

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA-1861-DR; Docket ID FEMA-2008-0018]

Arkansas; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA-1861-DR), dated December 3, 2009, and related determinations.

DATES: Effective Date: December 16, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Arkansas is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of December 3, 2009.

Drew County for Public Assistance. The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,
Administrator, Federal Emergency Management Agency.

[FR Doc. E9-30941 Filed 12-29-09; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY**U.S. Customs and Border Protection****National Customs Automation Program Test Concerning Automated Commercial Environment (ACE) Entry Summary, Accounts and Revenue (ESAR III) Capabilities Relating to the Filing and Processing of AD/CVD Entries and Case Management**

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

ACTION: General notice.

SUMMARY: This document announces Custom and Border Protection's (CBP's) plan to conduct a National Customs Automation Program (NCAP) test concerning new Automated Commercial Environment (ACE) Entry Summary, Accounts and Revenue (ESAR III) capabilities. These new capabilities include functionalities specific to the filing and processing of anti-dumping and countervailing duty (AD/CVD) entries and case management. This notice announces the test's commencement, describes the eligibility, procedural and documentation requirements for voluntary participation in the test, outlines CBP's development and evaluation methodology, and invites public comment concerning any aspect of the test.

DATES: The ESAR III test will commence no earlier than January 17, 2010, and will continue until concluded by way of announcement in the **Federal Register**. Comments concerning this notice and any aspect of the test may be submitted at any time during the test period to the address set forth below.

ADDRESSES: Comments concerning this notice should be submitted via e-mail to Joe Palmer at *ESARinfoinbox@dhs.gov*. Please indicate "ESAR III (AD/CVD Entry Summary Processing/Case Mgt Notice)" in the subject line of your e-mail.

FOR FURTHER INFORMATION CONTACT: For policy-related questions, contact Christine Furgason at *christine.furgason@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:

Background**I. ACE Test Programs****A. ACE Portal Accounts**

On May 1, 2002, the former U.S. Customs Service, now U.S. Customs and Border Protection (CBP), published a General Notice in the **Federal Register** (67 FR 21800) announcing a plan to conduct a National Customs Automation Program (NCAP) test of the first phase of the Automated Commercial Environment (ACE). The test was described as the first step toward the full electronic processing of commercial importations with a focus on defining and establishing an importer's account structure. The notice announced that importers and authorized parties would be allowed to access their customs data via a web-based Account Portal. The notice set forth eligibility criteria for companies interested in establishing Account Portals accessible through ACE. Subsequent notices revised the eligibility criteria (see General Notice published in the **Federal Register** on February 1, 2005 (67 FR 5199)) and expanded the universe of eligible participants in the ACE test and the types of ACE Portal Accounts.

On February 4, 2004, CBP published two General Notices in the **Federal Register** that established ACE Truck Carrier Accounts and opened the application period for authorized importers and their designated brokers to participate in the NCAP test to implement the Periodic Monthly Statement (PMS) process (see 69 FR 5360 and 69 FR 5362, respectively). Brokers were invited to establish Broker Accounts in ACE in order to participate in the NCAP test to implement PMS. In both of the February 4, 2004, General Notices, CBP advised participants that they could designate only one person as the Account Owner for the company's ACE Portal Account. The Account Owner was identified as the party responsible for safeguarding the company's ACE Portal Account information, controlling all disclosures of that information to authorized persons, authorizing user access to the ACE Portal Account information, and ensuring the strict control of access by authorized persons to the ACE Portal information.

On September 8, 2004, CBP published a General Notice in the **Federal Register** (69 FR 54302) inviting customs brokers to participate in the ACE Portal test generally and informing interested parties that once they had been notified by CBP that their request to participate in the ACE Portal test had been

accepted, they would be asked to sign and submit a Terms and Conditions document. CBP subsequently contacted those participants and asked them to also sign and submit an ACE Power of Attorney form and an Additional Account/Account Owner Information form.

B. Terms and Conditions for Access to the ACE Portal

On May 16, 2007, CBP published a General Notice in the **Federal Register** (72 FR 27632) announcing a revision of the terms and conditions that must be followed as a condition for access to the ACE Portal. These terms and conditions superseded and replaced the Terms and Conditions document previously signed and submitted to CBP by ACE Portal Trade Account Owners. The notice specified that no further action would be required by ACE Portal Trade Account Owners for those ACE Portal Accounts already established with CBP with the proper Account Owner listed. The principal changes to the ACE Terms and Conditions included a revised definition of "Account Owner" to permit either an individual or a legal entity to serve in this capacity, new requirements relating to providing notice to CBP when there has been a material change in the status of the Account and/or Trade Account Owner, and explanatory provisions as to how the information from a particular account may be accessed through the ACE Portal when that account is transferred to a new owner.

On July 7, 2008, CBP published a General Notice in the **Federal Register** (73 FR 38464) which revised the terms and conditions set forth in the May 16, 2007, General Notice regarding the period of Portal inactivity which will result in termination of access to the ACE Portal. The July 7, 2008, General Notice provided that if 45 consecutive days elapse without an Account Owner, Proxy Account Owner, or Account User accessing the ACE Portal, access to the Portal will be terminated. The time period for allowable Portal inactivity previously was 90 days.

C. ACE Non-Portal Accounts

CBP has also permitted certain parties to participate in specified ACE tests without establishing ACE Portal Accounts ("Non-Portal Accounts"). On October 24, 2005, CBP published a General Notice in the **Federal Register** (70 FR 61466) announcing that importers could establish ACE Non-Portal Accounts and participate in the PMS test under certain conditions. On March 29, 2006, CBP published another General Notice in the **Federal Register**

(71 FR 15756) announcing that truck carriers who do not have ACE Truck Carrier Accounts may use third parties to transmit truck manifest information on their behalf electronically in the ACE Truck Manifest system via Electronic Data Interface (EDI) messaging

D. ACE Entry Summary, Accounts and Revenue (ESAR I) Capabilities

On October 18, 2007, CBP published a General Notice in the **Federal Register** (72 FR 59105) announcing CBP's plan to conduct a new test concerning ACE Entry Summary, Accounts and Revenue (ESAR) capabilities, providing enhanced account management functions for ACE Portal Accounts and expanding the universe of ACE account types. This General Notice is commonly referred to as ESAR I. As stated in that notice, ACE is now the lead system for CBP-required master data elements (e.g., company name, address, and point of contact) as well as related reference files (e.g., country code, port code, manufacturer ID, and gold currency exchange rate and conversion calculator). See ACE Systems of Record Notice, published in the **Federal Register** on January 19, 2006 (71 FR 3109). This means that the creation and maintenance of specified master data elements will originate in ACE and will be distributed to other CBP systems such as the Automated Commercial System (ACS).

In addition to announcing that importer Portal Accounts are capable of creating and maintaining specified importer data via the ACE Portal, ESAR I stated that filers have the ability to create a new CBP Form 5106 (Importer ID Input Record) via the ACE Portal or the Automated Broker Interface (ABI), and view applicable Participating Government Agency (PGA) licenses, permits and certificates via the ACE Portal. Through this notice, Broker Portal Accounts were provided the capability through the ACE Portal of maintaining organizational demographic data (e.g., addresses, points of contact, etc.), license and permit qualifiers, data on managing officials, employee lists, information on relationships to individual licensed brokers, points of contact and address information (at filer code level for each local broker permit and each port covered by the local permit, and for the national broker permit). Truck Carrier Portal Accounts were provided the capability through the ACE Portal to view any applicable PGA licenses, permits and certificates, and to maintain through the ACE Portal addresses and points of contact and pre-registered truck conveyance information, including equipment, shipper, and consignee data. Truck

Carrier Portal Accounts were also provided with the ability to create and maintain driver accounts and search for and correlate existing driver accounts to their Carrier Account. Finally, ESAR I also announced the expansion of Portal Account Types to include: carriers (all modes: air, rail, sea); cartman; lighterman; driver/crew; facility operator; filer; foreign trade zone (FTZ) operator; service provider; and surety.

E. ACE Entry, Summary, Accounts and Revenue (ESAR II) Capabilities

On August 26, 2008, CBP published a General Notice in the **Federal Register** (73 FR 50337) announcing the agency's plan to conduct a new test concerning ACE Entry Summary, Accounts, and Revenue (ESAR II) functionality that would provide new Portal and EDI capabilities specific to entry summary filing and processing of consumption and informal entries. The notice stated that functionality will include ABI Census Warning Overrides and issuance of CBP requests for information and notices of action through the ACE Portal, and that new functionality will enhance Portal Account Management and allow for ACE Secure Data Portal reporting. The notice indicated that this release of ESAR II initially would be limited only to formal entries, commonly referred to in the Automated Commercial System (ACS) as type 01 entries, and informal entries, commonly referred to in ACS as type 11 entries. The notice listed the ports where the test was expected to be deployed and requested that interested ABI participants wishing to submit type 01 and 11 entries for this test provide to CBP, within 60 days of the date of publication of that notice, the number of expected ACE entry summaries that will be submitted to the listed ports. Importer and broker volunteers interested in benefiting from Portal functionality available in this test were also advised that they must have an ACE Portal Account. ABI volunteers were advised that for this test, they must have the ability to file entries on a statement (i.e., no non-statement; single pay entry summaries would be allowed) and must use a software package that has completed ABI certification testing for ACE.

CBP subsequently published a General Notice in the **Federal Register** on March 6, 2009 (74 FR 9826) announcing the port-by-port phased deployment strategy for the ESAR II functionality. In that notice, CBP invited any additional interested ABI applicants meeting the eligibility criteria specified in the August 26, 2008, notice to participate in the ESAR II test. Eligible

ABI trade volunteers interested in submitting type 01 and 11 entries for the ESAR test were advised to contact their assigned client representative directly. Similarly, interested software developers were also advised to contact their client representative with regard to their interest in ABI certification testing for ACE. To date, the ESAR II functionality is available at all ports, nationwide.

II. Test Concerning New ACE Entry Summary, Accounts and Revenue (ESAR III) Capabilities Relating to the Filing and Processing of AD/CVD Entries and Case Management

A. In General

This document announces CBP's plan to conduct a test concerning new ACE Entry Summary, Accounts and Revenue (ESAR III) functionalities that provide new Portal and EDI capabilities specific to the filing and processing of anti-dumping and countervailing duty (AD/CVD) entries (commonly referred to in ACS as type 03 entries) and AD/CVD case management. Functionality for other entry types will be implemented as it becomes available and will be announced via subsequent publication in the **Federal Register**. It is noted that type 03 ACE entry summaries and AD/CVD case data that are processed under this test are covered by the ACE Systems of Record Notice (DHS/CBP-001), published in the **Federal Register** on January 19, 2006 (71 FR 3109). For all others who are not participating in the ESAR III, data is processed under ACS Systems of Record Notice (DHS/CBP-015) published in the **Federal Register** on December 19, 2008 (73 FR 77759).

The procedures and criteria related to participation in the prior ACE tests, referenced above in Section I of this document, remain in effect unless otherwise explicitly changed by this or subsequent General Notices published in the **Federal Register**.

B. Portal Capability

AD/CVD case management will include the capability to search, display and print both AD/CVD case information and AD/CVD messages. The case reference file will provide the ability to record and track the life cycle of an AD/CVD case and will contain important case information such as the duty deposit rates, entry summary suspension status, bond/cash status, administrative review information and events related to the case history (e.g., "initiation," "preliminary," "Final," "Order," "Terminated"). The AD/CVD messages now resident in ACE will also house additional information in one

location such as additional message header data elements (e.g., "message status," "Federal Register Notice cite," "Federal Register Notice publication date," "court order number") and the ability to run searches for all types of messages related to a particular case via the Portal.

Importers with an ACE Portal Account who have selected "portal" as their mode of communication will now also be able to respond to CBP Forms 28, 29 and 4647 regarding AD/CVD entries via the ACE Portal as well as all entry summaries (that is, both ACS and ACE entry summaries).

Brokers with an ACE Portal Account will now also be able to create declarations for their Non-Portal Accounts for AD/CVD entries. Brokers with clients possessing their own importer Portal Accounts, however, will not be able to create declarations on behalf of their clients. Brokers will have to be granted access as a "user" on the importer's Portal Account in order to create the declaration.

ACE Secure Data Portal Reports will also be enhanced to include AD/CVD Entry Summary Data.

C. EDI Capability

Trade participants may begin to file entry summaries electronically in ACE for entry types 03 using a better organized, more descriptive ACE ABI CATAIR (Customs and Trade Automated Interface Requirements) document. CATAIR documentation provides complete information describing how importers and/or their agents provide electronic import information to ABI, and receive transmissions from ABI once they have become a participant.

Type 03 entries filed under this ESAR III test will now require the submission of the "sold to" party and "foreign exporter" at the line level. This requirement differs from the ESAR I and II tests that apply to 01 and 011 entry types. The CATAIR should be consulted for further guidance pertaining to the definitions for each of these new data elements. Additionally, 01 entry types filed under this test will now require the "sold to" party and "consignee" party; this is a change from the previous ESAR II test where only the "consignee" party was required. As previously mentioned, the CATAIR document should be consulted for further guidance pertaining to the definitions for the referenced data elements.

Filers will have the ability to make an AD/CVD Non-Reimbursement statement on any line item that includes AD/CVD information. Accompanying the case information, the filer will also have the

ability to identify the actual AD/CVD Non-Reimbursement declaration that cites the case and that is on file with CBP.

Filers will have the ability to run an ABI query of AD/CVD case information. Information returned in the query output will include data required by ABI filers to successfully file AD or CVD entry summaries in ACE. The available queries will include: (1) Specific case numbers—input Q1—Record; and, (2) Case criteria (such as country, Manufacturer Identification Number (MID), and date since last update)—input Q2—Record.

Additionally there will be 10 different output records to provide case details including:

- Case general information (status, related case, short description, etc.)
- Case official name
- Manufacturer details
- Foreign exporter details
- Department of Commerce contact information
- Deposit rate details
- Case events
- Bond/cash details
- Tariff details
- Entry summary liquidation suspension details

Revisions to CATAIR chapters will include:

- Entry Summary Create/Update (AE/AX)
- Entry Summary Query (JC/JD)
- Appendix G—ACE Condition Codes and Narrative Text
- ACE ABI CATAIR—Table of Contents
- AD/CVD Case Information Query

Interested parties are directed to cbp.gov for more detailed information regarding these new ACE ABI CATAIR formats.

III. Confidentiality

All data submitted and entered into the ACE Portal is subject to the Trade Secrets Act (18 U.S.C. 1905) and is considered confidential, except to the extent as otherwise provided by law (see 19 U.S.C. 1431(c)). As stated in previous notices, participation in this or any of the previous ACE tests is not confidential and upon a written Freedom of Information Act request, a name(s) of an approved participant(s) will be disclosed by CBP in accordance with 5 U.S.C. 552. If necessary, CBP will reserve the right to limit the number of participants and locations during the initial stages of the test.

IV. Waiver of Affected Regulations

Any provision in title 19 of the Code of Federal Regulations including, but not limited to, provisions found in parts

141, 142, 143 and 151 relating to entry/entry summary processing that are inconsistent with the requirements set forth in this notice are waived for the duration of the test. See 19 CFR 101.9(a). Additionally, any previous practice pertaining to party definitions, including but not limited to “ultimate consignee,” that are inconsistent with the requirements set forth in this notice are waived for the duration of the test. The CATAIR should be consulted for appropriate terms and definitions for the purposes of this test.

V. Misconduct Under the Test

An ACE test participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, and/or suspension from this test for any of the following:

- Failure to follow the terms and conditions of this test.
- Failure to exercise reasonable care in the execution of participant obligations.
- Failure to abide by applicable laws and regulations.
- Failure to deposit duties or fees in a timely manner.
- Misuse of the ACE Portal.
- Engagement in any unauthorized disclosure or access to the ACE Portal.
- Engagement in any activity which interferes with the successful evaluation of the new technology.

Suspensions for misconduct will be administered by the Executive Director, Commercial Targeting and Enforcement, Office of International Trade, CBP Headquarters. A notice proposing suspension will be provided in writing to the participant. Such notice will apprise the participant of the facts or conduct warranting suspension and will inform the participant of the date that the suspension will begin. Any decision proposing suspension of a participant may be appealed in writing to the Assistant Commissioner, Office of International Trade, within 15 calendar days of the notification date. Should the participant appeal the notice of proposed suspension, the participant must address the facts or conduct charges contained in the notice and state how compliance will be achieved. In cases of non-payment, late payment, willful misconduct or where public health interests or safety is concerned, the suspension may be effective immediately.

VI. Test Evaluation Criteria

To ensure adequate feedback, participants are required to participate in an evaluation of this test. CBP also invites all interested parties to comment on the design, implementation and

conduct of the test at any time during the test period. CBP will publish the final results in the **Federal Register** and the Customs Bulletin as required by 19 CFR 101.9(b).

The following evaluation methods and criteria have been suggested:

1. Baseline measurements to be established through data analysis.
2. Questionnaires from both trade participants and CBP addressing such issues as:

- Workload impact (workload shifts/volume, cycle times, etc.).
- Cost savings (staff, interest, reduction in mailing costs, etc.).
- Policy and procedure accommodation.
- Trade compliance impact.
- Problem resolution.
- System efficiency.
- Operational efficiency.
- Other issues identified by the participant group.

Dated: December 24, 2009.

Daniel Baldwin,

Assistant Commissioner, Office of International Trade.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-1865-DR; Docket ID FEMA-2008-0018]

Alaska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alaska (FEMA-1865-DR), dated December 18, 2009, and related determinations.

DATES: Effective Date: December 18, 2009.

FOR FURTHER INFORMATION CONTACT:

Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated December 18, 2009, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the State of Alaska resulting

from severe storms, flooding, mudslides, and rockslides during the period of October 6–11, 2009, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Alaska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Dolph A. Diemont, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Alaska have been designated as adversely affected by this major disaster:

Kodiak Island Borough for Public Assistance.

All boroughs and Regional Educational Attendance Areas in the State of Alaska are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidential Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

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