



9111-14

ADM-9-03-OT:RR:RD:TCR
H303122 MES

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Modification of Test Program Regarding Electronic Foreign Trade Zone Admission Applications

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces modifications to U.S. Customs and Border Protection's (CBP's) test program for submitting electronic Foreign Trade Zone (FTZ) admission applications. Specifically, this notice announces that the zone identification number is being expanded from seven to nine digits and that test participants will now have the ability to submit "replace" requests to modify parts of an admission while retaining the original filing date, submit post-admission correction requests, and cancel permit to transfer transactions. Further, for ease of reference, this notice also reproduces the current test requirements in full.

DATES: As of September 26, 2020, the modifications to the test announced in this notice, with the exception of the expanded nine-digit zone identification number, will become operational.

The expanded zone identification number will be implemented as of [INSERT DATE 120 DAYS FROM THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. This test will continue until concluded by way of announcement in the *Federal Register*.

ADDRESSES: Comments concerning this notice and any aspect of this test may be submitted at any time during the test via email to Cargo & Conveyance Security, Office of Field

Operations, U.S. Customs and Border Protection, at FTZe214Test@cbp.dhs.gov, with a subject line identifier reading “Comment on Electronic FTZ Admission Application FRN.”

FOR FURTHER INFORMATION CONTACT: For operational questions, contact Lydia Jackson, Cargo & Conveyance Security, Office of Field Operations, U.S. Customs and Border Protection, at 202-344-3055 or FTZe214Test@cbp.dhs.gov. For technical questions, contact Arnold Buratty, Cargo Systems Program Directorate, Office of Information and Technology, U.S. Customs and Border Protection, at 571-468-5309 or Arnold.Buratty@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. National Customs Automation Program Test

The National Customs Automation Program (NCAP) was established by Subtitle B of Title VI—Customs Modernization in the North American Free Trade Agreement (NAFTA) Implementation Act (Customs Modernization Act) (Pub. L. 103-182, 107 Stat. 2057, 2170, December 8, 1993) (19 U.S.C. 1411). Through NCAP, the 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 (ACS), as the electronic data interchange (EDI) system authorized by U.S. Customs and Border Protection (CBP). ACE is an automated and electronic system for commercial trade processing, which is 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 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.

CBP's modernization efforts are accomplished through phased releases of ACE component functionality designed to replace specific legacy ACS functions and add new functionality. Section 101.9(b) of title 19 of the Code of Federal Regulations (19 CFR 101.9(b)) provides for the testing of NCAP components. *See* T.D. 95–21, 60 FR 14211 (March 16, 1995).

B. Electronic Foreign Trade Zone (FTZ) Admission Application Test

On August 19, 2005, CBP published a notice in the *Federal Register* (70 FR 48774) announcing an NCAP test concerning the electronic submission of FTZ admission data. The test notice provided that participants would electronically submit data contained in the “Application for Foreign-Trade Zone Admission and/or Status Designation” (CBP Form 214; the electronic version of the form is referred to as e214). The notice described the test program in detail, identified the regulatory provisions suspended for the test, and set forth the test commencement date as no earlier than September 30, 2005, with a test period of approximately 6 months. The test notice also set forth the prototype procedures and listed the required data elements that must be provided to CBP when filing an electronic FTZ admission application. Participants were required to participate in an evaluation of this test to take place at the end of the 6-month period.

Due to low participation in the test program and insufficient data collected, CBP announced that the test would be run again, in the *Federal Register* (72 FR 14128) on March 26, 2007. The newly announced test program was intended to encourage greater participation by the trade and thereby provide more meaningful data to CBP to assess the feasibility of implementing the test program on a permanent basis. CBP made certain clarifications regarding required data elements and announced that ACE would be the only CBP-approved EDI for the test, in a *Federal Register* notice published on August 16, 2017 (82 FR 38923). Initially, in that notice, CBP provided an effective date of September 17, 2017. However, the effective date was later

shifted to December 9, 2017. *See* 82 FR 43395 (Sept. 15, 2017). The test remains in progress and will continue until concluded by way of announcement in the *Federal Register*.

II. New Test Modifications for Electronic Foreign Trade Zone Admission Applications

This notice announces changes to the test program for submitting the electronic FTZ admission applications (hereinafter Electronic FTZ test). The zone identification number is being expanded from seven to nine digits and test participants will now have the ability to submit “replace” requests to modify parts of an admission while retaining the original filing date, submit post-admission correction requests, and cancel a permit to transfer transaction. The changes are discussed separately below, and further information is contained in the ACE Foreign Trade Zone (e214) chapter of the CBP and Trade Automated Interface Requirements (CATAIR), available at: <https://www.cbp.gov/trade/ace/catair>. Filers not participating in the test will continue to submit FTZ admission applications on CBP Form 214 (Application for Foreign-Trade Zone Admission and/or Status Designation). For ease of reference, the complete test requirements (including the new modifications) are provided further at the end of this notice.

A. Expansion of the Zone Identification Number

CBP assigns unique identifiers for all FTZ site locations. The length of the alpha-numeric zone identification number (Zone ID number) will be expanded from seven to nine digits to accommodate additional Subzones and sets of General Purpose (GP) Zone Acreage, as well as additional FTZ site locations associated with a Subzone or a set of GP Zone Acreage. The expanded nine-digit Zone ID number will consist of the following, in the listed order:

- 3 numeric digits representing the FTZ designation;
- 3 alpha-numeric characters representing, as appropriate, *either*:

- the Subzone designation; or,
- the GP Zone Acreage designation; and
- 3 alpha-numeric characters representing, as appropriate, *either*:
 - the Subzone Site designation; or,
 - the GP Site designation.

As noted in the *DATES* section above, the transition to the expanded Zone ID number will be completed 120 days from the date of publication of this notice.

CBP will coordinate internally prior to and throughout the 120-day period following publication of this notice to transition to the expanded nine-digit system by aiding the local port offices with issuing the expanded Zone ID numbers to the FTZ operators. The FTZ operators are responsible for ensuring the type 04 FTZ bond associated with each FTZ site profile in ACE is up to date and active. As needed, CBP Client Representatives will assist software vendors and trade filers as the primary point of contact during this time. At the conclusion of the 120-day transition period, all existing Zone ID numbers will have been replaced with system-generated expanded Zone ID numbers and all Zone ID numbers issued in the future will consist of nine digits.

B. Replace Requests to Modify a Previously Submitted Admission While Retaining the Original Date of Filing

Currently, for modifications to FTZ admission data, an admission must first be deleted and then a complete replacement of the admission must be filed. This process causes a break in custody by generating a new admission date. Retaining the original admission date is necessary to ensure that privileged foreign status duty rates are correctly applied, and that is critical to maintain the integrity of the FTZ operator's foreign status inventory. Without maintaining the

original admission date, inventory could be subject to higher duty rates that become effective subsequent to the original admission date. Accordingly, in order to ensure the integrity of the zone inventory, CBP has added new functionality to the Electronic FTZ test to allow for “replace” requests to modify an admission while retaining the original admission date.

To make a “replace” request for a modification, filers of the e214 must submit one of the mandatory reason codes and provide a contact name and contact phone number. Reason codes for modifications can be found in the CATAIR and are as follows: 01 Change/Add Conveyance(s); 02 Delete Conveyance(s); 03 Change/Add Bill of Lading(s); 04 Delete Bill of Lading(s); 05 Change/Add HTSUS Line(s); 06 Delete HTSUS Line(s); 07 Change Admitted Quantity; and 08 Other. CBP will consider replace requests for modifications on a transactional basis and, upon CBP review, the filer will receive a message with a disposition code indicating whether the request was approved or denied.

C. Submission of Post-Admission Correction Requests

Changes to an admission that has been fully accepted into the zone (via a process known as concurrence) are not permitted in the Electronic FTZ test. The process of replacing an entire admission creates a cumbersome process that affects other transactions associated with the bills of lading on the initial admission, which could lead to delays in cargo movement. Therefore, CBP has added the ability to request a post-admission correction to the Electronic FTZ test that will allow for modification after the admission has been concurred and fully accepted into the zone operator’s inventory and recordkeeping system. The post-admission correction process described here does not affect the bond liability that would otherwise exist absent the correction.

To request a modification for an admission that has been fully accepted into the zone, which will be considered by CBP on a transactional basis, filers must submit one of the mandatory reason codes and must also submit a contact name and contact phone number. Reason codes for post-admission correction requests can be found in the CATAIR and are as follows: 01 Clerical error; 02 Admission replaced by CBP Form 7512 (Replacement in-bond number required; must be authorized by CBP); 03 Merchandise cleared under another admission (Replacement admission number already on file required); 04 Admission replaced by a formal entry (Replacement entry number already on file required); 05 Merchandise cleared under informal entry (Replacement entry number already on file required); 06 Merchandise seized; 07 Merchandise destroyed; 08 Non-arrival; 09 Shipment refused by importer/zone operator; 10 Shipment not authorized for import (refused by PGA); and 11 System error. Moreover, there is a 15-day time limit from the date of arrival in the port in which to request a post-admission correction; for any correction requests outside of the 15-day time limit, please contact your local port. Upon CBP review, the filer will receive a message with a disposition code indicating whether the post-admission correction request was approved or denied.

D. Cancellation of Permit to Transfer (PTT) Transactions

Currently, PTT transactions are not permitted to be cancelled. A PTT is a permit to transfer cargo from one bonded location in a CBP Port of Entry to another bonded location within the same CBP Port of Entry. In the case of the e214 processes, the bonded movement is only to an FTZ site, which is represented by its CBP-assigned Facilities Information and Resources Management Systems (FIRMS) code. This limitation makes it difficult to facilitate instances where the diversions of cargo to other designated locations is required for purposes such as inspections or to effectuate a withhold release order. In order to alleviate this issue, CBP

has added new functionality to the Electronic FTZ test that will allow for PTT Cancel transactions by the filer or by CBP.

For each electronic PTT, filers receive a response with a CBP-generated PTT unique identifier (PID). This PID is required to request the cancellation of the associated PTT. Upon CBP review, the filer will receive a message with a disposition code indicating whether the PTT Cancel transaction request was approved or denied, as there can be errors encountered during processing.

III. Complete Requirements for Test Program Regarding Electronic Foreign Trade Zone Admission Applications

The Electronic FTZ test has been running continuously since March 26, 2007. CBP will inform the public of CBP's decision to conclude the test program by way of announcement in the *Federal Register*. For ease of reference, the complete test requirements (including the new modifications) are provided below.

A. Regulatory Provisions Suspended

Subpart C to part 146 of the CFR prescribes the conditions applicable to admission of merchandise into a foreign trade zone. To the extent that certain provisions within subpart C to part 146 may be incompatible with the terms of this test program, the affected regulatory provisions will be suspended for the duration of the test.

B. Participant Eligibility

Eligible participants in the Electronic FTZ Admissions Application test program include: FTZ operators; FTZ Admission Applicants; Agents of FTZ Operators; and Agents of

FTZ Admission Applicants. Participation in the test is voluntary and there are no application procedures.

C. Prototype Procedures

1. Submission of Electronic CBP Form 214 and Related Data

Test participants must request permission to admit merchandise into an FTZ by electronically transmitting the CBP Form 214 data elements to CBP. The data transmission may cover a single shipment of merchandise or be a consolidated transmission that covers multiple shipments to a single zone. CBP must receive the CBP Form 214 before the merchandise can be authorized for admission into the FTZ. An exception to this requirement exists for test participants who are authorized to use the FTZ direct delivery procedures, as discussed below.

2. Prior Notice Reporting Requirements

Test participants, including those approved to participate under direct delivery procedures, must comply with the prior notice reporting requirements stipulated in the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (“the Bioterrorism Act”), Public Law 107-188. Title III of the Bioterrorism Act contains provisions relating to providing the Department of Health and Human Services with prior notice regarding certain information about foods that are imported or offered for import into the United States.

3. Direct Delivery Procedures

As a general rule, a test participant who is also authorized to use the direct delivery procedures prescribed in 19 CFR 146.39 to admit merchandise into an FTZ may transmit the required data to CBP on an electronic CBP Form 214 no later than the close of business on the business day following receipt of the merchandise into the FTZ inventory control and recordkeeping system. With regard to the applicability of direct delivery procedures in the

context of the test program, two exceptions to the above rule are noted. First, as stated above, direct delivery participants are subject to any applicable prior notice reporting requirements set forth in the Bioterrorism Act. Second, in the absence of a CBP Form 7512, or its electronic equivalent, authorizing an in-bond movement, a test participant may electronically transmit a permit to transfer request for the intra-port bonded movement of the merchandise to the FTZ site.

4. FTZ Operators as Test Participants

Under the test program, an FTZ operator will be able to transmit the following transactions via the Automated Broker Interface (ABI): submit a permit to transfer request for merchandise coming to its FTZ Site; submit requests to cancel a specific existing permit to transfer request; submit application for admission on behalf of the applicant for imported zone status merchandise, zone status merchandise transferred from another zone, and domestic status merchandise; agree to, or refuse to, accept custodial responsibility for an admission submitted by an entity other than itself as the Operator; report arrival of merchandise to the FTZ; assume custodial responsibility for the admission authorized merchandise; submit a request on behalf of the applicant for a change of zone status on specific merchandise; and submit request for post-admission correction.

5. Transmittal of Statistical Data to the Bureau of Census

After the FTZ Operator has concurred the admission CBP will transmit statistical data to the Bureau of the Census through an automated link.

D. Required Data Elements

Participants in the test must provide CBP with the following data elements, which consist of the previously required data elements and the newly announced data elements:

- A code representing the action to be taken (*e.g.*, add, delete, replace).
- The line item number.
- The Zone ID number. This zone identification number is comprised of the FTZ number designation, any Subzone or General Purpose Zone designation and a physical FTZ Site designation. Currently Zone IDs are seven characters in length. The transaction will now accommodate the expanded nine-character CBP-assigned Zone ID when its use becomes mandatory.
- The port code where the FTZ is located as shown in Schedule D, Harmonized Tariff Schedule of the United States (HTSUS).
- An indicator specifying whether the merchandise is being admitted into the FTZ under direct delivery procedures.
- The Automated Broker Interface (ABI) filer code.
- The ABI routing code and optional office extension for one additional ABI participant who will receive a copy of the electronic CBP Form 214 and subsequent electronic notifications.
- The Importer of Record Number applicant.
- An indicator specifying the admission type.

- The mode of transportation code. Valid codes are listed in Appendix B of the Customs and Trade Automated Interface Requirements (CATAIR), Pub # 0875-0419.
- The name of the conveyance (if not a vessel, the name of the transportation company).
- The vessel voyage, truck or rail trip, or aircraft flight number.
- The country of export.
- The export date. For merchandise arriving in the United States by vessel: the month, day and year on which the vessel departed the last port of the country of exportation. For merchandise

exported by air: the month, day and year on which the aircraft departed the last airport of the country of exportation. For merchandise exported by truck or rail: the month, day and year in which the carrier crossed the border of the country of exportation.

- The import date. For merchandise arriving in the United States by vessel: the month, day and year on which the vessel transporting the merchandise from the foreign country arrived within the limits of the U.S. port at which the merchandise was unladen. For merchandise arriving in the United States other than by vessel: the month, day and year in which the merchandise arrived within U.S. customs territory.

- The zone admission number (which is made up of the Zone ID (described above in more detail), the two-digit calendar year (of the current year), and the control number (the unique admission designation assigned by the Applicant or Operator).

- The U.S. port of unloading (the port at which the merchandise was unladen). Valid codes are listed in Schedule D, HTSUS.

- The foreign port of lading.

- The bill of lading or airway bill number.

- The house bill number.

- The Standard Carrier Alpha Code (SCAC) identifier of the importing carrier.

- The immediate transportation (IT) number assigned to in-bond shipments and the date the CBP Form 7512 was prepared.

- The number of packages. An indication of the quantity and unit of measure (cartons, cases, bundles, etc.) in the shipment as stated in the Customs Automated Manifest Interface Requirements (CAMIR). For containerized merchandise, an indication of the number of

packages within the container(s) and the container number(s). For bulk shipments, show “1 Bulk.”

- Country of origin code, provided in Annex B, ISO code, HTSUS, which represents the country of origin in which the product was manufactured, mined, or grown. Labor work or material added to an article in another country must affect a substantial transformation in order for such other country to become the actual “country of origin.” If the merchandise is from more than one country of origin, the country of origin will be indicated separately against each HTSUS subheading or group of subheadings.
- A detailed description of the merchandise at the line item level.
- The Manufacturer Identification (MID) number (as required for type 01 entries).
- The applicable HTSUS number(s).
- The statistical reporting quantity of the merchandise for each HTSUS number.
- The quota category (if applicable).
- The gross weight in kilograms of the merchandise. Supply separate gross weight information for each HTSUS subheading.
- The separate value and aggregate charges: For each HTSUS, enter the purchase price (in U.S. dollars) or, if the merchandise was not acquired by purchase, the equivalent of such price. Also, report the aggregate cost (in U.S. dollars) of freight, insurance, and all other costs, charges and expenses incurred in bringing the merchandise from alongside the carrier at the foreign port of exportation in the country of exportation in addition to unloading the merchandise at the first U.S. port of entry.
- The indicator designating a special program and country affecting duty payments (if applicable).

- If applicable, a qualifier code and reference identifier associated with the shipment. Valid qualifiers are listed in the CATAIR.
- The Harbor Maintenance Fee (if applicable).
- The zone status designation of the merchandise.
- The container number if a permit to transfer is requested.
- Concurrence data relating to the admission application.
- The Importer of Record number of the bonded carrier nominated for a permit to transfer request to move merchandise to an FTZ site.
- The Facilities Information and Resources Management Systems (FIRMS) code identifying the location where the merchandise (moving on a permit to transfer transaction) is being delivered.
- An indicator if the merchandise is subject to Bioterrorism Act of 2002 requirements.
- Under 19 CFR 12.145 and 360.101(c), the steel import license number needs to be provided on CBP Form 214 at the time of filing under 19 CFR part 146, in the case of merchandise admitted into an FTZ.
- The unique identifying number of Kimberley Process Certificate (if applicable). The Kimberley Process Certificate must be presented in connection with an importation of rough diamonds into an FTZ and exportation out of an FTZ if demanded by a CBP official pursuant to 31 CFR 592.404 and 592.301.
- For replace requests to modify a previously submitted admission while retaining the original filing date, filers must include the reason code and the contact name and contact phone number.
- To submit post-admission correction requests after an admission has been concurred (fully accepted into a zone), filers must include the reason code and the contact name and contact phone number.

- For requests to cancel a permit to transfer (PTT) transaction, filers must include a permit to transfer transaction unique identifier (PID).
- The Importer of Record Number of the Zone Operator.
- The Facilities Information and Resources Management Systems (FIRMS) code identifying the FTZ Site location where the merchandise is to be admitted.

Test participants are responsible for the accuracy and completeness of all data transmitted under the prototype.

E. Processing of Electronic FTZ Admission Applications

Upon approval of an electronic FTZ admission application, CBP will transmit electronic notice to the test filer authorizing admission of the merchandise into the FTZ. As noted above, this approval process does not apply to merchandise admitted to an FTZ under direct delivery procedures.

Upon approval of an electronic request for a permit to transfer, CBP will electronically transmit approval/denial to transfer the merchandise into the FTZ electronically to the test filer, and to the carrier of the merchandise. CBP will also provide electronic notice to these parties as to whether the merchandise is subject to CBP examination. In addition, test program participants and carriers will be able to receive electronic notification concerning the status of an admission request.

A test participant whose FTZ admission application is rejected by CBP will be provided with an opportunity to correct the reported error. A complete re-transmission of the entire admission application is required by CBP.

F. Misconduct Under the Test

A test participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, and/or suspension from this test for any of the following:

- Failure to abide by the terms and conditions of this test, and any applicable laws and regulations.
- Failure to exercise reasonable care in the execution of participant obligations.
- Misuse of the automated CBP Form 214 (*i.e.*, engaging in unauthorized disclosure or any activity which interferes with the successful evaluation of the new technology).

The Director, Cargo Security and Control Division, will administer suspensions for misconduct. A written notice proposing suspension will be provided to the participant. Such notice will apprise the participant of the alleged facts or conduct warranting suspension and will inform the participant of the date that the suspension will begin. Any decision proposing suspension of a participant may be appealed in writing to the Executive Assistant Commissioner, Office of Field Operations, 1300 Pennsylvania Ave., N.W., Washington, DC 20229, within 15 calendar days of the notification date. An appeal must address the alleged facts or conduct charges contained in the notice and state how compliance has been or will be achieved. In cases of non-payment, late payment, willful misconduct or where public health interests or safety are concerned, the suspension may be effective immediately. The same appeal procedures apply in cases of immediate suspension.

G. Test Evaluation Criteria

To ensure adequate feedback, participants are required to participate in an evaluation of this test. CBP also invites all interested parties to comment on the design, conduct and implementation of the test at any time during the test period. CBP will publish the final results

in the *Federal Register* and the *Customs Bulletin* as required by section 101.9(b) of Title 19 of the CFR.

The following evaluation methods and criteria have been suggested:

1. Baseline measurements to be established through data analysis;
2. Questionnaires from both trade participants and CBP addressing such issues as:
 - Workload impact (workload shifts/volume, cycle times, etc.)
 - Cost savings
 - Policy and procedure accommodation
 - Trade compliance impact

 - Problem resolution
 - System efficiency
 - Operational efficiency
 - Other issues identified by the participant group

Dated: September 21, 2020.

William A. Ferrara,
Executive Assistant Commissioner,
Office of Field Operations.

[FR Doc. 2020-21151 Filed: 9/24/2020 8:45 am; Publication Date: 9/25/2020]