

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

#### Automated Commercial Environment (ACE): Announcement of a National Customs Automation Program Test of Periodic Monthly Payment Statement Process and Establishment of Broker Accounts in the ACE Secure Data Portal

**AGENCY:** Customs and Border Protection, DHS.

**ACTION:** General notice.

**SUMMARY:** This document announces the Bureau of Customs and Border Protection's (CBP) plan to conduct a National Customs Automation Program test concerning periodic monthly deposit of estimated duties and fees. This notice provides a description of the test process, outlines the development and evaluation methodology to be used, sets forth eligibility requirements for participation, invites public comment on any aspect of the planned test, and opens the application period for participation.

This notice invites participation of the initial forty-one ACE Importer Accounts, and establishes a process by which their designated brokers can participate in filing entries and making payments related to the Periodic Monthly Statement.

**DATES:** The test will commence no earlier than April 14, 2004. Comments concerning this notice and all aspects of the announced test may be submitted at any time during the test period. CBP must receive all statements affirming intent to participate from the initial forty-one ACE Importer Accounts, the list of designated brokers, and the designated broker applications, as set forth in this notice, by April 5, 2004, unless under exceptional circumstances, and with CBP approval, an extension is granted. CBP will process additional Importer Account applications as CBP expands the universe of participation for this test.

Expansion of this test to allow future applicants to participate may be delayed due to funding and technological constraints. Future phases of ACE may also be tested; however, the eligibility criteria may differ from the criteria listed in this notice. Acceptance into this test does not guarantee eligibility for, or acceptance into, future technical tests.

**ADDRESSES:** Comments concerning program and policy issues should be submitted to Mr. Robert B. Hamilton,

Office of Finance, via e-mail at [Robert.b.hamilton@dhs.gov](mailto:Robert.b.hamilton@dhs.gov). All statements affirming intent to participate in the test by the initial forty-one Importer Accounts, and new applications to establish ACE Importer and Broker Accounts should be submitted to Mr. Michael Maricich via email at [Michael.maricich@dhs.gov](mailto:Michael.maricich@dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** For questions regarding these Importer or Broker Accounts: Mr. Michael Maricich via email at [Michael.maricich@dhs.gov](mailto:Michael.maricich@dhs.gov), or by telephone at (703) 668-2406;

For questions regarding Periodic Monthly Statement payments: Mr. Robert Hamilton via email at [Robert.b.hamilton@dhs.gov](mailto:Robert.b.hamilton@dhs.gov), or by telephone at (317) 298-1107.

#### SUPPLEMENTARY INFORMATION:

##### Background

This document announces the Bureau of Customs and Border Protection's (CBP) plan to conduct a National Customs Automation Program (NCAP) test, under which test participants will be allowed to deposit estimated duties and fees on a monthly basis, based on a Periodic Monthly Statement issued by CBP. Participating importers and their designated brokers will be allowed to deposit estimated duties and fees no later than the 15th calendar day of the month following the month in which the goods are either entered or released, whichever comes first. (See section 383 of the Trade Act of 2002, Pub. L. 107-210, dated August 6, 2002, which amends section 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505(a)).

The authority for testing NCAP programs is set forth in 19 CFR 101.9(b), which enables the Commissioner of CBP to conduct limited test programs or procedures designed to evaluate planned components of the NCAP.

##### Development of ACE

The initial phase of the Customs and Border Protection Modernization Program (see North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2170 (December 8, 1993)) focuses on Trade Compliance and the development of ACE through NCAP. The purposes of ACE, successor to the Automated Commercial System (ACS), are to streamline business processes, to facilitate growth in trade, and to foster participation in global commerce, while ensuring compliance with U.S. laws and regulations. Development of ACE will consist of many releases. Each release, while individually achieving critical business needs, also will set forth the foundation for the subsequent releases.

The previous release of ACE involved testing the ability of importers and authorized parties to access their CBP data via the ACE Secured Data Portal (hereinafter, "ACE Portal"), with a focus on defining and establishing the Importer Account structure. (See, **Federal Register** notice published May 1, 2002 (67 FR 21800)). This test is the next step toward the full electronic processing of commercial importations in ACE, with a focus on identifying authorized importers and brokers to participate in the Periodic Monthly Statement process.

The benefits to participants in this test include having access to operational data through the ACE Portal, the capability of being able to interact electronically with CBP, and the capability of making payments of duties and fees on a periodic monthly basis.

##### Eligibility Criteria

The eligibility criteria for importer participation in the previous release of ACE, as set forth in the May 1, 2002, **Federal Register** notice (67 FR 21800), included the first two provisions listed below. For this test, importers and their designated brokers must satisfy two additional requirements. To be eligible for participation in this test, importers and their designated brokers must:

1. *Participate in the Customs Trade Partnership Against Terrorism (C-TPAT) program;* C-TPAT is a joint government-business initiative to build cooperative relationships that strengthen overall supply chain and border security. For further information, please refer to the CBP Web site at <http://www.cbp.gov>.
2. *Have the ability to connect to the Internet;*
3. *Have the ability to make periodic payment via ACH Credit or ACH Debit;* and
4. *Have the ability to file entry/entry summary via ABI (Automated Broker Interface).*

##### Description of the Test

Participants in the Periodic Monthly Statement test are required to schedule entries for monthly payment. A Periodic Monthly Statement will list Periodic Daily Statements that have been designated for monthly payment. The Periodic Monthly Statement can be created on a port basis by the importer or broker, as is the case with existing daily statements in ACS. The Periodic Monthly Statement can be created on a national basis by an ABI filer. If an importer chooses to file the Periodic Monthly Statement on a national basis, it must use its filer code and schedule and pay the monthly statements. The Periodic Monthly Statement will be

routed under existing CBP procedures. Brokers will only view / receive information that they have filed on an importer's behalf. ACE will not route a Periodic Monthly Statement to a broker through ABI that lists information filed by another broker.

CBP will allow all entries currently eligible for placement on a daily statement to be placed on a Periodic Daily Statement, with the exception of reconciliation entries, NAFTA duty deferral entries, entries requiring the payment of excise taxes, and entries containing Census errors.

Entries for monthly payment will be processed as follows:

- a. As entries are filed with CBP, the importer or its designated broker schedules them for monthly payment;
- b. Those entries scheduled for monthly payment appear on the Preliminary Periodic Daily Statement;
- c. The importer or its designated broker processes entry summary presentation transactions for Periodic Daily Statements within 10 working-days of the date of entry;
- d. After summary information has been filed, the scheduled entries appear on the Final Periodic Daily Statement;
- e. Entries appearing on the Final Periodic Daily Statements and scheduled for monthly payment appear on the Preliminary Periodic Monthly Statement. CBP will generate the Preliminary Periodic Monthly Statement on the 11th calendar day of the month following the month in which the merchandise is either entered or released, whichever comes first, unless the importer or designated broker selects an earlier date;
- f. On the 15th of that month, for ACH Debit participants, CBP transmits the debit authorizations compiled in the Preliminary Periodic Monthly Statement from the Final Periodic Daily Statements to the financial institution, and the Preliminary Periodic Monthly Statement is marked as paid. The Final Periodic Monthly Statement indicating receipt of payment is generated by CBP, and is transmitted to the importer or its designated broker. ACH Debit participants must ensure that the money amount identified on the Preliminary Monthly Statement is, in fact, available in their bank account by the 15th of the month following the month in which the merchandise is either entered or released, whichever comes first.
- g. ACH Credit participants must ensure that CBP receives payment no later than the 15th of that month. CBP must receive the settlement for the credit, and then the Preliminary Periodic Monthly Statement is marked as paid. The Final Periodic Monthly

Statement indicating receipt of payment is generated by CBP, and is transmitted to the importer or its designated broker. For ACH Credit participants, if the 15th falls on a weekend or holiday, CBP must receive the settlement for the credit by the business day directly preceding such weekend or holiday.

h. For both ACH Credit and ACH Debit participants, CBP will generate the Final Periodic Monthly Statement on the night that payment is processed.

Participants should note that if they voluntarily remove an entry from a Periodic Daily Statement before expiration of the 10-working-day period after release, that entry may be placed on another Periodic Daily Statement falling within the same 10-working-day period. If, however, participants remove an entry from a Periodic Daily Statement or a Preliminary Monthly Statement after expiration of the 10-working-day period after release, then that entry must be paid individually, and the entry will automatically be the subject of a claim for liquidated damages for late payment of estimated duties.

#### Initial ACE Importer Accounts

This test will be conducted in a phased approach, with primary deployment scheduled for no earlier than April 14, 2004. The initial release of the Web-based account revenue functionality will involve the forty-one initial ACE Importer Accounts and their designated brokers. The forty-one initial ACE Importer Accounts were created based on applications submitted in response to the **Federal Register** notices of May 1, 2002 (67 FR 21800) and/or June 18, 2002 (67 FR 41572). Any of those initial applicants interested in participating in this test must submit, via email, a statement affirming their "intent to participate" and a list of any designated brokers who will be authorized to act on their behalf, no later than 60 days from date of publication of this notice in the **Federal Register**, unless under exceptional circumstances, and with CBP approval, an extension is granted.

#### ACE Broker Account Application Process

The term "application", as used throughout this notice, is defined as a statement of intent to participate in the Periodic Monthly Statement process. Designated brokers wishing to participate in this test and make Periodic Monthly Statement payment on behalf of participating importers must first establish an individual ACE Broker Account. Designated brokers must submit an application to establish an

ACE Broker Account, via email, by no later than 60 days from date of publication of this notice in the **Federal Register**, unless under exceptional circumstances, and with CBP approval, an extension is granted. Each broker application for participation in this test must include the following information:

1. Broker Name;
2. Names of the initial forty-one importers participating in the test by whom they have been or will be designated as the authorized broker;
3. Unique Identification Number (EIN, SSN);
4. Filer Code;
5. Statement certifying participation in C-TPAT;
6. Statement certifying capability of connecting to the Internet;
7. Statement certifying capability of making periodic payment via ACH Credit or ACH Debit; and
8. Statement certifying capability of filing entry/entry summary via ABI.

#### Expansion of Participation

Participation in the periodic monthly payment process will be expanded in the future as funding allows. CBP will accept, hold, or reject additional Importer Account and Broker Account applications throughout the duration of the test. CBP will provide notice of expansion to the applicants as appropriate. New applicants interested in participating in this test must submit an application, per the **Federal Register** notice of May 1, 2002 (67 FR 21800), Application Process section, to CBP, and will be notified of the status of their application (*i.e.*, whether CBP has accepted their application for participation upon an initial expansion, or, is holding their application pending a further expansion of the test). CBP will notify any applicant not meeting the eligibility criteria or providing an incomplete application, and allow such applicant an opportunity to resubmit its application.

#### Other Responsibilities of Applicants

Upon accepting an applicant for participation in the Periodic Monthly Statement test, CBP may request additional information. Participants accept a continuing obligation to provide CBP with any updates or changes to the information originally submitted. All data submitted and entered into the ACE Portal is subject to the Trade Secrets Act (18 U.S.C. 1905) and is considered confidential. CBP will provide participants with additional information about the content of the test.

All participants are required to provide a bond rider covering the

periodic payment of estimated duties. The language of the bond rider shall read as follows:

"By this rider to the Customs Form 301 No. \_\_\_\_\_, executed on by \_\_\_\_\_ as principal(s), importer nos. \_\_\_\_\_, and \_\_\_\_\_, as surety, code no. \_\_\_\_\_, which is effective on \_\_\_\_\_, the principal(s) and surety agree that this bond covers all periodic payments of estimated duties and fees no later than the 15th day of the month following the month in which the merchandise is entered or released, whichever comes first, as provided in 19 U.S.C. 1505(a), and all conditions set out in section 113.62, Customs Regulations, are applicable thereto."

Each participant must designate one person as the ACE Portal Account Owner for the information entered into the participant's ACE Portal account. The Account Owner will be responsible for safeguarding the ACE Portal account information, controlling disclosures of that information to authorized persons, authorizing user access to the ACE Portal account, and ensuring that access by authorized persons to the ACE Portal account information is strictly controlled. The participant will need to identify a point of contact for the testing of communications and software.

Participants are further reminded that participation in this test is not confidential. Lists of approved participants will be made available to the public.

#### Suspension of Regulations

During the testing of the Periodic Monthly Statement process, CBP will suspend provisions in Parts 24, 141, 142, and 143 of the Customs Regulations (Title 19 Code of Federal Regulations) pertaining to financial, accounting, entry procedures, and deposit of estimated duties and fees. Absent any alternate procedure set forth in the above description of the test, the current regulations apply.

#### Misconduct Under the Test

If a test participant fails to follow the terms and conditions of this test, fails to exercise reasonable care in the execution of participant obligations, fails to abide by applicable laws and regulations, fails to deposit duties or fees in a timely manner, misuses the ACE Portal, engages in any unauthorized disclosure or access to the ACE Portal, or engages in any activity which interferes with the successful evaluation of the new technology, the participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, and/or suspension from this test.

Suspensions for misconduct will be administered by the Executive Director,

Trade Compliance and Facilitation. A notice proposing suspension will be provided in writing to the participant. Such notice will apprise the participant of the facts or conduct warranting suspension and will inform the participant of the date that the suspension will begin. Any decision proposing suspension of a participant may be appealed in writing to the Assistant Commissioner, Office of Field Operations within 15 calendar days of the notification date. Should the participant appeal the notice of proposed suspension, the participant must address the facts or conduct charges contained in the notice and state how compliance will be achieved. In cases of non-payment, late payment, willful misconduct or where public health interests or safety is concerned, the suspension may be effective immediately.

#### Test Evaluation Criteria

To ensure adequate feedback, participants are required to participate in an evaluation of this test. CBP also invites all interested parties to comment on the design, conduct and implementation of the test at any time during the test period. CBP will publish the final results in the **Federal Register** and the CBP Bulletin as required by § 101.9(b) of the Customs Regulations.

The following evaluation methods and criteria have been suggested:

1. Baseline measurements to be established through data analysis;
2. Questionnaires from both trade participants and CBP addressing such issues as:
  - Workload impact (workload shifts/volume, cycle times, etc.);
  - Cost savings (staff, interest, reduction in mailing costs, etc.);
  - Policy and procedure accommodation;
  - Trade compliance impact;
  - Problem resolution;
  - System efficiency;
  - Operational efficiency;
  - Other issues identified by the participant group.

Dated: January 30, 2004.

**Jayson P. Ahern,**

*Assistant Commissioner, Office of Field Operations.*

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[FEMA-3192-EM]

#### Connecticut; Emergency and Related Determinations

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of an emergency for the State of Connecticut (FEMA-3192-EM), dated January 15, 2004, and related determinations.

**EFFECTIVE DATE:** January 15, 2004.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated January 15, 2004, the President declared an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (Stafford Act), as follows:

I have determined that the impact in certain areas of the State of Connecticut, resulting from the record/near record snow on December 5-7, 2003, is of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (Stafford Act). I, therefore, declare that such an emergency exists in the State of Connecticut.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide emergency protective measures under the Public Assistance program to save lives, protect public health and safety, and property. Other forms of assistance under Title V of the Stafford Act may be added at a later date, as you deem appropriate. You are further authorized to provide this emergency assistance in the affected areas for a period of 48 hours. You may extend the period of assistance, as warranted. This assistance excludes regular time costs for sub-grantees' regular employees. Assistance under this emergency is authorized at 75 percent Federal funding for eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the