DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Modification and Clarification of the National Customs Automation Program Tests Regarding Post-Summary Corrections and Periodic Monthly Statements


ACTION: General notice.

SUMMARY: This document announces U.S. Customs and Border Protection’s (CBP’s) modification and clarification to the National Customs Automation Program (NCAP) tests pertaining to the processing of post-summary correction (PSC) claims and periodic monthly statements (PMS). Except to the extent expressly announced or modified by this document, all aspects, rules, terms, and conditions announced in previous notices regarding the PSC and PMS tests remain in effect.

DATES: As of November 1, 2017, the modification and clarification to the PSC and PMS tests will be operational.

ADDRESSES: Comments concerning this test program may be submitted via email to Monica Crockett at ESARinfoinbox@dhs.gov with a subject line identifier reading, “Post-Summary Corrections and Periodic Monthly Statements.”

FOR FURTHER INFORMATION CONTACT: For policy-related questions, contact Randy Mitchell, Director, Commercial Operations, Revenue and Entry, Trade Policy and Programs, Office of Trade, via email at Randy.Mitchell@cbp.dhs.gov. For technical questions related to ABI transmissions, contact your assigned client representative. Interested parties without an assigned client representative should direct their questions to the Client Representative Branch at (703) 650–3500.

SUPPLEMENTARY INFORMATION:

I. Background

Post-Summary Correction (PSC) and Periodic Monthly Statement (PMS) Test Programs

The National Customs Automation Program (NCAP) was established by Subtitle B of Title VI—Customs Modernization in the North American Free Trade Agreement (NAFTA) Implementation Act (Customs Modernization Act) (Pub. L. 103–182, 107 Stat. 2057, 2170, December 8, 1993) (19 U.S.C. 1411). Through NCAP, the thrust of customs modernization was on trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the Automated Commercial System (ACS) as the CBP-authorized electronic data interchange (EDI) system. ACE is an automated and electronic system for commercial trade processing which is intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for U.S. Customs and Border Protection (CBP) and all of its communities of interest. The ability to meet these objectives depends on successfully modernizing CBP’s business functions and the information technology that supports those functions.

CBP’s modernization efforts are accomplished through phased releases of ACE component functionality designed to replace specific legacy ACS functions and add new functionality. Section 101.9(b) of title 19 of the Code of Federal Regulations (19 CFR 101.9(b)) provides for the testing of NCAP components. See T.D. 95–21, 60 FR 14211 (March 16, 1995). A list of ACE tests is provided in Section III below.

A. PSC Test Program

On June 24, 2011, CBP published a notice in the Federal Register (76 FR 37136) that announced a plan to conduct an NCAP test concerning new ACE capabilities allowing importers to file a PSC for certain entry summaries using the Automated Broker Interface (ABI). Importers and their brokers are also allowed to use ABI to file a PSC to those pre-liquidation ACE entry summaries that were accepted by CBP, fully paid, and under CBP control. On November 19, 2013, CBP published a notice in the Federal Register (78 FR 69434) modifying and clarifying the terms and conditions of the PSC test. On December 12, 2016, CBP published another notice in the Federal Register (81 FR 89482) further modifying and clarifying the terms and conditions of the PSC test and expanding the list of entry types that could be corrected via a PSC. One of the entry types added was entry type 23 (Temporary Importation Bond (TIB)).

Before the December 12, 2016 notice became effective, CBP published another notice on January 9, 2017, in the Federal Register (82 FR 2385), republishing the December 12th notice, and correcting and further clarifying the terms and conditions of the PSC test.

Subsequently, on January 17, 2017, CBP published a notice in the Federal Register (82 FR 4901) delaying the effective date of the January 9th notice until further notice. Then, on June 8, 2017, CBP published a notice in the Federal Register (82 FR 26699) announcing that the January 9th notice would become effective on July 8, 2017. Finally, on June 30, 2017, CBP published a notice in the Federal Register (82 FR 29910) delaying the effective date until further notice.

B. PMS Test Program

On February 4, 2004, CBP published a notice in the Federal Register (69 FR 5362) that announced a plan to conduct an NCAP test concerning PMS which allows importers to deposit estimated duties, fees and taxes on a monthly basis. CBP modified and clarified the PMS test in seven subsequent Federal Register notices published on: September 8, 2004 (69 FR 54302); February 1, 2005 (70 FR 5199); August 8, 2005 (70 FR 45736); September 22, 2005 (70 FR 55623); January 20, 2006 (71 FR 3315); June 2, 2006 (71 FR 32114); and October 17, 2008 (73 FR 61891). On December 12, 2016, CBP published a notice in the Federal Register announcing a modification to the PMS test. See 81 FR 89482. On January 9, 2017, CBP published a notice in the Federal Register (82 FR 2385), republishing the December 12, 2016 notice with some corrections and further clarification. Subsequently, on January 17, 2017, CBP published a notice in the Federal Register (82 FR 4901) delaying the effective date of the January 9th notice until further notice. On June 8, 2017, CBP published a notice in the Federal Register (82 FR 26699) announcing that the January 9th notice would become effective on July 8, 2017. Finally, on June 30, 2017, CBP published a notice in the Federal Register (82 FR 29910) delaying the effective date until further notice.

II. Test Modifications and Clarification

This document announces a modification and clarification of the PSC test, and a modification of the PMS test. The modifications and clarification are discussed separately below. Except to the extent expressly announced or modified by this document, all aspects, rules, terms, requirements, obligations and conditions announced in previous notices regarding the PSC and PMS tests remain in effect.

A. Modification of the PSC Test

This document announces that CBP is extending the deadline for filing a PSC. The new deadline requires a PSC to be transmitted within 300 days of the date of entry or 15 days prior to the scheduled liquidation date, whichever

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date is earlier. Prior to this modification, a PSC had to be transmitted within 270 days of the date of entry, but could not be filed within 20 days of the scheduled liquidation date. This change is being made to increase the amount of time a filer has to submit a PSC on entry summaries.

B. Clarification of the PSC Test

CBP announced in the December 12th notice that the types of entries that may be corrected by filing a PSC were expanded to additional entry types, one of them being entry type 23 (TIB). This notice clarifies that a PSC concerning a TIB may be filed only to correct data elements of a TIB that do not change a TIB entry to another entry type; in addition, this notice clarifies that a PSC may not change data elements that change another entry type to a TIB entry. For example, a PSC may correct the value declared on a TIB entry, but it may not change the classification of the article to a classification that is not entitled to be filed as a TIB entry, as that classification change would necessarily change a TIB entry to another entry type.

C. Modification of the PMS Test

The proposed modification, published in the January 9, 2017 notice, considers a PMS as paid, in the event the importer uses the Automated Clearing House (ACH) debit process, when CBP receives notification from the Treasury Department that funds are available and transferred to CBP from the financial institution designated by the importer for payment of the ACH debit authorization. This modification reverses the proposed modification because ACE cannot accommodate the proposed change at this time due to technical constraints. Therefore, CBP will continue to consider a PMS as paid when CBP transmits the debit authorization to the designated financial institution. See 69 FR 5362 (February 4, 2004).

III. Development of ACE Prototypes

A chronological listing of Federal Register publications detailing ACE test developments is set forth below.

- ACE Non-Portal Accounts and Related Notice: 70 FR 61466 (October 24, 2005); 71 FR 15756 (March 29, 2006).
- ACE Entry Summary, Accounts and Revenue (ESAR I) Capabilities: 72 FR 59105 (October 18, 2007).
- ACE Entry Summary, Accounts and Revenue (ESAR II) Capabilities: 73 FR 50337 (August 26, 2008); 74 FR 9826 (March 6, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR III) Capabilities: 74 FR 69129 (December 30, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR IV) Capabilities: 76 FR 37136 (June 24, 2011).
- Post-Entry Amendment (PEA) Processing Test: 76 FR 37136 (June 24, 2011).
- ACE Announcement of a New Start Date for the National Customs Automation Program Test of Automated Manifest Capabilities for Ocean and Rail Carriers: 76 FR 42721 (July 19, 2011).
- ACE Simplified Entry: 76 FR 69755 (November 9, 2011).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE); Correction: 78 FR 53466 (August 29, 2013).
- Post-Summary Corrections to Entry Summaries Filed in ACE Pursuant to the ESAR IV Test: Modifications and Clarifications: 78 FR 69434 (November 19, 2013).
- National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Environmental Protection Agency and the Food Safety and Inspection Service Using the Partner Government Agency Message Set Through the Automated Commercial Environment (ACE): 78 FR 75931 (December 13, 2013).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release to Allow Importers and Brokers to Certify From ACE Entry Summary: 79 FR 24744 (May 1, 2014).
- eBond Test Modifications and Clarifications: Continuous Bond Executed Prior to or Outside the eBond Test May Be Converted to an eBond by the Surety and Principal, Termination of an eBond by Filing Identification Number, and Email Address Correction: 80 FR 899 (January 7, 2015).
- Modification of National Customs Automation Program (NCAP) Test Concerning the use of Partner Government Agency Message Set through the Automated Commercial Environment (ACE) for the Submission of Certain Data Required by the Environmental Protection Agency (EPA): 80 FR 6096 (February 4, 2015).
Commercial Environment (ACE) Export Manifest for Air Cargo Test: 80 FR 39790 (July 10, 2015).


- Modification of the National Customs Automation Program (NCAP) Test Concerning the Automated Commercial Environment (ACE) Cargo Release for Entry Type 52 and Certain Other Modes of Transportation: 80 FR 63576 (October 20, 2015).

- Modification of the National Customs Automation Program (NCAP) Test Concerning the Automated Commercial Environment (ACE) Entry Summary, Accounts and Revenue (ESAR) Test of Automated Entry Summary Types 51 and 52 and Certain Modes of Transportation: 80 FR 63815 (October 21, 2015).

- Modification of the National Customs Automation Program Test Concerning the Automated Commercial Environment Portal Account to Establish the Exporter Portal Account: 80 FR 63817 (October 21, 2015).


- Notice Announcing the Automated Commercial Environment (ACE) as the Sole CBP-Authorized Electronic Data Interchange (EDI) System for Processing Certain Electronic Entry and Entry Summary Filings: 81 FR 10264 (February 29, 2016).

- Modification of the National Customs Automation Program (NCAP); Test Concerning the Partner Government Agency Message Set for Certain Data Required by the Environmental Protection Agency (EPA): 81 FR 13399 (March 14, 2016).

- Cessation of National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Food and Drug Administration (FDA) Using the Partner Government Agency Message Set through the Automated Commercial Environment (ACE): 81 FR 18634 (March 31, 2016).

- Automated Commercial Environment (ACE); Announcement of National Customs Automation Program Test of the In-Transit Manifest Pilot Program: 81 FR 24837 (April 27, 2016).

- Announcement of National Customs Automation Program (NCAP) Test Concerning the Submission through the Automated Commercial Environment (ACE) of Certain Import Data and Documents Required by the U.S. Fish and Wildlife Service: 81 FR 27149 (May 5, 2016).

- Notice Announcing the Automated Commercial Environment (ACE) as the Sole CBP-Authorized Electronic Data Interchange (EDI) System for Processing Certain Electronic Entry and Entry Summary Filings Accompanied by Food and Drug Administration (FDA) Data: 81 FR 30320 (May 16, 2016).

- Notice Announcing the Automated Commercial Environment (ACE) as the Sole CBP-Authorized Electronic Data Interchange (EDI) System for Processing Electronic Entry and Entry Summary Filings: 81 FR 32339 (May 23, 2016).


- Modification of the National Customs Automation Program (NCAP) Test Concerning the Automated Commercial Environment (ACE) Portal Accounts to Establish the Protest Filer Account and Clarification that the Terms and Conditions for Account Access Apply to all ACE Portal Accounts: 81 FR 52453 (August 8, 2016).


- Modification of the National Customs Automation Program (NCAP) Test Regarding Reconciliation and Transition of the Test from the Automated Commercial Environment Portal to the Automated Commercial Environment (ACE): 81 FR 89486 (December 12, 2016).

- Modification and Clarification of the National Customs Automation Program (NCAP) Test Regarding Post-Summary Corrections and Periodic Monthly Statements: 81 FR 89482 (December 12, 2016).

- Electronic Notice of Liquidation: 81 FR 89375 (December 12, 2016).

- Modification and Clarification of the National Customs Automation Program Tests Regarding Post-Summary Corrections and Periodic Monthly Statements; Republication with Correction and Further Clarification: 82 FR 2385 (January 9, 2017).

- Delay of Effective Date for the Automated Commercial Environment (ACE) Becoming the Sole CBP-Authorized Electronic Data Interchange (EDI) System for Processing Electronic Drawback and Duty Deferral Entry and Entry Summary Filings: 82 FR 4900 (January 17, 2017).

- Delayed Effective Date for Modifications of the National Customs Automation Program Tests Regarding Reconciliation, Post-Summary Corrections, and Periodic Monthly Statements: 82 FR 4901 (January 17, 2017).

- Effective Date for the Automated Commercial Environment (ACE) Becoming the Sole CBP-Authorized Electronic Data Interchange (EDI) System for Processing Electronic
Inflation in Fiscal Year 2018 CBP Dec.

COBRA Fees To Be Adjusted for

U.S. Customs and Border Protection

COBRA Fees To Be Adjusted for Inflation in Fiscal Year 2018 CBP Dec. 17–17


ACTION: General notice.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) is adjusting certain customs user fees and limitations established by the Consolidated Omnibus Budget Reconciliation Act (COBRA) for Fiscal Year 2018 in accordance with the Fixing America’s Surface Transportation Act (FAST Act) as implemented by CBP regulations published elsewhere in this issue of the Federal Register.

DATES: The adjusted amounts of customs COBRA user fees and their corresponding limitations must be adjusted to reflect certain increases in inflation. For fiscal year 2018, this is done by comparing the average of the Consumer Price Index—All Urban Consumers, U.S. All items, 1982–84 (CPI–U) for the current year (June 2016–May 2017) with the average of the CPI–U for Fiscal Year 2014 to determine the change in inflation, if any. If there is an increase in the CPI of greater than one (1) percent, CBP must adjust the customs COBRA user fees and corresponding limitations using the methodology set forth in 19 CFR 24.22(k). Following the steps provided in paragraph (k)(2) of §24.22, CBP has determined that the increase in the CPI between the most recent June to May 12-month period (June 2016–May 2017) and Fiscal Year 2014 is 2.542 percent. (19 CFR 24.22(k)). As the increase in the CPI is greater than one (1) percent, the customs COBRA user fees and corresponding limitations must be adjusted for Fiscal Year 2018.

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

FOR FURTHER INFORMATION CONTACT:
Bruce Ingalls, Director—Revenue Division, 317–298–1107, bruce.ingalls@cbp.dhs.gov; or Tina Ghiladi, Director—Fee Strategy, Communications, and Integration, 202–344–3722, tina.ghiladi@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 2015, the Fixing America’s Surface Transportation Act (FAST Act, Pub. L. 114–94) was signed into law. Section 32201 of the FAST Act amended section 13031 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (19 U.S.C. 58c) by requiring certain customs COBRA user fees and corresponding limitations to be adjusted by the Secretary of the Treasury (Secretary) to reflect certain increases in inflation. In a final rule, CBP Dec. 17–16, published elsewhere in this issue of the Federal Register, CBP adjusted for Fiscal Year 2014. CBP created a new paragraph (k) in section 24.22 (19 CFR 24.22(k)) to implement the requirements of the FAST Act. Specifically, CBP created a new paragraph (k) in section 24.22 (19 CFR 24.22(k)) that sets forth the methodology to determine the change in inflation as well as the factor by which the fees and limitations will be adjusted, if necessary. The fees and limitations subject to adjustment, which are set forth in Appendix A and Appendix B of part 24, include the commercial vessel arrival fees, commercial truck arrival fees, railroad car arrival fees, private vessel arrival fees, private aircraft arrival fees, commercial aircraft and vessel passenger arrival fees, dutiable mail fees, customs broker permit user fees, barges and other bulk carriers arrival fees, and merchandise processing fees as well as the corresponding limitations.

Determination of Whether an Adjustment Is Necessary for Fiscal Year 2018

In accordance with the amended regulations in 19 CFR 24.22, CBP determines whether the fees and limitations must be adjusted to reflect inflation. For fiscal year 2018, this is done by comparing the average of the Consumer Price Index—All Urban Consumers, U.S. All items, 1982–84 (CPI–U) for the current year (June 2016–May 2017) with the average of the CPI–U for Fiscal Year 2014 to determine the change in inflation, if any. If there is an increase in the CPI of greater than one (1) percent, CBP must adjust the customs COBRA user fees and corresponding limitations using the methodology set forth in 19 CFR 24.22(k). Following the steps provided in paragraph (k)(2) of §24.22, CBP has determined that the increase in the CPI between the most recent June to May 12-month period (June 2016–May 2017) and Fiscal Year 2014 is 2.542 percent. (19 CFR 24.22(k)). As the increase in the CPI is greater than one (1) percent, the customs COBRA user fees and corresponding limitations must be adjusted for Fiscal Year 2018.

Determining the Adjusted Fees and Limitations

Using the methodology set forth in §24.22(k)(2) of the CBP regulations (19 CFR 24.22(k)), CBP has determined that the factor by which the fees and limitations will be adjusted is 2.677 percent. In reaching this determination, CBP calculated the values for each variable found in 19 CFR 24.22(k) as follows:

• The arithmetic average of the CPI–U for June 2016–May 2017, referred to as (A) in the CBP regulations, is 242.328;
• The arithmetic average of the CPI–U for Fiscal Year 2014, referred to as (B), is 236.009;
• The arithmetic average of the CPI–U for the comparison year, referred to as (C), is 236.009;
• The difference between the arithmetic averages of the CPI–U of the comparison year (Fiscal Year 2014) and the current year (June 2016–May 2017), referred to as (D), is 6.320;
• This difference rounded to the nearest whole number, referred to as (E), is 6;
• The percentage change in the arithmetic averages of the CPI–U of the comparison year (Fiscal Year 2014) and the current year (June 2016–May 2017), referred to as (F), is 2.542 percent;
• The difference in the arithmetic average of the CPI–U between the current year (June 2016–May 2017) and the base year (Fiscal Year 2014), referred to as (G), is 6.320; and

The figures provided in this notice may be rounded for publication purposes only. The calculations for the adjusted fees and limitations were made using unrounded figures, unless otherwise noted.