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Via www.regulations.gov

Mr. Epa Uwimana
Chief, Economic Management Division
Census Bureau
4600 Silver Hill Road
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Mr. Uwimana:

On behalf of the National Association of Foreign-Trade Zones (NAFTZ) and its members, I am writing in response to the Federal Register Notice of October 31, 2024, from the Department of Commerce, Census Bureau, regarding the Request for Comments on Clarification of Filing Requirements Regarding In-Transit Shipments and Other FTR Provisions (RIN number 0607-AA62).

NAFTZ is the collective voice of the U.S. Foreign-Trade Zone program, representing grantees, users, operators, and service providers engaged in this program which is a vital component of the U.S. economy. We respectfully submit the following comments and questions regarding the proposed rule changes and the implementation of those changes.

The following comments outline the NAFTZ's concerns regarding the proposed rules. We welcome the opportunity to engage in further discussions with the Census Bureau to address these points and explore potential solutions.

1. The proposed rule states the entry number will now be required when foreign goods are exported from an FTZ because "the entry number will provide the Census Bureau with a linkage to the CBP entry data where the COO data can be obtained to achieve its statistical purposes." However, the use of the requested data element as outlined in this proposed rule will NOT lead to accurate country of origin data for goods exported from a U.S. FTZ. There will be no statistical relevance of this data, and the stated objective will not be achieved.

The Notice states that, "For goods that are exported from a FTZ where in bond types 67 (FTZ withdrawal for immediate exportation) and 68 (FTZ withdrawal for transportation and exportation) are selected, the entry number to be reported is the

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two-position year and control number derived from the Zone Admission Number documented on the 214/e214 associated with the withdrawal. For example, if the Zone Admission Number associated with the withdrawal is 0987654AB 22 12345678, then the entry number to be reported is 2212345678. If more than one Zone Admission Number is associated with the export, then report the entry number based off the Zone Admission Number with the greatest value."

This rule assumes a one-to-one relationship between the admission of goods to an FTZ and the entire shipment of goods out of the FTZ. This is not a correct assumption, as explained below:

- Daily cumulative e214's are allowed in FTZ zone processing. [FTZ Manual 2011 6.10\(b\)\(2\)\(i\)](#):

e-214 – Options for single, daily, and cumulative reporting are available with the e214. Statistical information is obtained by Census from the Customs systems. The e214 is filed the first working day after the merchandise is received into the inventory control system.

Because of this reporting structure, a single, daily, cumulative e214 would potentially be representative of many products, with many different countries of origin, arriving at the U.S. FTZ in multiple shipments from various suppliers. The [ACE CATAIR Foreign Trade Zone](#) has the Country of Origin at the FT50 record, which is at the HTS level, not the header e214 level.

- An export shipment may consist of many different products that could potentially be from any number of sources. The AESTIR/EEI has the Entry Number field at the header level of the export, or the SC2 record of the AESTIR. If there are many different types of products (HTS) on the export, there could be any number of Countries of Origin represented. Simply listing a single e214 number of the highest value on the header to Census may only represent one product on the export, with no way of indicating to which of the products the admission relates, leaving the other products/countries of origin unreported. This reporting rule would therefore be misrepresenting the data and the U.S. FTZ activity.
2. The Notice also states that, "For all other scenarios where goods are exported after entering the United States for consumption, or warehousing (entry types 36 [warehouse withdrawal for immediate exportation] and 37 [warehouse withdrawal for transportation and exportation]), the 11-position entry number as identified on the CBP-7501 shall be reported." In this scenario, goods for which duty has

already been paid and the product is statistically reported to Census on a CBPF 7501 prior to its arrival to the U.S. FTZ are admitted to the FTZ in domestic status.

U.S. FTZ regulations do not require these goods to be submitted on an admission (e214) that is reported to U.S. Customs (CBP), per [19 CFR 146.43](#):

§ 146.43 Domestic status.

(a) General. Domestic status may be granted to merchandise:

(1) The growth, product, or manufacture of the U.S. on which all internal-revenue taxes, if applicable, have been paid;

(2) Previously imported and on which duty and tax has been paid; or

(3) Previously entered free of duty and tax.

(b) Application. No application or permit is required for the admission of domestic status merchandise, including domestic packing and repair material, to a zone, except upon order of the Commissioner of Customs. No application or permit is required for the manipulation, manufacture, exhibition, destruction, or transfer to Customs territory of domestic status merchandise, including packing and repair materials, except:

(1) When it is mixed or combined with merchandise in another zone status, or

(2) upon order of the Commissioner of Customs. When the Commissioner orders a permit to be required for domestic status merchandise, he may also order the procedures, forms, and terms under which the permit will be received and processed.

Merchandise admitted into an FTZ in Domestic Status, even if from foreign sources, is not currently submitted to CBP via the e214 application process. Therefore, a filed e214 number for Census and subsequently the original country of origin for Domestic Status Merchandise is not currently maintained within the FTZ inventory layers in the required Inventory Control and Recordkeeping System (ICRS). It is, therefore, not possible to report any entry number associated with Domestic Status goods exported from an FTZ, nor is it possible to know at the time of required AES reporting which goods are domestically sourced versus foreign sourced and duty-paid prior to arrival to the FTZ. Even if such an entry number were available, the current AESTIR/EEI reporting of the entry number would not allow for accurate Country of Origin determination as outlined above because of the nature of potential shipments containing multiple products from various admissions received into the U.S. FTZ over time being consolidated or manufactured into multiple products that are in a single export shipment.

The most common method of accountability for zone merchandise is the Unique Identifier Number (UIN) method. According to the [FTZ manual 2011 7.8\(C\)](#):

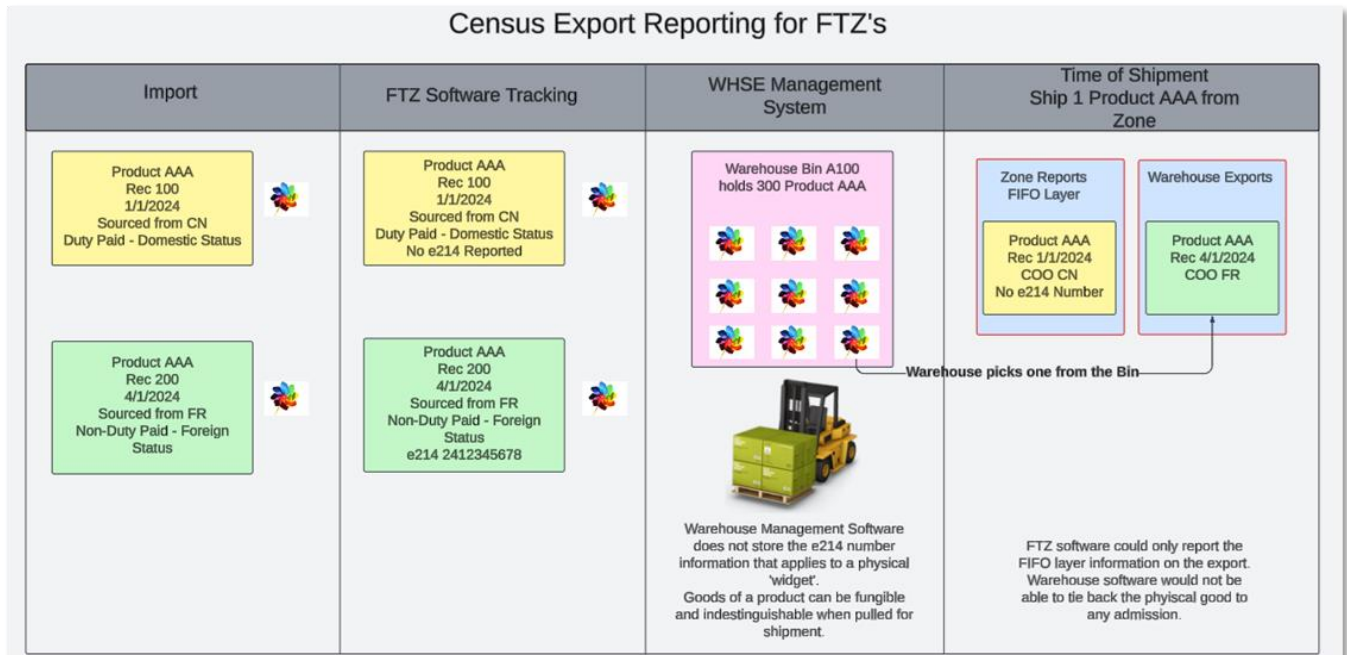
Unique Identifier Number (UIN). This inventory method controls merchandise in a zone by cumulative identification or record identity, i.e., by unique numbers and/or letters that identify merchandise admitted to a zone. Inventory levels are adjusted on a first in first out (FIFO) basis or foreign first (FOFI) basis pursuant to generally accepted accounting principles. Merchandise need not be segregated.

FIFO is the most used system in FTZ processing. The inventory tracking method is well-established and consistently approved by CBP at time of the FTZ Activation process.

No warehouse management system or FTZ Software system for warehousing FTZs connects the UIN inventory layer that is being depleted during a shipment in FIFO order from the system to the physical inventory in the warehouse that is being picked, packed and shipped. Such connection is impossible in a UIN FIFO systematic inventory tracking environment, and more importantly, is not required by regulation. Therefore, it is impossible to connect the physical commodity being picked from a bin location where it was previously commingled with other receipts, to a specific e214 that may be saved to the FIFO layer that is being depleted and reported on the export by the system. As noted in the [FTZ Manual 2011 7.8\(c\)\(3\)\(i\)](#):

FIFO as approved in C.S.D. 81-62 applies to fungible merchandise, i.e. merchandise which for commercial purposes is identical and interchangeable in all situations (19 CFR 146.1(b)(12)) ... Since fungible merchandise, is, by definition, commercially interchangeable in all situations, it should be stored together whenever practical.

Since the merchandise with the same UIN from various receipts/admission layers is physically stored in the same location/bin, receipts are comingled, and it is impossible for the picker to know or identify the order in which the units were placed in the bin. In summary, in a UIN FIFO environment, there is a natural disconnect between the layer being withdrawn from the system and declared on the export for the UIN and the physical unit being picked from the location/bin. Therefore, warehouse management systems do not have the ability to connect an e214 number to a specific, physical item stored in the warehouse. Because of that, FTZs using UIN FIFO inventory tracking method would not be able to provide Census with the specific e214 number on the export associated to the actual unit/merchandise that physically shipped. See diagram below for visual example:



Physical processing of shipments (both domestically and for export), and the resulting AES filing is done prior to FIFO inventory processing in the zone environment. Without that processing, the inventory tracking data is also unavailable at the time of the AES filing. For this reason, current zone procedure is to report the exporting in bond number, the only Customs filing available at the time the AES must be filed.

Data about goods received, shipped into U.S. commerce, and export from U.S. FTZs is already reported on an annual basis to the staff of the Foreign-Trade Zones Board of the U.S. Department of Commerce and produced into an [Annual Report to Congress](#). Perhaps this data could be used to respond to such questions as originally intended by the Foreign-Trade Zones Regulations ([15 CFR Part 400](#)).

As the Census Bureau indicates it “has experienced an increase in the number of inquiries regarding export transactions where a customs broker enters goods into the United States for consumption or warehousing, and then stored in a warehouse or storage facility or admitted into a FTZ before being exported.” The implementation of this rule as written will not accurately reflect any such activity and will misinform decision-making related to this reporting. This proposed rule will create inaccurate perceptions of the U.S. FTZ program, and we cannot support use of the data as outlined in this rule making. The NAFTAZ welcomes dialog with the Census Bureau, including technical resources and FTZ process experts, to determine an accurate means of responding to inquiries related to inventory processing in U.S. FTZs.

The NAFTAZ welcomes further discussion on these important points. Please feel free to contact me with any questions you may have.

Sincerely,

Handwritten signature of Jeffrey J. Tafel, CAE in black ink.

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