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Major Concerns Over Trade Readiness Less Than Two Months From ACE Deadline

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Major concerns persist among the trade community about readiness for the fast-approaching Feb. 28 mandatory use date for Automated Commercial Environment entry summary and cargo release. Despite the reprieve granted by CBP when it delayed the deadline from Nov. 1, the ACE adoption rate remains low. A constant stream of programming tweaks from CBP has made it impossible to finalize software, and as-yet-undeployed capabilities make it difficult even for some filers that want to file in ACE to make the switch to the new system, said several involved in implementation from the industry side in recent interviews.

The most recently released statistics from CBP show 11.6 percent of all cargo release submissions were filed in ACE in November, up from 10 percent in October and 8 percent in September. The low adoption rate raises doubts that the trade will be ready, said Fany Flores-Pastor, director of R&D compliance systems at Descartes, a software vendor. Many filers “will have to go through the hybrid process that Customs needs to prepare for this,” she added.

Less than 50 days out, CBP still appears to be in “development mode,” said Flores-Pastor. More changes are on the immediate horizon, with another set scheduled for Feb. 3. “There are changes that are going to come out in a week and we still don’t have the implementation guide to code against,” said Flores-Pastor. “Customs is doing this often enough to a point where it’s very frustrating and concerning,” she said.

Even “minor” changes can cause ripple effects for software developers trying to implement them, said Flores-Pastor. Smaller tweaks are sometimes not compatible with previous versions of a developer’s ACE programming, requiring other fixes in order to avoid breaking the program. With so little time remaining and software developers moving quickly, even these smaller tweaks can throw a developer’s carefully laid schedule out of whack. Flores-Pastor only knows about these changes because of a daily call where CBP discusses them with software developers and other members of the trade community, she said. For the “hundreds” that aren’t participating, it’s uncertain how they’ll find out.

“We have run out of time,” said Amy Magnus of A.N. Deringer. The ACE transition “has turned out to be a lot more complicated,” with “a lot more moving parts, than I think we ever anticipated.” The “good news” is that everyone is working to “achieve the goal,” and “nobody’s sitting on their hands thinking that nothing’s going to happen in

February,” said Magnus, who is also NCBFAA vice president. But if you listen in on CBP’s ACE call, “you can hear that people are struggling,” she said, noting the NCBFAA hired a consultancy, Trade Force Multiplier, to send out a daily email summarizing new developments and issues raised during the call in an effort to boost trade industry preparedness.

Even if the adoption rate has risen quickly since CBP’s November ACE statistics, it’s “still not enough,” said Magnus. “We need to be at 100 percent.” Given the current status of ACE implementation, the legacy Automated Commercial System is still an important fallback, particularly for cargo modes with little lead time like truck and rail. When the inevitable issues happen, like a user keying error, software problem or bug on CBP’s end, filers with shipments only hours away can quickly shift to ACS and save the shipment. “What happens on Feb. 28 if things happen and we don’t have a fallback system? That’s my concern,” said Magnus.

One of the problems keeping down the ACE adoption rate is a number of unresolved issues that directly impact filers’ ability to use the system, according to Cindy Allen, CEO of Trade Force Multiplier and former director of CBP’s ACE Business Office. For example, filers are still awaiting fixes to ACE air split shipment functionality. Filers often are unaware an air shipment is split until after their entry is filed, so CBP has been telling filers to cancel their ACE entry and file in ACS when they find out, adding time and cost and causing some reluctance to adopt ACE among filers with more air shipments. Fixes are also on their way for shipments that have a subsequent in-bond, causing similar issues for filers clearing goods at interior ports. Though all filers should be filing simple cargo releases in ACE by now, a broker sitting in Des Moines getting cargo via air or in-bond may not have as many.

Another issue for the ACE adoption rate is the late date that partner government agencies (PGAs), and in particular the Food and Drug Administration, released its final ACE filing requirements, which include new data elements, said Allen. Many brokers didn’t want to begin implementing ACE for FDA entries before the changes were finalized, and as a result many are still in the process of developing processes and systems to get that data from their importer clients. Those importers are in turn scrambling to get the data from their suppliers. The trade community had years to implement new Importer Security Filing data requirements, said Allen. For FDA’s new ACE requirements, it’s had a period of months.

The National Customs Brokers & Forwarders Association of America recently called on CBP to “lock down” its programming in order to allow software developers to field a final product and customs brokers to test and adapt their processes to ACE (see 1601110030). Live testing alone takes a minimum of 60 days, it said, noting that some entry functions will not be available until the transition itself.

CBP "remains committed to implementing [ACE] and conducting the transition to ACE from our legacy systems in a manner that is sensible and responsible," said an agency spokesman in response to NCBFAA's request. "Complete implementation guides are published, and CBP has established an approach in coordination with trade to address any new technical issues that may be identified as new filers come on board for the February milestone," said the spokesman, noting the agency will continue to collaborate closely with the NCBFAA and other stakeholders. "CBP is continually evaluating the readiness around this transition and intends to do this in a way that does not disrupt the flow of commerce."

According to Allen, the issue for the trade community is not so much a need for another delay, but rather what will happen when issues arise on the deadline. "I don't think that anyone wants to say, 'you guys can't go live on Feb. 28,'" she said. "What we are saying is, what are the contingency plans if everybody's not ready."

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