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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2017-0069]

International Trade Data System: Timeline for Enforcing APHIS Core Message Set Flags in the Automated Commercial Environment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) is announcing a delay in the full implementation of the APHIS Core Message Set in the Automated Commercial Environment/International Trade Data System (ACE/ITDS) for the electronic submission of data required by APHIS Animal Care, Biotechnology Regulatory Services, Plant Protection and Quarantine, and Veterinary Services. APHIS intended to begin applying Harmonized Tariff Schedule flags, which would alert filers who opted to submit electronically using ACE whether APHIS import data is or may be required, on August 3, 2020. Due to the COVID-19 pandemic, APHIS is delaying implementation until January 25, 2021. Full implementation of the message set will bring APHIS into compliance with the mandates of the Security and Accountability For Every Port Act of 2006 and Executive Order 13659. The information collected will enhance APHIS' ability to make data-driven policy decisions, improve risk analysis/assessments, and enhance ability to respond to changing pest/disease conditions.

DATES: APHIS will begin full implementation of the APHIS Core Message Set on January 25, 2021.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Leshin, APHIS Liaison for Automated Commercial Environment, International Trade Data System, Management and Program Analyst, Quarantine Policy, Analysis and Support, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737; (301) 851-2085; Richard.Leshin@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The National Customs Automation Program (NCAP) was established in Subtitle B of Title VI-Customs Modernization, in the North American Free Trade Agreement Implementation Act (Pub.L. 103-182, 107 Stat. 2057, 2170, December 8, 1993; *see* 19 U.S.C. 1411). Through NCAP, the initial thrust of customs modernization was on trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the Automated Commercial System. ACE is an automated and electronic system for commercial trade processing intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for U.S. Customs and Border Protection (CBP) and all of its communities of interest. The ability to meet these objectives depends on successfully modernizing CBP's business functions and the information technology that supports those functions.

The International Trade Data System (ITDS) is authorized by section 405 of the Security and Accountability For Every Port Act of 2006 (SAFE Port Act, Pub.L. 109-347). The purpose of ITDS, as defined by section 405 of the SAFE Port Act, is to eliminate redundant information filing requirements, efficiently regulate the flow of commerce, and effectively enforce laws and regulations relating to international trade, by establishing a single portal system, operated by

CBP, for the collection and distribution of standard electronic import and export data required by all participating Federal agencies.

From March 1, 2016, through August 15, 2016, the Animal and Plant Health Inspection Service (APHIS) conducted pilots of ACE/ITDS using the message set data for Animal Care, Biotechnology Regulatory Services, Plant Protection and Quarantine, and Veterinary Services (known collectively as APHIS Core).¹ The pilots were available for any stakeholder interested in participating. During the pilot phase, APHIS conducted an analysis and provided feedback on each initial filing. APHIS continues to provide an analysis of the data submissions for stakeholders who request feedback.

On February 3, 2020, APHIS published in the *Federal Register* (85 FR 5928-5929, Docket No. APHIS-2017-0069) a notice² announcing our intention to fully implement this change on August 3, 2020. APHIS solicited comments regarding the notice for 30 days ending on March 4, 2020. We received 4 comments by that date, from two trade brokers associations, a diagnostic laboratory, and a private citizen. They are discussed below.

Two commenters were generally supportive of the planned implementation date of August 3, 2020, but stated that implementation would be challenging for importers, shippers, and brokers. Both commenters suggested that APHIS consider a soft enforcement period upon implementation, during which the automated system would allow filers to revert to a paper option if they are unable to submit all the information electronically on a particular shipment. The commenters stated that if APHIS does not implement a soft enforcement period, the agency

¹ To view the notices announcing the beginning and end of the pilots, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0063>.

² To view the notice and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0069>.

should set up a “war room” staffed by technical experts who could provide technical assistance in the event of difficulties.

APHIS recognizes that full implementation may present challenges for some stakeholders. Due to the COVID-19 pandemic, APHIS has decided to delay implementation until January 25, 2021. We believe that this delay will provide stakeholders with sufficient time to prepare for full implementation. APHIS notes that since 2017, those stakeholders ready to begin filing electronically have had the option to do so. APHIS is committed to helping trade with questions and technical assistance through our help desk support at ace.itds@usda.gov.

Two commenters expressed concern that APHIS Core implementation would impose additional requirements on trade. One of these commenters asked why APHIS was adding additional regulations and tariffs if the intent of the action was to eliminate redundant information filing requirements, efficiently regulate the flow of commerce, and effectively enforce laws and regulations relating to international trade.

APHIS believes the commenter misunderstood the original notice. No additional tariffs are required as a result of this action, and this action does not amend the regulations that govern importation of any products within APHIS’ statutory authority. As we explained in our initial notice, applying Harmonized Tariff Schedule (HTS) flags in ACE will alert filers who opt to submit data electronically whether APHIS import data is or may be required. This action will not change what import data is required, just the format in which it is submitted.

The other commenter expressed concern that additional electronic documents would be required to be submitted by the shipper, including additional permits for certain items. The commenter also expressed concern that health care providers submitting samples for testing would be required to have computer access, knowledge of the correct forms to complete, and to

submit those forms in advance. The commenter stated that imposing such additional requirements could cause in delays in shipping, and those delays could result in lost time in client-patient care support and in damage to samples sent for diagnostic testing.

As we explained above, implementation of the APHIS Core message set does not change either admissibility or documentation requirements. The only change is to the format in which the information is presented by those filers who submit that information through ACE.

As we also explained above, due to the COVID-19 pandemic, APHIS has decided to delay implementation until January 25, 2021. On that date, APHIS intends to begin applying HTS flags, which will alert filers, who opt to submit data electronically, whether APHIS import data is or may be required. Importers or brokers using ACE must enter APHIS-required import data when they receive an APHIS-specific HTS flag in order to complete their entry in the system.

Importers and brokers are required to submit APHIS-required information at the first U.S. port of arrival and are responsible for knowing what to file, regardless of whether a tariff code is flagged in ACE. The APHIS Core Message Set does not allow for *de minimis* exceptions. Importers and brokers must submit required data for APHIS-regulated products regardless of the size or value of the shipment. Any exceptions to filing APHIS Core data within the ACE environment is available on the APHIS ACE website at <http://www.aphis.usda.gov/ace>.

Additional information and guidance regarding the APHIS Core Message Set are located at the following website: <http://www.aphis.usda.gov/ace/>. The latest APHIS Core Message Set implementation guide is available on the CBP website at <https://www.cbp.gov/document/guidance/aphis-pga-message-set-adapted-data-element-record->

layout. A complete list of documents and approved submission options are available on the CBP website at <http://www.cbp.gov/document/guidance/ace-november-1-pga-forms>.

For questions about the APHIS Core Message Set, please email ace.itds@usda.gov. For questions related to APHIS' import requirements, please visit APHIS' import/export website at <https://www.aphis.usda.gov/aphis/ourfocus/importexport> or call APHIS' Customer Service Center at (844) 820-2234.

Done in Washington, DC, this 22nd day of September 2020.

Michael Watson,

Acting Administrator,

Animal and Plant Health Inspection Service.

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