

FWS IMPLEMENTATION OF ITDS

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FWS Import/Export Authority

- ▣ Under the Endangered Species Act (16 U.S.C. §§ 1531-1544), it is unlawful to import or export fish, wildlife, or plants without filing a declaration or report deemed necessary for enforcing the ESA or upholding the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
- ▣ The ESA defines “fish or wildlife” as any member of the animal kingdom, and includes any part, product, egg, or offspring or the dead body or parts.
- ▣ The ESA limits the import and export of wildlife to ports “designated” by FWS.

FWS Import/Export Authority

- ▣ The ESA requires that anyone claiming an exemption shall have the burden of proving that the exemption is applicable.
- ▣ The ESA defines “import” more broadly than the CBP definition associated with entry into U.S. commerce.
- ▣ 50 C.F.R. Part 14 lays out the specific import/export requirements and exemptions

FWS Import Pilot

- ▣ Trade will file an FWS Message Set in ACE when filing a CBP entry in ACE in lieu of filing in eDecs or in paper with FWS
- ▣ Trade will upload required documents in DIS
- ▣ Trade will continue to provide original paper and foreign law documents directly to FWS
- ▣ ACE will automatically release some types of FWS Message Sets unless a targeting hold exists
- ▣ FWS will process FWS Message Sets primarily in eDecs, but also using the ACE portal

FWS Import Message Set

- ▣ Because of the broad classification by product of the HTS, most chapters of the HTS include commodities that contain or are made of FWS-regulated animals and plants.
- ▣ FWS Message Set data requirements are categorized by Government Agency Processing Codes or Scenarios
- ▣ Four Categories of FWS Message Sets

FWS Import Message Set

- ▣ Each tariff code in the FWS Master Tariff Table is assigned a Message Set Category
- ▣ The HTS is flagged FW2 for three of the categories which require FWS data (~2100 HTS 10-digit numbers out of ~20,000 HTS 10-digit)
- ▣ FW2 flag ≠ Mandatory Form 3-177
- ▣ FW2 flag in ACE ≠ FW2 flag in ACS

FWS Import Message Set Categories

- ▣ Automatic EDS (Extended Data Set)
 - HTS Codes require Form 3-177 data and documents in all cases
- ▣ N/Y Scenarios
 - HTS describes animal commodities and requires data and documents based upon the animal species
 - Incorporates ability for the Importer to claim a species-specific exemption
- ▣ DEC/EDS
 - HTS describes a mix of animal/non-animal commodities; likely to contain FWS regulated animals for which data and documents are required
 - Incorporates ability for the Importer to claim an exemption for the commodity
- ▣ NDS/EDS
 - HTS describes a mix of animal/non-animal commodities; less likely to contain FWS regulated animals
 - No FW2 flag; Must submit EDS and DIS documents for FWS regulated commodities

Meeting Other FWS Requirements

- ▣ Commodities legally imported under Government Agency Processing Codes N1-N12, DEC or NDS
 - Data filed to claim a species-specific exemption or an exemption for a commodity will generally satisfy FWS requirements and be automatically released by ACE
 - Such commodities are not subject to FWS prior notification, port, license, and other clearance requirements; however the goods are subject to random FWS hold and inspection for enforcement

Meeting Other FWS Requirements

- ▣ Commodities legally imported under Government Agency Processing Codes Y1-Y11 and EDS must meet all other applicable FWS requirements.
- ▣ FWS has no port of arrival restrictions, but commodities must be present at and clear at authorized FWS ports.

Foreign Trade Zone Entries

- ▣ For commodities imported under an 06 entry, FWS data and documents must have been submitted through eDecs upon entry into the zone.
- ▣ Import into commerce from the zone will require the eDecs confirmation number for Government Agency Processing Codes Y1-Y11 and EDS in lieu of the traditional FWS data set records.

Additional Import Thoughts

- ▣ Filers using the FWS Message Set once live in ACE will no longer file FWS data/documents in eDecs (or paper) except for 06 entries.
- ▣ Filers will continue to submit user fees directly to FWS either using their corporate account, pay.gov, or check/money order.

FWS Export Pilot

- ▣ Pilot Date Not Yet Determined
- ▣ Trade will file Form 3-177 data and documents in FWS eDecs as usual.
- ▣ Trade will then file an FWS data set in AES
 - either with the FWS eDec Confirmation Number in lieu of an extended data set, or
 - by claiming a species-specific exemption or a commodity exemption.
- ▣ Each tariff code/schedule B number in the FWS Master Tariff Tables is assigned a Message Set Category

FWS Export Message Set Categories

- ▣ Automatic EDS (Extended Data Set)
 - HTS Codes/Schedule B Numbers require the FWS eDec Confirmation Number
- ▣ N/Y Scenarios
 - HTS/Schedule B describes animal commodities and requires the FWS eDec Confirmation Number based upon the animal species
 - Incorporates ability for the Exporter to claim a species-specific exemption
- ▣ DEC/EDS
 - HTS/Schedule B describes a mix of animal/non-animal commodities; likely to contain FWS regulated animals for which the FWS eDec Confirmation Number is required
 - Incorporates ability for the Exporter to claim an exemption for the commodity
- ▣ NDS/EDS
 - HTS/Schedule B describes a mix of animal/non-animal commodities; less likely to contain FWS regulated animals
 - No rejections for missing data; however, must submit the FWS eDec Confirmation Number for FWS regulated commodities

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