



FDA & ACE

Effective June 15, 2016, the Automated Commercial Environment (ACE) became the sole authorized Customs electronic filing system for merchandise subject to Food and Drug Administration (FDA) import requirements. We are hearing of various importer difficulties:

- FDA inquiries suggest some pre-ACE submissions were receiving manual FDA releases, but are now triggering detentions.
- The FDA is inquiring about FDA disclaims being filed by importers for FDA-flagged tariff classifications.
- The FDA is questioning companies with healthcare names ("Medical," "Pharmaceuticals") that are not submitting FDA import data.
- The National Association of Foreign-Trade Zones (NAFTZ) is still waiting on an FDA reply to its May 16 request for clarification of FTZ reporting requirements for Type 06 entries. Please contact Sean Murray with questions.

MTB

On May 20, President Obama signed the Miscellaneous Tariff Reform Bill ([H.R. 4923](#)) into law. The U.S. International Trade Commission (ITC) has issued a notice that it [plans](#) to create two new forms for duty suspension requests. It requests comments by August 16, 2016. 81 Fed. Reg. [39065](#) (June 15, 2016).

LACEY ACT & FTZs

The Animal and Plant Health Inspection Service (APHIS) has published a notice clarifying its position that a Plant and Plant Product Declaration is required for formal consumption entries of plants and plant products from FTZs and bonded warehouses, but not for FTZ or bonded warehouse admissions. Contact Marshall Miller with questions. 81 Fed. Reg. [39247](#) (June 16, 2016).

NEW 2016 SEMINAR DATES

The FTZ 101 & 201 seminars have been rescheduled to December.

- November 1 & 2 - Import/Export 101 & 201
- December 6 & 7 - FTZ 101 & 201
- Seminars are offered to Miller & Company clients only. For more details contact [Penny Freeman](#).

ACE TRANSITION

Effective June 15, 2016, all electronic Type 01, 03, 06, 11, 23, 51, and 52 entries and entry summaries must be filed in ACE. The Partner Government Agency (PGA) Message Set must be used for APHIS Lacey Act, FDA, and NHTSA data. For all other PGAs, the [interim guidance](#) should be followed. CSMS [#16-000477](#) (June 10, 2016).

ACS JULY 23 END DATE

The Automated Commercial System (ACS) will no longer be available for entry and entry summary filings, even in cases of ACE outages, as of July 23, 2016. Customs says deadlines for the eight entry types remaining for deployment in ACE, will be set in an upcoming Federal Register notice. 81 Fed. Reg. [32339](#) (May 23, 2016).

FWS ACE

The Fish and Wildlife Service (FWS) has confirmed to the NAFTZ that:

- It will require eDecs filings for admissions into FTZs and eDecs confirmation numbers on entries out of FTZs.
- Once CBP has transitioned the e214 into ACE, FWS will consider reporting only at the time of FTZ admission.
- FWS recognizes that expired CITES certificates may be related to FTZ entries.
- Its pilot should begin in July. Contact Linda King or Sean Murray with questions.

DE MINIMIS ENTRIES

The recent change to [increase](#) the threshold for de minimis imports from \$200 up to \$800 has created new challenges because de minimis imports must be cleared by paper, which can take 24-48 hours at the ports. We generally recommend that clients not use the Section 321/de minimis process because no records exist, and it raises PGA compliance concerns.

ACE PGA PILOTS

The [ACE pilot](#) for the Food Safety and Inspection Service (FSIS) is expected to end in June, presumably opening up FSIS for full ACE filing, followed by the end of ACE pilots in July for APHIS "Core" (i.e., non-Lacey Act) and National Marine Fisheries Service (NMFS). ACE pilots are ongoing with the Directorate of Defense Trade Controls (DDTC), Agricultural Marketing Service (AMS), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Environmental Protection Agency (EPA) and Alcohol and Tobacco Tax and Trade Bureau (TTB). ATF, EPA, NMFS, the Drug Enforcement Administration (DEA), and Fish and Wildlife Service (FWS) have allowed non-pilot participants to submit forms through the Document Imaging System (DIS) alongside ACE Cargo Release submissions until ACE becomes mandatory for those agencies.

ACE FTZ AD/CVD

A bug in ACE is causing AD/CVD information to not be written to ACS, resulting in statements not processing correctly for Type 06 FTZ entries. Customs has asked filers to file Type 06 FTZ entries with AD/CVD in ACS until further notice. A CSMS message will be provided when the bug is fixed and ACE filing is available for Type 06 entries with AD/CVD. CSMS [#16-000419](#) (May 24, 2016).

FOOD PRIOR NOTICE

The FDA has issued a revised, third edition of industry guidance on its Prior Notice requirement for imported food. 81 Fed. Reg. [39183](#) (June 16, 2016).

AES LICENSE CODE C32

Census is [eliminating](#) license code C32, which is currently used in the Automated Export System (AES) when the Export Control Classification Number (ECCN) is controlled for a reason other than Anti-Terrorism (AT), but no license is required (NLR). Effective October 1, code C33 will be used for all ECCNs when NLR is applicable.

MOBILE PUMPER HTSUS

Customs has reclassified a mobile pumper used to pump chemical mixtures into an oil or gas well as a reciprocating positive displacement pump under HTSUS 8413.50.0090 (duty-free) rather than as a special purpose motor vehicle under HTSUS 8705.90.00 (duty-free). HQ [H155596](#) (March 3, 2016).

LACEY ACT INVESTIGATION

Department of Homeland Security agents recently [searched](#) the offices of a California-based wood importer as part of an increased government crackdown on imports of illegally harvested timber. No charges have been brought against the company, which is being investigated for violating U.S. and Peruvian law.

BIKE ORIGIN

Customs is proposing to revoke [NY N269994](#) and rule that imported bicycle frames are not substantially transformed into new and different articles of U.S. origin when assembled in the U.S. with other bicycle components to make a complete and finished bicycle. Therefore, the bicycle must be marked to indicate the country of origin of the frame. 50 Cust. B. & Dec. [69](#) (May 18, 2016).

DDTC PENALTIES INCREASE

Effective August 1, Directorate of Defense Trade Controls (DDTC) penalties will be significantly increased. 81 Fed. Reg. [36791](#) (June 8, 2016).

NHTSA ERRORS IN ACE

The National Highway Traffic Safety Administration (NHTSA) has requested that Customs begin sending rejects on entries missing the required HS-7 declarations. This change was deployed in the ACE testing environment on June 13 and will be deployed in the production environment on June 25. CSMS [#16-000453](#) (June 2, 2016).

ACE NAFTA DUTY DEFERRAL

The draft ACE ABI CATAIR chapter has been issued for NAFTA Duty Deferral. CSMS [#16-000417](#) (May 24, 2016).

RECYCLED MATERIAL

Customs has ruled that the customs value of imported recycled/reclaimed material is the fee paid to the U.S. processor. HQ [H262963](#) (March 3, 2016).

EAR AND ITAR UPDATES

The Bureau of Industry and Security (BIS) and the Directorate of Defense Trade Controls (DDTC) have released Final Rules effective September 1, 2016, that harmonized a number of definitions in the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR). The update also clarifies controls on information exported electronically and stored in the "cloud." Contact Chuck Ballard with questions. 81 Fed. Reg. [35586](#) and [35611](#) (June 3, 2016).

AUSTRALIA GROUP UPDATE

The Bureau of Industry and Security has released a Final Rule that revised the Export Control Classification Numbers (ECCNs) of a number of toxins and chemicals. 81 Fed. Reg. [36458](#) (June 7, 2016).

MADE IN USA

The Federal Trade Commission (FTC) has issued a [closing letter](#) to a mop manufacturer whose marketing materials made unqualified "Made in USA" claims even though some of its mop heads contain imported fibers. The company agreed to remedial actions including updated marketing materials and marking such mops with "Made in USA with US and Foreign Materials."

HTS UPDATE

Customs has announced a Harmonized System Update with adjustments to the PGA indicators and editorial corrections for the 2016 HTS. CSMS [#16-000465](#) (June 7, 2016).

BROKER EXAM

Customs has announced October 5 for the next customs broker exam. 81 Fed. Reg. [39277](#) (June 16, 2016).

WRISTWATCH ORIGINS

Customs has revoked [HQ 562543](#) on the origin of dual function analog and digital wristwatches, determining that the watches should be marked with both Japan and China as the countries of origin because the quartz analog movements are made in Japan and the digital movements are made in China. HQ [H243796](#) (Dec. 8, 2015).

EXPORT PENALTY

[Wenxia Man](#) of San Diego was convicted on June 9 of conspiring to export jet engines and an unmanned aerial vehicle (UAV) to China without a license. Mr. Man faces up to 20 years in prison. Sentencing is scheduled for August 19.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 6/15/16		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	291	273
SUBZONES	750	596
PENDING		
ZONES		4
SUBZONES		19
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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