

NCBFAA Position Paper

Status of Ace and Single Window Development And Impact to the Trade Community

The National Customs Brokers and Freight Forwarders Association of America, Inc. represents the interests of the brokerage and forwarding industries and has done so since 1897. With 1,000 member companies with hundreds of thousands of employees and clients, the NCBFAA represents all facets of these industries. In this capacity, the NCBFAA is the recognized primary user of CBP's trade-facing information systems, notably the Automated Commercial System and its successor the Automated Commercial Environment and the primary user of the PGA's single-window, the International Trade Data System.

Since the introduction of the Automated Broker Interface and continuously as that system matured and other automated systems were developed, the NCBFAA has supported CBP, recognizing the vital role automation plays in trade facilitation and in protecting the interests of our country. This support has not been without peril and expense. Brokerage companies have absorbed incalculable costs related directly and indirectly to software development, equipment, customization with importers, training, productivity loss, and travel. Some companies were not able to absorb the costs and their businesses have failed. While much has been accomplished, much remains to be done.

The NCBFAA sees stabilizing of current ACE functionality as essential.

System performance issues including slowdowns, delayed-response times and outages of all durations and frequency are occurring at alarming rates well above industry norms. Under ACS, the industry norm for availability of the automated system interfacing with CBP was more than 99%. According to recently published reports, the availability of the ACE system may now be 96%. This would translate to 60 hours of down time per month. Considering this is a 24/7/365 day environment, a 96% system-availability rate would be unacceptable. An additional untracked aspect is the "slow time" or "delayed-response" time that CBP experiences several times each week. In June alone, there were 9 instances where the impact was severe enough for CBP to notify the trade that entries or PGA records were delayed. Two instances lasted more than one day.

Stabilizing system performance needs to be a top priority for CBP. Sustained, acceptable levels of optimal systems performance must be achieved and maintained before there is mandated use for additional functionality and before additional new-process development. In addition, pre-arranged and communicated alternate processes must be decided and ready to be put to use in a uniform manner.

The NCBFAA sees current ACS transactional file size as essential.

As trade volumes and trade data continue to grow, limitations on file size hinder efficient entry and PGA filings. In June, a limitation was identified and communicated by CBP to the trade that entries above 8 MB's cannot be accepted via ACE. In many cases, this limitation is more restrictive than the current ACS 999 line level limitation, as the PGA records represent a very large amount of required data per line. This is in direct contradiction to the 9,999 line level limitation communicated throughout the entire development process and it forces additional software and operational changes.¹ File size needs to be addressed and expanded to the original level of 9,999 lines in ACE. Loss of functionality from ACS to ACE is a step backwards, which the NCBFAA cannot support.

The NCBFAA sees regimented PGA adoption as essential.

Much functionality remains to be programmed into ACE, most notably the PGA interfaces via ITDS. The NCBFAA supports growing use of the single window, provided it is implemented in a disciplined manner. Before any additional PGA data is designated as mandatory in ACE, a stepped-in protocol needs to be adopted. This protocol would ensure adequate advance notice time, co-development and testing, issuance of policy and process instructions, and training before mandated use. The NCBFAA supports a process which includes published-for-comment FEDERAL REGISTER notices.

Before any PGA data can be designed as mandatory in ACE, each PGA should:

- a. Publish an FRN to indicate the following: proposed data elements per agency program, explanation of the need for the data, rationale for the required timing of the data (at release or entry summary), the impact to the trade of collecting the additional data from the supply chains prior to entry of the cargo, the processes necessary to make that data available, the software costs to develop the programming for each PGA program, and the impact of transmitting the data to CBP, as well as the impact to CBP workload and staffing in adjudicating the additional messages. This data should be collected and reported individually and identified on a cumulative basis to determine the impact to the trade and CBP overall.
- b. Each PGA should clearly indicate the intent and benefit of the data collection, which then needs to be weighed against the cost and burden to the trade, as well as the cost and burden on CBP to deliver and adjudicate the results of the review process.
- c. Each PGA should be required to adopt a risk management process in screening data that is collected to ensure that the actions do not impact the flow of trade, which is vital to the economy.
- d. The PGA must allow for a comment period for the FRN before an interim final rule, or final rule is published.
- e. The PGA should respond to comments when publishing the final rule.
- f. The PGA should issue policy guidance to ensure there is an understanding of how the changes should be rolled out. This policy guidance should include a clear indication of the PGA's intent to adjudicate issues at the time of release or entry summary according to the required data submission timeline.

¹ A major drawback broker estimates that what is currently filed as one drawback claim would exceed the 8 MB level and result being broken down into as many as 50 separate claims.



g. An adequate and reasonable testing period for the functionality should be given to CBP and the trade (minimum of 3 months for each PGA) giving additional time when overlapping requirements are identified.

Only after each of these items has been successfully completed should a PGA filing be made mandatory in ACE.

The NCBFAA sees finishing of 'core' functionality necessary and in many cases overdue.

A basic requirement is that ACE offer no less functionality than available in ACS. Items that are in ABI via ACS and not yet in ACE should be developed immediately and tested. This includes ABI protest and Automated Invoice Interface. Processes that were identified as supporting the move to a paperless environment in ABI, and consistently communicated as essential in the ACE support from our industry, should be developed and delivered in ABI immediately regardless of any "Non-CORE" status as identified by CBP. These include: Automated Informal Entry Processes including Section 321 in ABI and submission of CBP Form 3311 in ABI, export manifest, true monthly payment via the statement, and house-bill release.

Items that are not working or 'not fixed' should be addressed promptly. NCBFAA has compiled a list which includes items not yet developed or not fixed. While some of these issues could appear minor or occasional, the ACE and ITDS systems need to work flawlessly and envision all manner of unique transactions.

Functionality must be preceded by written policy and process documents.

Instruction manuals, "How To" guides, directions and the like are written for all manner of tools and users. Basic operational instructions, tips, and remedies are common elements. It is essential that CBP and the PGAs release written guidance for each ACE/ITDS function contemporaneously with released functionality and before mandated use. This allows users to understand, adopt and train for new functionality and provides a tool for problem-solving and support decisions.

In summary, the NCBFAA is relying upon the full realization of ACE and the single window. A full realization includes all transaction types and variations, a reliable system with optimal productivity, disciplined adoption of PGAs and collaborative development of added functionality. As it stands, while ACE and the ITDS single window are essential for the survival of customs brokerage, the brokerage community has seen more than their fair share of the burden of adoption. We look forward to the realization of a fully operational state-of-the-art system which will facilitate legitimate trade into and out of the United States and be a model to other border administrations worldwide.

