ace deadline reminder for imports and exports

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February 2, 2016

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On February 28, 2016, those involved with imports and exports are preparing to undergo a major transition. As of that date, all entries must be filed using the new Automated Commercial Environment (ACE) system. ACE not only replaces the current Customs and Border Protection (CBP) system, but is designed to reengineer CBP's operational processes; develop a new technology infrastructure; and integrate commercial, enforcement and administrative operations. The goal is to create a "single window" using the ACE system for imports and exports, and to streamline the process for goods entering and leaving the country. Those actively engaged on this issue know all too well, Executive Order 13659, signed by the President on February 19, 2014, mandates government-wide utilization of this new ACE process by all affected federal government entities no later than December 31, 2016 – the end of this year!

Because the objective is to replace paper submissions, all parties involved in the filing of transactions with CBP, as well as any of the approximately 47 Partner Government Agencies (PGAs), will be directly affected - forwarders, NVOCCs, carriers, customs brokers, CBP, importers, software providers, **and** the relevant PGA agencies, all of whom need to be ready. Given the rapid approach of the deadline, importers and exporters should by now have identified the needed data, realigned their supply chains so it is clear where and by whom the needed data is maintained, when and how it will become available in a timely manner, and who has what responsibility to insure complete and accurate data is filed in a timely manner.

Everyone involved is learning new technology, taking additional time to verify data and status, and stopping to ask questions about transactions to insure accuracy and completeness. On **February 28, 2016**, in addition to CBP entries, those filed with the Food and Drug Administration (FDA), the National Highway Traffic Safety Administration (NHTSA) and the Animal and Plant Health Inspection Service (APHIS) (Lacey Act) must be filed through ACE. Thirteen more PGAs will come on-line in July 2016 and full implementation for all remaining electronic portions of the CBP cargo process is scheduled for October 2016.

Post implementation, companies will have more transparency into their own transactions. Similarly, CBP and the PGAs will have more data to analyze. CBP's evaluation of data from importers, exporters and their service providers will occur earlier in the process and will be more detailed, and PGAs will be able to target and examine cargo based on electronic data analysis. Because many of the agencies with jurisdiction over imports and exports will, for the first time, have access to electronic shipment data at time of import or export, we anticipate increased enforcement activity. Plus, if the transition does not go smoothly, and major transitions of this sort are typically rocky, shipments are likely to be delayed. Despite the looming deadline, programming changes are still being made by CBP and the PGAs. Additional data, now gathered by the agencies from paper documents, will have to be gathered by importers/exporters and brokers/forwarders/NVOCCs well in advance of shipment in order to be entered into ACE prior to release.

To be ready for the transition, you should start filing CBP entries via ACE now, if you or your customs broker are not already doing so. Most important, if your product requires review or release by any other agency, find out now the requirements for electronic filing via ACE and make certain you have that information on-hand prior to filing. The same is true for exporters for whom filing through the ACEDirect Portal is the option of choice. AESPcLink will not continue, as key functionality was integrated directly into the ACE portal application. In a few months, the legacy AES portal will begin closing account access for portal and AESPcLink users. Use of the system requires an ACE account. Importers with ACE accounts may add the Exporter role to their account. Companies new to ACE must apply for an ACE Exporter Account. Guidance for AESDirect Weblink & AESDirect EDI filers will be released shortly.

When it comes to export licenses, DDTC is now sending registration and licensing data electronically to CBP on a daily basis. Exporters are no longer required to deposit permanent export licenses with CBP prior to filing in ACE, as CBP port officials have access to DDTC registration and licensing data through ACE. Commerce is working with CBP to develop license decrementation capability within the reengineered AES platform. It is not clear when that capability will be finalized.

Our view is each company should also implement post-shipment reviews, to ensure data was transmitted correctly and the agency issued a proper and complete release. You want to avoid overrides and redelivery efforts after the fact because something in the new process did not work or was misleading. If you have not already done so, now is the time to become familiar with ACE, the data needed for a given shipment whether import or export, and who has responsibility for and where that data resides in your supply chain in order to prevent delays and errors. Your service providers can only help so much. In the end, if you cannot provide the data and documents needed for your shipment to move, no one can fix that problem without the missing information.

Tip for Today:

Importer/Exporter - Verify whether you are stating the correct Incoterm of sale on your commercial invoices and the values are being calculated correctly.

Brokers/Forwarders – Review transactions to make sure the Incoterm stated on the commercial invoice is consistent with the instructions you were given.

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We recently reviewed importer transactions where the term of sale was FOB port of export, but the broker was deducting freight, brokerage fees and insurance premiums! Last year's seizures of export vehicles and money arose out of AES filings where the forwarders were declaring MSRP values for the vehicles rather than the full and correct resale prices.

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