

Dated: October 19, 2005.

Charles E. McQueary,

*Under Secretary for Science and Technology
Science and Technology Directorate.*

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DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Automated Commercial Environment (ACE): Creation of Non-Portal Accounts for Importers; Automatic ACE Participation for C-TPAT Members

AGENCY: Customs and Border Protection;
Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice announces the creation of Non-portal Accounts for importers wishing to participate in the Automated Commercial Environment (ACE) test, but not seeking the benefits that inure to parties that establish Portal Accounts. This notice also announces that all importers who are certified partners in the voluntary Customs–Trade Partnership Against Terrorism (C-TPAT) Program, and are not holders of ACE Portal Accounts, are automatically established as ACE Non-portal Accounts and are eligible to participate in the Periodic Monthly Statement test. This Notice further announces that importers who are not certified partners in C-TPAT may still become Non-portal Accounts by accurately completing a Customs and Border Protection Form (CBP Form) 5106 and then submitting that document to a customs broker who is participating in ACE via a Portal Account. The broker will then submit that information to CBP. Finally, the document states that any current C-TPAT certified partners who are owners of Portal Accounts and are not participating in Periodic Monthly Statement (PMS) may immediately participate in PMS directly with CBP, or through a customs broker with an ACE Portal Account, by providing to CBP those importer of record numbers that are part of the Portal Account and that have been previously designated to C-TPAT.

DATES: The provisions of this Notice are effective immediately.

ADDRESSES: Comments concerning this notice should be submitted to Mr. Michael Maricich via e-mail at *Michael.Maricich@dhs.gov*.

FOR FURTHER INFORMATION CONTACT: For questions regarding this Notice: Mr. Michael Maricich via e-mail at *Michael.Maricich@dhs.gov*, or by telephone at (703) 921-7520. Information is also available at the CBP Web site, *cbp.gov*, regarding the procedures to follow in order to establish the accounts described in this notice, such as the submission of forms, information, etc.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2002, 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. In this notice, CBP stated that it planned to select approximately forty importer accounts from the list of qualified applicants for the initial deployment of this test. The test would allow importers and authorized parties to access their customs data via a web based Account Portal. In order to be eligible for participation, an importer was required to become a member of the Customs–Trade Partnership Against Terrorism (C-TPAT) Program and had to have the ability to connect to the internet. Each participant had to designate one person as the account owner for the company's portal account information, with that account owner being responsible for safeguarding the company's portal account information, controlling all disclosures of that information to authorized persons, authorizing user access to the Account Portal and ensuring that access to the company's portal account information by authorized persons is strictly controlled. Each importer wishing to participate was required to fill out an application and, while not expressly stated in the Notice, each applicant was also required to agree to a set of terms and conditions.

On June 18, 2002, CBP extended the application period for those desiring to be one of the initial importer participants by publishing a second General Notice in the **Federal Register** (67 FR 41572). That notice emphasized that applications to be an initial participant had to be submitted to CBP prior to August 1, 2002. Applications would be accepted after that date, but parties who so applied would be placed on a waiting list and considered for participation pending expansion of the technology.

On February 4, 2004, CBP published a General Notice in the **Federal Register** (69 FR 5362) announcing the next step toward the full electronic processing of

commercial importations in ACE, with a focus on identifying authorized importers and brokers to participate in the test to implement the Periodic Monthly Statement (PMS) Process. Under the test as described in this Notice, participating importers and their designated brokers are allowed to deposit estimated duties and fees no later than the 15th calendar day of the month following the month in which the goods are either entered or released, whichever comes first. (See section 383 of the Trade Act of 2002, Pub. L. 107-210, dated August 6, 2002, which amended section 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505(a)). Brokers are permitted to establish broker accounts in the secure data portal in order to submit Periodic Monthly Statements on behalf of their clients eligible to participate.

The February 4, 2004, General Notice further stated that participants in this test would benefit by having access to operational data through the ACE Secure Data Portal ("Portal"), enjoying the capability of being able to interact electronically with CBP, and making payments of duties and fees on a periodic monthly basis. Pursuant to this Notice, an importer wishing to designate a broker to make Periodic Monthly Statement payment on his behalf can do so only after first establishing himself as an importer ACE Portal account by meeting the basic criteria set forth in the **Federal Register** notices of May 1, 2002 (67 FR 21800) plus two new additional requirements, i.e., having the ability to make periodic payment via ACH Credit or ACH Debit and having the ability to file entry/entry summary via ABI (Automated Broker Interface). Also, designated brokers wishing to participate in this test and make Periodic Monthly Statement payment on behalf of participating importers also had to establish individual broker ACE Portal Accounts, also meeting those same requirements. In addition, in order for customs brokers to apply, they had to provide names of the initial forty-one importers participating in the test who had designated or would designate them as the authorized broker.

On September 8, 2004, CBP published a General Notice in the **Federal Register** (69 FR 54302), reminding the public that importers and their designated brokers may still apply to establish ACE Portal accounts so as to participate in the Periodic Monthly Statement Process. The Notice again invited customs brokers to participate in the ACE Portal test generally.

On February 1, 2005, CBP published a General Notice in the **Federal Register** (70 FR 5199) modifying the eligibility

requirements for the establishment of an ACE portal account and announced that applicants seeking to establish importer or broker accounts so as to access the ACE Portal, or to participate in any test, were no longer required to provide a statement certifying participation in the Customs Trade Partnership Against Terrorism (C-TPAT).

On August 8, 2005, CBP published a General Notice in the **Federal Register** (70 FR 45736) changing the time period allowed for the deposit of the duties and fees from the 15th calendar day to the 15th working day of the month following the month in which the goods are either entered or released. That change was made in order to comply with the provisions of section 2004 of the Miscellaneous Trade and Technical Corrections Act of 2004, Public Law 108-429, which extended the time of deposit of those estimated duties and fees. The document also advised that entries containing Census errors are eligible to be placed on a Periodic Daily Statement and designated for monthly payment. Finally, the document described those situations where liquidated damages would be imposed for failing to pay estimated duties in a timely manner.

On September 22, 2005, CBP published a General Notice in the **Federal Register** (70 FR 55632) eliminating the requirement that participants in the Periodic Monthly statement test provide a bond rider covering the periodic payment of estimated duties and fees. The Notice indicated that nonpayment or untimely payment of estimated duties and fees may result in action by CBP to impose sanctions on the delinquent importer of record or to allow the surety to terminate its basic importation bond. If the bond principal is a participant in the Periodic Monthly Statement test, sureties will be allowed, under certain conditions, to terminate bonds with 3 business days notice to the bond principal and CBP.

Description of Changes

Removal of Requirement for Participation in Periodic Monthly Statement

In order to encourage maximum participation, CBP will no longer require that importers first establish ACE Portal Accounts in order to deposit estimated duties and fees as part of Periodic Monthly Statement (PMS). Previous releases of ACE involved testing the ability of importers and authorized parties to access their CBP data via the Portal, with a focus on defining and establishing the Importer

Account structure. Among other things, the requirement to establish an ACE Portal Account was considered a benefit to participants because it provides them with access to their operational data through the ACE Portal.

CBP recognizes that some importers, while wishing to deposit estimated duties and fees on a monthly basis, would prefer to designate a broker to perform this role, and may choose not to access their data via the Portal. As such, CBP has decided that in lieu of the requirement to establish an importer ACE Portal account prior to participation in periodic monthly payment, CBP will only require an importer to establish a Non-portal Account.

Non-Portal Accounts

Through this Notice, CBP announces the establishment of Non-portal Accounts in ACE. At this point during the ACE test, Non-portal Accounts will only be afforded to importers.

Importers desiring to participate in ACE through Non-portal Accounts will not be required to meet the application requirements outlined to date, but will be required to provide information related to identity (unless they are C-TPAT certified partners, automatically becoming ACE Non-portal Accounts, as described later in this document). Importers establishing Non-portal Accounts will be eligible to participate in the Periodic Monthly Statement test and pay estimated duties and fees on a monthly basis. In order to participate in the Periodic Monthly Statement test consistent with the provisions of this General Notice, a Non-portal Account importer must have its duty and fee deposits guaranteed by a continuous basic importation bond. Ultimately, it is CBP's intention to permit the filing of single transaction bonds for those importers wishing to participate in the payment of estimated duties in the Periodic Monthly Statement test. However, at this stage in the test development, in order to ensure that all Non-portal Account participants receive some fiscal scrutiny, continuous bonds will be required.

In order to participate as a Non-portal Account, a party must submit to its customs broker a CBP Form 5106, Notification of Importer's Number or Notice of Change of Name or Address, with accurate information. Brokers with Portal Accounts are eligible to establish Non-portal Accounts on behalf of their clients. Brokers who accept CBP Form 5106 information from a client and submit that information to CBP in order to establish a Non-portal Account on behalf of that client should exercise due

diligence to ensure that all information provided by the client that is used in the processing of merchandise is accurate. Under the procedures for establishing Non-portal Accounts for the test, the broker shall be obligated to maintain an accurately completed power of attorney on file on behalf of that importer. The broker will be required to exercise responsible supervision and control over customs business as required by the provisions of title 19, United States Code, section 1641.

Upon completion of the aforementioned requirements, holders of Non-portal Accounts may participate in Periodic Monthly Statement via a broker with a Portal Account.

Automatic Participation in ACE for C-TPAT Certified Partners

All importer certified partners in the voluntary Customs Trade Partnership Against Terrorism (C-TPAT) who do not have portal accounts are automatically considered to be ACE Non-portal Accounts eligible to participate in the Periodic Monthly Statement test. C-TPAT is an initiative between business and government to protect global commerce from terrorism. Importers applying to participate in C-TPAT, among other things, are required to be active U.S. importers or non-resident Canadian importers into the United States, have a business office staffed in the United States or Canada and have active U.S. importer of record ID(s) in any of the following formats: (1) U.S. Social Security Number; (2) U.S. Internal Revenue Service assigned ID(s); or (3) CBP assigned Importer ID.

Accordingly, inasmuch as this information is provided to CBP in the application process, C-TPAT certified partners automatically designated as Non-portal Accounts are not required to follow the Non-portal Account process described earlier in this Notice. Also, brokers with C-TPAT clients will not be required to submit the completed CBP Form 5106. Necessary powers of attorney must be maintained. In order to apply for PMS participation, the C-TPAT Non-portal Account must use a broker with an ACE Portal Account to designate to CBP the Non-portal Account as a C-TPAT certified partner and provide CBP with the importer of record IDs that have been previously designated to C-TPAT.

C-TPAT importers are encouraged to apply to become ACE Portal Accounts as described in the May 1, 2002, and February 4, 2004, **Federal Register** Notices described earlier.

C-TPAT Portal Accounts Currently Not Participating in Periodic Monthly Statement

C-TPAT certified partners who hold ACE Portal Accounts and are not taking advantage of Periodic Monthly Statement estimated duty and fee payments may do so directly with CBP, or through a customs broker with an ACE Portal Account, by providing to CBP those U.S. importer of record IDs that are part of the Portal Account and have been previously designated to C-TPAT. No further participation requirements need be met.

Previous Notices and Suspension of Regulations

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. Examples of such requirements and aspects are the rules regarding misconduct under the test and the required evaluation of the test (both of which are detailed in the notices published at 67 FR 21800 and 69 FR 5362).

During the testing of the Periodic Monthly Statement process, CBP is suspending provisions in Parts 24, 141, 142, and 143 of the CBP Regulations (Title 19 Code of Federal Regulations) pertaining to financial, accounting, entry procedures, and deposit of estimated duties and fees. Absent any specified alternate procedure, the current regulations apply.

All of the terms of the test and criteria for participation therein, as announced in the previous notices identified above, continue to be applicable unless changed by this notice.

Dated: October 19, 2005.

Robert C. Bonner,

Commissioner, Customs and Border Protection.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA-3214-EM]

Alabama; Amendment No. 2 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Alabama (FEMA-3214-EM), dated August 28, 2005, and related determinations.

EFFECTIVE DATE: September 18, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Acting Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, Michael Bolch of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

This action terminates my appointment of Ron Sherman as Federal Coordinating Officer for this emergency.

(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 Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Acting Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA-1582-DR]

American Samoa; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Territory of American Samoa (FEMA-1582-DR), dated February 18, 2005, and related determinations.

EFFECTIVE DATE: October 12, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that special conditions are warranted regarding the cost sharing arrangements concerning Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (Stafford Act). Therefore, consistent with 48 U.S.C. 1469a(d), pertaining to insular areas, and the President's declaration letter dated February 18, 2005, Federal funds for the Public Assistance and Hazard Mitigation Grant Programs, and for Other Needs Assistance under the Individuals and Households Program are authorized at 90 percent of total eligible costs for American Samoa. These cost shares are effective as of the date of the President's major disaster declaration.

(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 Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050, Individual and Household Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Acting Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA-1608-DR]

North Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Carolina (FEMA-1608-DR), dated October 7, 2005, and related determinations.