S. (HTSUS) to make changes pursuant to ACE and the Trade Facilitation and Trade Enforcement Act of 2015, including:

- Many numbers now have new PGA flags. Clients should review HTS numbers for compliance.
- Broadening HTSUS subheading 9801.00.10 to include non-U.S. origin articles "returned within 3 years after having been exported."
- Adding HTSUS subheading 9801.00.11 to cover certain returned U.S. government property.
- Expanding the notes to HTSUS 9802.00.40 and 9802.0050 to permit fungible goods to be commingled and allow declarations based on inventory management methods. CSMS [#16-000332](#) (April 25, 2016).

FTZ SECURITY STANDARDS

On April 15, 2016 Customs Headquarters issued a new [memorandum](#) for all Customs bonded facilities with an entirely new broadened approach to [security](#). While it does not mandate fencing height, there are many totally new subjects that will impact FTZs and other bonded facilities. Contact Marshall Miller with questions.

ACE PGA SUMMER OF LOVE

Nineteen (19) Partner Government Agencies (PGAs) are [scheduled](#) to join APHIS Lacey and NHTSA in mandatory Automated Commercial Environment (ACE) filing this summer. The FDA has announced June 15 as its deadline. On June 15, FDA, NHTSA, and APHIS Lacey Act declarations have to be filed in ACE for all entry types except quota. Quota entries and Type 06 with quota entries will be required in ACE as of July 23. Any entries filed in ACS will be rejected. Clients should already be gathering new required data elements for all PGAs, filing test entries, and transitioning to ACE as soon as possible. The firm has been very engaged with multiple agencies, including Customs, FDA, FWS, EPA, and NHTSA on ACE issues. Please contact Marshall Miller, Sean Murray, and Linda King with questions.

DIS ACE CARGO RELEASE

The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Drug Enforcement Administration (DEA), Environmental Protection Agency (EPA), Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) have agreed to allow their forms to be submitted by ACE Cargo Release filers via the Document Image System (DIS) until the mandatory ACE transition. CSMS [#16-000321](#) (April 22, 2016).

DIS REJECTIONS

Customs has released clarification on how Document Imaging System (DIS) rejections, should be handled for ACE Cargo Release and Entry Summaries. The filer will receive a message in the same manner as the document was originally submitted (EDI or email) containing the reject notice and reason for rejection. CSMS [#16-000364](#) (May 4, 2016).

BROKER FRAUD

The U.S. government has sued a former Chicago-based customs broker for \$400,000 in underpaid duties and \$3.2 million in 19 U.S.C. § 1592 penalties for filing fraudulent Customs entries. The broker falsified invoices, values, and tariff classifications on entries, but billed importers for the correct amounts, keeping the difference. Importers remain liable for broker non-payments. Duty payments may be made directly to Customs by the Automated Clearing House (ACH) or by providing the broker with a payment addressed to Customs. *U.S. v. Chew*, CIT Case No. [16-00081](#) (May 9, 2016).

ENERGY EFFICIENT

The Department of Energy has reopened the comment period for its Proposed Rule that would require the filing of "certifications of admissibility" on energy efficient products prior to importation. Comments are due June 15. 81 Fed. Reg. [30217](#) (May 16, 2016).

CRUDE OIL CHANGES

The Export Administration Regulations (EAR) were updated on May 12 to remove most export controls on crude oil. Export Control Classification Number (ECCN) 1C981 was deleted from the Commerce Control List (CCL). 81 Fed. Reg. [29483](#) (May 12, 2016).

ACE & FWS

Customs has announced a test concerning the electronic transmission through ACE of import data and documents for commodities regulated by FWS. Comments may be submitted at any time during the test. 81 Fed. Reg. [27149](#) (May 5, 2016).

ACE FILING EXERCISES

Customs is [offering](#) one-day filing exercises on May 19 and 23 to support trade filers with limited experience filing ACE transactions.

CUBAN IMPORTS

The Department of State announced on April 22 that it has [added](#) coffee and textiles to the list of items that may be imported from Cuban entrepreneurs. Any import from Cuba is still subject to the very high "Column 2" duty rate.

AGOA FINAL RULE

Customs has adopted, without changes, a Final Rule allowing stakeholders to file petitions asking the agency to decide whether certain nations should remain eligible for preferential tariff treatment under the African Growth and Opportunity Act. 81 Fed. Reg. [25604](#) (April 29, 2016).

ACE IN-TRANSIT MANIFEST

Beginning May 27, Customs will conduct a test on truck shipments of commercial goods that transit from Canada through the U.S. to a point of destination in Canada. Customs will use a new filing code to identify shipments as part of the In-Transit Manifest Pilot Program in ACE. 81 Fed. Reg. [24837](#) (April 27, 2016).

DoD MINIMUM IMPORT LIMIT

The U.S. Department of Defense (DoD) has increased the minimum duty-free limit for requesting duty-free entry on goods procured outside of the U.S. on DoD contracts. The new duty limit is \$300, up from \$200. 81 Fed. Reg. [28732](#) (May 10, 2016).

DOJ GUIDANCE ON EXPORTS

The U.S. Department of Justice (DOJ) has provided [guidance](#) on the difficult balance between discrimination and compliance with the deemed export provisions in the EAR and the International Traffic in Arms Regulations (ITAR). Contact Sean Murray with questions.

ANTIQUES

On May 9, President Obama signed a law to prevent illegal looting and trafficking of archaeological or ethnological materials from Syria. H.R. [1493](#) (May 9, 2016).

FY 2015 IPR SEIZURES

Customs and U.S. Immigration and Customs Enforcement (ICE) recently issued fiscal year (FY) 2015 intellectual property rights (IPR) seizures [statistics](#). During the year 538 arrests were made, which resulted in 339 indictments and 357 prosecutions. The number of seizures increased nearly 25%, while the retail price of the seized goods increased to \$1.35 billion, representing an average seizure value of nearly \$46,860. The top IPR seizures were watches, handbags, wallets, wearing apparel and accessories, consumer electronics, pharmaceuticals, personal care, jewelry, and footwear.

NEW EU CUSTOMS CODE

On May 1, 2016, the Union Customs Code (UCC) started going into [effect](#) in the European Union (EU). It will be phased in until 2020. The UCC represents a major overhaul of existing EU customs legislation and includes removal of "first sale" customs valuation and some other significant process changes.

CUSTOMS VALUE

Customs Headquarters has ruled that there was no *bona fide* sale between a Canadian apparel company and its U.S. wholly-owned subsidiary importer even though the Canadian company charged the U.S. entity a 25-40% mark-up based on its purchase prices from unrelated suppliers. Instead, Customs valued the merchandise based on the price paid by the ultimate U.S. customers to the Canadian company. HQ [H266618](#) (Jan. 6, 2016).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 5/15/16		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	291	273
SUBZONES	748	594
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PENDING		
ZONES	3	
SUBZONES	18	
MISCELLANEOUS	46	

The material contained herein is not to be construed as legal advice or opinion. More information may be obtained by contacting any attorney within the firm.

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