

November 16, 2016

Mr. Dan Ashe
Director
U.S. Fish and Wildlife Service
1849 C Street NW, ROOM 3331
Washington, DC 20240

RE: U.S. Fish and Wildlife Service ACE Pilot Program Concerns and Meeting Request

Dear Director Ashe:

On behalf of the undersigned organizations representing importers, exporters, customs brokers, transportation providers and other supply chain stakeholders, we are writing to raise significant concerns regarding the ongoing U.S. Fish and Wildlife Service (FWS) pilot program for the Automated Commercial Environment (ACE). The industry is concerned with three key issues: 1) the significant increase in the number of HTS lines that FWS has been flagging, 2) the elimination of the FW1 flag along with the option to disclaim products with no FWS regulated materials and 3) the elimination of the Non-Designated Port Exemption Permit (DPEP) for imports and exports.

We believe there needs to be additional communication, coordination and guidance from the agency to the trade community as a whole regarding these and other issues. We would like to request a meeting between FWS and interested stakeholders during U.S. Customs and Border Protection's East Coast Trade Symposium on December 1-2 to discuss these issues.

The undersigned organizations have long supported the development of ACE and the International Trade Data System (ITDS). We welcomed the President's Executive Order to complete ITDS by December 2016 to create a "single window" in order to improve the import/export process. We believe that pilot programs by the Partner Government Agencies (PGA) are critical to the success of the "single window". Unfortunately, the current FWS pilot program has raised a number of concerns about the entry process and the long-term implications that could adversely affect both the agency and the industry. We believe it is critical that these issues are addressed before any new mandatory ACE requirement is issued by FWS.

The goal of ITDS and the Single Window is to allow for a more efficient government decision-making process to speed the flow of legitimate commerce. This process will not only benefit the PGAs, but also industry stakeholders by ultimately reducing business costs. Regrettably, the current FWS pilot seemingly runs counter to this goal. FWS is dramatically increasing the universe of products being flagged, as opposed to reducing this universe by focusing on the most high-risk products through a risk management approach. Under the current FWS pilot, 2,023 HTS numbers will now require FWS data in the ACE environment where only 440 of these HTS numbers were targeted previously. In addition, the amount of information required, especially for domesticated animal products that are not subject to FWS enforcement, and the complexity of this information, much of which does not currently exist in the supply chain, will undoubtedly delay cargo and cause undue expense.

A majority of these newly-added HTS numbers appear to fall in the “third category” that is described in FWS’s CATAIR Implementation Guide as “describing commodities that are highly likely to contain animals that require submission of FWS Form 3-177 data elements.” Yet many of these tariff numbers seem not to meet this definition. We believe that FWS needs to clarify the process that was used to deem which HTS Numbers are “highly likely” to require FWS reporting. There are also concerns about the increased level of information required and the elimination of the disclaim process. We believe this will put an undue burden on both the agency as well as importers and their brokers, with little benefit to protecting wildlife or endangered species.

There are also significant concerns about FWS eliminating the DPEP, even before the pilot is completed. Eliminating the DPEP severely curtails the number of ports through which FWS products or products containing FWS components may be imported. Importers build very complex supply chains that align by port based upon previously established distribution centers, not the location of FWS inspectors. Eliminating the DPEP and forcing importers to route their cargo through a limited number of ports that are outside of the importers normal alignment will substantially increase logistics costs, add administrative burden, and require additional lead time impacting logistics processes as well as sourcing and procurement processes, again with limited benefit to increasing protection for wildlife or endangered species.

We appreciate the opportunity to raise these concerns with FWS. We believe ongoing communication regarding the pilot program and future ACE requirements is critical. We again request the agency meet with stakeholders during the CBP East Coast Trade Symposium on December 1-2 to discuss these issues. If you have any questions, please contact Jonathan Gold, Vice President for Supply Chain and Customs Policy with the National Retail Federation at goldj@nrf.com. We look forward to further discussing this issue with you and the agency.

Sincerely,

1. Agriculture Transportation Coalition
2. Alliance of Automobile Manufacturers
3. American Apparel & Footwear Association (AAFA)
4. American Association of Exporters and Importers (AAEI)
5. American Association of Port Authorities
6. Association of Global Automakers
7. Auto Care Association
8. CAWA – Representing the Automotive Parts Industry
9. Coalition of New England Companies for Trade (CONNECT)
10. Columbia River Customs Brokers & Forwarders Association
11. Customs Brokers & International Freight Forwarders of Washington State
12. Customs Brokers and Forwarders Association of Northern California
13. Detroit Customs Brokers & Forwarders Association (DCBFA)
14. Express Association of America (EAA)
15. Footwear Distributors & Retailers of America (FDRA)
16. Foreign Trade Association

17. Global Cold Chain Alliance
18. Hardwood Federation
19. International Wood Products Association
20. Los Angeles Customs Brokers and Freight Forwarders Association
21. Midwest Shippers Association
22. National Association of Foreign-Trade Zones (NAFTZ)
23. National Association of Music Merchants
24. National Customs Brokers and Forwarders Association of America (NCBFAA)
25. National Industrial Transportation League
26. National Retail Federation
27. Northern Border Customs Brokers Association
28. Outdoor Industry Association
29. Pacific Coast Council of Customs Brokers and Freight Forwarders
30. Retail Industry Leaders Association (RILA)
31. San Diego Customs Brokers Association
32. Sports & Fitness Industry Association
33. U.S. Chamber of Commerce
34. United States Council for International Business
35. United States Fashion Industry Association

CC: Ms. Maria Luisa Boyce, Executive Director, Office of Trade Relations, U.S. Customs and Border Protection
Mr. Jeff Weiss, Senior Advisor for Standards and Global Regulatory Policy, U.S. Department of Commerce
Mr. Tim Skud, Deputy Assistant Secretary Tax, Trade and Tariff Policy, U.S. Treasury Department
Ms. Christa Brzozowski, Deputy Assistant Secretary, Trade & Transport Policy, U.S. Department of Homeland Security
Ms. Letty Belin, Senior Counselor, U.S. Department of the Interior
Mr. William Woody, Assistant Director, Law Enforcement, U.S. Fish and Wildlife Service