



## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### **Announcement of Modification of ACE Cargo Release Test to permit the Combined Filing of Cargo Release and Importer Security Filing (ISF) Data**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This document announces U.S. Customs and Border Protection's (CBP's) plan to modify the National Customs Automation Program (NCAP) test concerning Cargo Release in the Automated Commercial Environment (ACE) by modifying the name of one data element and allowing certain authorized importers and licensed customs brokers to submit the ACE Cargo Release entry and the Importer Security Filing (ISF) in a combined transmission to CBP.

**DATES:** The ACE Cargo Release Test modifications set forth in this document are effective on **[insert date of publication in the Federal Register]**. The ACE Cargo Release Test will run until approximately November 1, 2015.

**ADDRESSES:** Comments or questions concerning this notice and indication of interest in participation in ACE Cargo Release Test should be submitted, via email, to Steven Zaccaro at [steven.j.zaccaro@cbp.dhs.gov](mailto:steven.j.zaccaro@cbp.dhs.gov). In the subject line of your email, please use, "Comment on Combined ACE Cargo Release and ISF Filing." The body of the email should identify the ports where filings are likely to occur.

**FOR FURTHER INFORMATION CONTACT:** For policy questions related to ACE, contact Stephen Hilsen, Director, Business Transformation, ACE Business Office, Office of International Trade, at [stephen.r.hilsen@cbp.dhs.gov](mailto:stephen.r.hilsen@cbp.dhs.gov). For policy questions related to ISF, contact Craig Clark, Program Manager, Cargo and Conveyance Security, Office of

Field Operations, at [craig.clark@cbp.dhs.gov](mailto:craig.clark@cbp.dhs.gov). For technical questions, contact Steven Zaccaro, Client Representative Branch, ACE Business Office, Office of International Trade, at [steven.j.zaccaro@cbp.dhs.gov](mailto:steven.j.zaccaro@cbp.dhs.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

#### **A. The National Customs Automation Program**

The National Customs Automation Program (NCAP) was established by Subtitle B of Title VI—Customs Modernization in the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, 2170, December 8, 1993) (Customs Modernization Act). See 19 U.S.C. 1411. Through NCAP, the initial 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). 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. Each release will begin with a test and, if the test is successful, will end with implementation of the functionality through the promulgation

of regulations governing the new ACE feature and the retirement of the legacy ACS function.

For the convenience of the public, a chronological listing of **Federal Register** publications detailing ACE test developments is set forth below in Section VII, entitled, “Development of ACE Prototypes.” The procedures and criteria applicable to participation in the ACE Cargo Release test and prior ACE tests remain in effect unless otherwise explicitly changed by this notice.

#### **B. ACE Cargo Release Test**

On November 9, 2011, CBP published in the **Federal Register** (76 FR 69755) a notice announcing an NCAP test concerning ACE Simplified Entry to simplify the entry process by reducing the number of data elements required to obtain release for cargo imported by air. In a general notice titled “Modification of National Customs Automation Program Test Concerning Automated Commercial Environment (ACE) Cargo Release” published in the **Federal Register** (78 FR 66039) on November 4, 2013, CBP modified the ACE Simplified Entry Test and renamed it the ACE Cargo Release Test. The ACE Cargo Release Test provided more capabilities to test participants and expanded eligibility by eliminating the Customs-Trade Partnership Against Terrorism (C-TPAT) status requirement for importer self-filers and customs brokers. On February 3, 2014, CBP published a notice in the **Federal Register** (79 FR 6210) announcing modification of the ACE Cargo Release Test to include the ocean and rail modes of transportation.

### **C. Importer Security Filing**

On November 25, 2008, pursuant to section 343(a) of the Trade Act of 2002 and section 203 of the Security and Accountability for Every (SAFE) Port Act of 2006, CBP published an interim final rule titled Importer Security Filing and Additional Carrier Requirements in the **Federal Register** (73 **FR** 71730). That interim final rule required importers and carriers to submit certain information pertaining to maritime cargo prior to loading on vessels at foreign seaports by means of a CBP-approved electronic data interchange (EDI) system. On March 29, 2012, CBP published a notice in the **Federal Register** (77 **FR** 19030) announcing that, as of September 29, 2012, ACE is the only CBP-approved EDI for carriers to transmit required advance ocean cargo information, including ISF data.

The interim final rule, which is commonly known as the “Importer Security Filing” (ISF) or “10 + 2” rule, generally requires the ISF Importer to transmit certain cargo information consisting of 10 data elements for security purposes to CBP at least 24 hours before goods are loaded onto an ocean vessel destined for the United States. The ISF Importer is also required to transmit information regarding the container stuffing location and consolidator (stuffer) to CBP no later than 24 hours prior to arrival in a U.S. port or upon lading at a foreign port that is less than a 24 hour voyage to the closest U.S. port. See 19 CFR 149.2 and 149.3. Section 149.6 allows ISF data to be filed via the same electronic transmission as entry or entry/entry summary documentation pursuant to 19 CFR 142.3. CBP currently accepts this combined transmission through ACS. Now, as explained in Section III.B. below, ACE, under the ACE Cargo Release Test, has this functionality. Accordingly, in this notice, CBP announces it will be testing the filing of

the combined transmission under ACE for filers participating in the ACE Cargo Release test. Until this functionality is generally available, anyone wishing to file a combined transmission who is not a participant in the ACE Cargo Release test should continue to use ACS to make that transmission. Although the interim final rule also requires the incoming carrier to provide additional information in advance as provided in 19 CFR 4.7a, these additional information requirements for carriers are not relevant to the ACE Cargo Release Test.

The ISF Importer is defined in 19 CFR 149.1 as the party causing goods to arrive within the limits of a U.S. port by vessel. Section 149.1 further provides that except for certain types of shipments not relevant to the ACE Cargo Release Test, the ISF Importer will be the goods' owner, purchaser, consignee, or agent such as a licensed customs broker.

## **II. Authorization for Modification of the ACE Cargo Release Test**

The Customs Modernization Act provides the Commissioner of CBP with authority to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. The ACE Cargo Release Test, as modified in this notice, is authorized pursuant to § 101.9(b) of title 19 of the Code of Federal Regulations (19 CFR 101.9(b)), which provides for the testing of NCAP programs or procedures. See Treasury Decision (T.D.) 95–21.

## **III. Modifications of ACE Cargo Release Test**

### **A. Modification of One of the ACE Cargo Release Data Elements**

CBP is modifying one of the data elements required under the ACE Cargo Release Test. CBP is renaming the data element “Buyer Employer Identification Number

(consignee number)” to “Consignee Number.” See data element 3 highlighted below.

The definition of “Consignee Number” is specified in 19 CFR 149.3. This is the same definition that applied previously.

The ACE Cargo Release data elements, as modified by this general notice, are:

- (1) Importer of Record Number.
- (2) Buyer name and address.
- (3) Consignee Number.**
- (4) Seller name and address.
- (5) Manufacturer/supplier name and address.
- (6) HTS 10-digit number.
- (7) Country of origin.
- (8) Bill of lading.
- (9) Bill of lading issuer code.
- (10) Entry number.
- (11) Entry type.
- (12) Estimated shipment value.
- (13) Bill Quantity (The quantity of shipping units shown in the bill of lading. If the bill of lading quantity is specified in the entry, it becomes the entered and released quantity for that bill. If the bill quantity is not specified, full bill quantity will be entered and released for that bill).

Data element (1) and data elements (6) through (12) are defined in the same manner as when they are used for entry filing. Data elements (2) through (5) are defined in accordance with the provisions of 19 CFR 149.3.

B. Modification of ACE Cargo Release Test to permit the combined submission of ACE Cargo Release and ISF data

CBP is also modifying the ACE Cargo Release Test to permit the transmission of ACE Cargo Release and ISF data in a combined submission when certain requirements are met. In order to participate in the ACE Cargo Release Test and submit ACE entry and ISF data in a combined submission, filers must meet certain eligibility, data, timeliness, and other requirements.

1. Eligibility for combined filing: In order to file a combined submission the filer must meet the definition of an ISF Importer as defined in §149.1 and be either a: (1) self-filing importer who has the ability to file ACE Entry Summaries certified for cargo release or a broker who has the ability to file ACE Entry Summaries certified for cargo release; or (2) self-filing importer or broker who has stated his or her intent to file entry summaries in ACE in its request to participate in the test. Parties seeking to participate in this test must use a software package that has completed ABI certification testing for ACE and offers the ACE Cargo Release message set prior to transmitting data under the test. See the General Notice of August 26, 2008 (73 **FR** 50337) for a complete discussion on the procedures for obtaining an ACE Portal Account. Importers not self-filing must ensure their broker has the capability to file entry summaries in ACE. Although the ACE Cargo Release Test is open to all importers and customs brokers filing ACE Entry Summaries for cargo transported in the air, ocean and rail modes, the ISF is required only for cargo transported by vessel in the ocean mode of transportation. Therefore, the combined submission is available only for cargo transported by vessel.

Entries requiring Partner Government Agency (PGA) information and certification from entry summary are not available for a combined filing at this time.

2. Procedures for combined filing: Any party seeking to file a combined submission that is not already a participant in the ACE Cargo Release Test must request to participate in the test and provide their filer code to CBP and identify the port(s) at which they are interested in filing their combined ACE Cargo Release and ISF data. For a description of the application process and selection criteria for the ACE Cargo Release Test see the instruction published in the general notice titled “Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Ocean and Rail Carriers,” 79 **FR** 6210 (February 3, 2014). A party that is currently participating in the ACE Cargo Release Test may file a combined submission after notifying their ACE account representative.

3. Additional data elements required for combined filing: To submit a combined filing, importers and customs brokers need to transmit the following data elements: (1) the ACE Cargo Release data elements, as described and modified in Section III. A and (2) the three data elements listed below, as defined in 19 CFR 149.3. The three additional data elements are:

- (1) Ship to party.
- (2) Container stuffing location.
- (3) Consolidator (stuffer).

4. Timeframe for the combined filing: Because the applicable timeframes for submitting ISF data as set forth in 19 CFR part 149 are earlier than the required timeframe for submitting ACE Cargo Release data, test participants must transmit all of

the required information within the applicable timeframes specified in 19 CFR part 149. With certain exceptions, the ISF Importer must transmit the ISF data no later than 24 hours before the cargo is laden aboard the vessel at the foreign port. See 19 CFR 149.2 and 149.3.

5. Other requirements: The submission of a combined filing does not relieve the ISF Importer of any of its other obligations under 19 CFR part 149. With regard to the submission of ISF data, test participants should be aware that they will not be able to utilize the ISF flexible filing provisions in 19 CFR 149.2(f) (which permits the ISF Importer to submit an initial response for four of the data elements based on the best available data available and to update the information as soon as more precise or more accurate information is available) if they submit a combined filing. This limitation is necessary because the Cargo Release information will be used by CBP to make determinations regarding the admissibility of imported merchandise.

Upon receipt of the ACE Cargo Release data and the three additional ISF data elements, CBP will process the submission and separately transmit the ISF filing response and cargo release decision to the filer. As provided in 19 CFR 141.68(e), the merchandise will not be considered to be entered until the merchandise has arrived in the port with the intent to unlade.

6. Test duration: The ACE Cargo Release Test, as modified, will run until approximately November 1, 2015.

#### **IV. Misconduct Under the Test**

The terms for misconduct under the ACE Cargo Release Test set forth in 78 **FR** 66039 (November 4, 2013) continue to apply.

## **V. Previous Notices**

All requirements and aspects of the ACE test discussed in previous notices are hereby incorporated by reference into this notice and continue to be applicable, unless changed by this notice.

## **VI. Paperwork Reduction Act**

The collection of information for the ACE Cargo Release Test and ISF have been approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507). The OMB information collection number for the ACE Cargo Release Test is 1651-0024 and the OMB information collection number for ISF is 1651-0001. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

## **VII. Development of ACE Prototypes**

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

- ACE Portal Accounts and Subsequent Revision Notices: 67 **FR** 21800 (May 1, 2002); 70 **FR** 5199 (February 1, 2005); 69 **FR** 5360 and 69 **FR** 5362 (February 4, 2004); 69 **FR** 54302 (September 8, 2004).
- ACE System of Records Notice: 71 **FR** 3109 (January 19, 2006).
- Terms/Conditions for Access to the ACE Portal and Subsequent Revisions: 72 **FR** 27632 (May 16, 2007); 73 **FR** 38464 (July 7, 2008).
- 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).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS): 77 **FR** 20835 (April 6, 2012).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Simplified Entry: Modification of Participant Selection Criteria and Application Process: 77 **FR** 48527 (August 14, 2012).
- Modification of NCAP Test Regarding Reconciliation for Filing Certain Post-Importation Preferential Tariff Treatment Claims under Certain FTAs: 78 **FR** 27984 (May 13, 2013).

- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE): 78 **FR** 44142 (July 23, 2013).
- 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).
- Modification of NCAP Test Concerning Automated Commercial Environment (ACE) Cargo Release (formerly known as Simplified Entry): 78 **FR** 66039 (November 4, 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 for Ocean and Rail Carriers: 79 **FR** 6210 (February 3, 2014).
- 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).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Truck Carriers: 79 **FR** 25142 (May 2, 2014).

- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment Document Image System: 79 **FR** 36083 (June 25, 2014).

Dated: February 5, 2015

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Office of International Trade

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