

# Advisory Committee on Commercial Operations to Customs and Border Protection (COAC)

U.S. Customs and Border Protection (CBP), Chicago, IL

July 29, 2015

1:00 PM – 04:00 PM



U.S. Customs and  
Border Protection

# Committee Welcome and Roll Call

**CBP:**      **Maria Luisa Boyce**  
Senior Advisor for Private Sector Engagement  
Office of Trade Relations  
Office of the Commissioner  
U.S. Customs and Border Protection



# Opening Remarks

**CBP:** **R. Gil Kerlikowske**, Commissioner  
U.S. Customs and Border Protection

**Treasury:** **Timothy Skud**, Deputy Assistant Secretary,  
Tax, Trade and Tariff Policy, Department of the Treasury

**DHS:** **Mark Koumans**, Deputy Assistant Secretary,  
Foreign Investment, Trade, and Transportation Security  
Policy, Department of Homeland Security

**COAC:** **Julie Parks**, Member  
**Vincent Iacopella**, Member



# One U.S. Government at the Border Subcommittee

- CBP:**        **Cynthia Whittenburg**, Executive Director  
Trade Policy & Programs, Office of International Trade
- Deborah Augustin**, Acting Executive Director  
ACE Business Office, Office of International Trade
- Thomas Mills**, Deputy Executive Director,  
Cargo Systems Program Directorate, Office of Information  
and Technology
- CPSC:**      **Carol Cave**, Assistant Executive Director, Office of Import  
Surveillance, U.S. Consumer Product Safety Commission
- FDA:**        **Domenic Veneziano**, Captain, U.S. Public Health Service,  
Director, Division of Import Operations, Food and Drug  
Administration
- COAC:**      **Susie Hoeger**, Member  
                  **Scott Boyer**, Member  
                  **Amy Magnus**, Member



# BIEC PGA Outreach

## • 1 USG PGA Single Window Port/Area Visits

- Participating PGAs are the FDA, CPSC, APHIS, FSIS, AMS, the EPA, and OTEXA.
- Port visits were determined by where the major imports regulated by the PGAs enter the United States.
- Broker associations are hosting the events with local CBP ACE and PGA field staff in attendance.
- PGA HQ experts give the main presentations via a webcast or in person; the focus is on what changes are coming, information on pilots, and answering questions.
- ABO provides an update and OFO presents an overview of the *Business Process Document*.
- First port visited was Tacoma, WA on May 28<sup>th</sup> and 10 visits have been completed to date.



# Single Window Recommendations

The COAC strongly supports *the February 19, 2014 President Obama's Executive Order 13659: Streamlining the Export/Import Process for America's Businesses, specifically through the Automated Commercial Environment (ACE)* through strategic discussions, communication and metrics. This will help with the validation of Single Window and ACE implementation

1. ACE Entry Summary: For Entry Summaries that are fully functional in ACE today (types 01, 03, and 11), COAC recommends that CBP maintain the mandatory filing date of November 1. If filers are unable to file these ACE Entry Summary types on November 1 due to unforeseen trade or government systems issues, CBP should allow for a defined informed compliance period, similar to how ISF was implemented. CBP should evaluate the reason the filer is unable to file and require an action plan from the filer that describes how they will become compliant, and hold them accountable for meeting the plan. CBP should also allow for a defined informed compliance period for filing Entry Summary for those entries that cannot currently be filed in ACE (for example, Lacey and consolidated summaries with multiple consignees).



# Single Window Recommendations

2. ACE Cargo Release (without PGAs or with “DIS only” PGAs): COAC recommends that CBP review the ACE Cargo Release adoption rates, development and deployment issues, and other factors as the November 1 date approaches. We recommend that CBP continue to message November 1 as the mandatory filing date for ACE Cargo Release, but implement a “Phased Adoption” schedule, with COAC’s input and industry acceptance, for the complete implementation of ACE Cargo Release to ensure adequate time for programming, testing, training, and deployment. To encourage timely implementation, in consultation with COAC, CBP should provide incentives to filers who are able to meet the November 1 date. For those unable to file, CBP should analyze the filers who have shown a genuine effort to deploy ACE Cargo Release but due to various issues are unable to fully comply. CBP should allow those filers to continue filing ACS Release with ACE Entry Summary under a defined informed compliance period during which CBP will continue to work with those filers through their deployment and exercise enforcement discretion. Those filers who have shown minimal or no attempt to file ACE Cargo Release by November 1 should be held to a more aggressive action plan and be held accountable if minimal or no effort is apparent.

# Single Window Recommendations

3. ACE Cargo Release (with PGA message sets): COAC recommends that CBP, the BIEC and ITDS adjust the November 1 requirement to file ACE Cargo Release with PGAs by ninety (90) days with periodic reassessment to ensure that all pilots have been concluded, issues have been resolved, and the related PGA message sets are fully defined and locked down. Given the complexity of the PGA aspects of ACE Cargo Release, CBP should provide adequate time for the trade to program, test, train, and deploy after the conclusion of the pilots.

# Single Window Recommendations

4. Quota Entries: COAC recommends that CBP delay the ACE go-live date for quota Entry Summary and Cargo Release until January 1, 2016.
5. Document Imaging System (DIS): COAC recommends that CBP conduct testing, prior to November 1, to ensure that the Document Imaging System can handle large volumes of documents submitted via ABI DIS. In the event DIS is unable to handle the volume on November 1, COAC recommends that CBP consider alternate options to DIS, such as posting documents to the ACE portal as done today and/or allowing filers to email documents in accordance with a standard protocol, and advise the trade of those contingency plans.
6. Trade Briefings: COAC recommends that CBP provide COAC and the trade with bi-weekly briefings and status reports, including metrics, on each of the PGA's ACE pilots and general readiness for the mandatory filing date, as well as CBP's future vision for ACE.

# Single Window Recommendations

7. National Guidelines and Escalation: To ensure a common and consistent approach by all ports, COAC recommends that CBP issue national guidelines for dealing with major issues (such as cargo release at terminals and ports) or processing challenges that arise in ACE implementation, including defined escalation paths and the assignment of adequate field, port, and technical resources. CBP should continue the “war room” approach, with sufficient allocation of resources to close all major issues. CBP should clarify the role of field, port, and technical staff, as well as the ABI Client Representatives, in terms of assisting the trade when ACE implementation issues arise. CBP should also issue clear, detailed CSMS messages as soon as possible when ACE implementation issues are identified. If necessary and to ensure port consistency, CBP should provide national guidance on and headquarters review of the issuance of any liquidated damages due to technical difficulties.

# Single Window Recommendations

8. Communication to the Trade: COAC recommends that, to the greatest extent possible, CBP and the PGAs leverage the BIEC and ITDS to provide more targeted and less technical communication of business rules and processes (including policy), software changes, and new requirements to all of trade, including importers, filers, and software vendors, so their respective business processes can be modified accordingly in advance of the mandatory filing date. CBP and the PGAs should not assume that software providers are pushing out this information to their customers, or that highly technical information such as the CATAIR is easily understood by all members of the trade. CBP should also continue to extend communication to other trade members, such as CFS stations and terminals, where paper forms may be required for release, such as non-AMS facilities.
9. Leveraging BIEC/ITDS: We recommend that CBP leverage the BIEC and ITDS in the oversight of the PGA ACE pilots with the intent of preventing data creep and maintaining alignment with the PGA's current regulatory authority in the development of the PGA message sets, to ensure predictability of operations for the trade.

# Exports Subcommittee

- CBP:**           **Michael Denning**, Advisor  
Cargo and Conveyance Security, Office of Field Operations  
**Deborah Augustin**, Acting Executive Director  
ACE Business Office, Office of International Trade
- Census:**       **Dale Kelly**, Chief, International Trade Management Division,  
U.S. Census Bureau
- COAC:**       **Elizabeth ‘Liz’ Merritt**, Member  
**Heidi Bray**, Member



# Export Recommendations

1. With regard to the FRN for an ACE Export Manifest for Air Cargo Test. In developing guidelines and SOPs for the practical conduct of the air automated export pilot, CBP should ensure that the concerns of the trade as set forth in commentary by COAC are addressed so that the pilot will enable a robust test of the progressive filing model that has been put forth by the COAC Export Subcommittee. In particular, achievable timelines for data submission for air shipments should be established, mandatory data elements should be limited to those currently required on the 7509 form, with pre-departure submission limited to those necessary for risk assessment, and procedures developed for managing holds and shipment interception with minimal disruption to air cargo operations.

# Export Recommendations

2. With regard to the publication of the FRNs for ACE export manifest tests for ocean, rail, and truck. The determination of 1) proper timelines for electronic data submission and 2) the set of data elements that must be transmitted at a given time are fundamental to developing an automated export regime that is both effective and minimally deleterious to export operations and the flow of legitimate trade. CBP should ensure that mandatory pre-departure data elements contained within the FRNs announcing pilots for the ocean, rail and truck modes are limited to those found on the current 7509 paper form that are required for pre-departure risk assessment. CBP should also ensure that submission timelines have been thoroughly vetted with the trade, and that trade concerns with regard to feasibility and negative impact have been mitigated to the full extent possible.

# Export Recommendations

3. With regard to the process for drafting, approving and publishing FRNs and NPRMs. The transformation that CBP is undertaking to move export processing from paper to electronic, and from individual silos to a one-government at the border, single-window approach, requires a paradigm shift with regard to how export reporting can and should work and significant associated policy and regulatory change. Incremental, piecemeal approaches to the regulatory reform process and excessively long delivery timelines for associated FRNs and NPRMs are incompatible with what must be accomplished over the next 2-4 years. To better facilitate CBP's export trade transformation strategy, the OR&R legal team should become an integral participant in the substantive discussions taking place in the work groups of the COAC Export Subcommittee, with the nature and extent of the desired legal participation to be determined jointly by the trade and CBP within each work group. Further, CBP should apply more command attention to ensure the process for publishing critical FRNs and NPRMs is streamlined and accelerated.

# Export Recommendation

4. As CBP moves towards implementation of automated e-manifest and the ability to accommodate Census Option 4 and export filing requirements, COAC recommends that CBP collaborate with Census to ensure that any policy and process changes do not unjustifiably impede legitimate exports. To this end, CBP in conjunction with Census, should begin by clearly identifying the subset of existing export data from the cargo manifest needed for pre-departure risk assessment. Once those parameters are defined, CBP and Census should consult closely and collaboratively with Option 4 filers and their partner carriers to determine whether they can make all or part of those data elements available. If some, or all, of the data cannot be provided in line with above, CBP should investigate alternatives (e.g., usage of account-based management and predictive data) that address legitimate CBP security screening and Census regulatory control needs, without negatively impacting exports and their significant contribution to the U.S. economy.



# Public Comment Period

Please send in your comments or questions via the Chat box in the webinar.

Your comments will be read into the public record and CBP will respond during the public comment period noted on the agenda if time permits.



# Break

We will be taking a ten minute health break and will resume with the July 29<sup>th</sup> COAC meeting shortly.



# Trade Enforcement and Revenue Collection Subcommittee

- CBP:**        **Cynthia Whittenburg**, Executive Director  
Trade Policy & Programs, Office of International Trade
- Troy Riley**, Executive Director, Commercial Targeting &  
Enforcement, Office of International Trade
- COAC:**      **Kevin Pinel**, Member
- Lisa Gelsomino**, Member



# Trade Modernization Subcommittee

- CBP:**            **Cynthia Whittenburg**, Executive Director  
Trade Policy & Programs, Office of International Trade
- Michael Denning**, Advisor  
Cargo and Conveyance Security, Office of Field Operations
- Ana Hinojosa**, Deputy Assistant Commissioner  
                  Office of International Affairs
- COAC:**        **Cindy Allen**, Member
- Lenny Feldman**, Member



# Trusted Trader Subcommittee

**CBP:**        **Michael Denning**, Advisor  
Cargo and Conveyance Security, Office of Field Operations

**COAC:**     **Alexandra Latham**, Member  
**Michael Young**, Member



# Global Supply Chain Subcommittee

- CBP:**           **Michael Denning**, Advisor  
Cargo and Conveyance Security, Office of Field Operations  
**Elizabeth ‘Liz’ Schmelzinger**, Director  
Office of Border Initiatives, Office of Field Operations
- CPSC:**       **Carol Cave**, Assistant Executive Director, Office of Import  
Surveillance, U.S. Consumer Product Safety Commission
- COAC:**       **Brandon Fried**, Member  
**Adam Salerno**, Member



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# Adjourn



U.S. Customs and  
Border Protection



# U.S. Customs and Border Protection

## Our Mission

We are the guardians of our Nation's borders.

We are America's frontline.

We safeguard the American homeland at and beyond our borders.

We protect the American public against terrorists and the instruments of terror.

We steadfastly enforce the laws of the United States while fostering our nation's economic security through lawful international trade and travel.

We serve the American public with vigilance, integrity and professionalism.