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## **NAFTZ Issue Brief**

### **The Foreign-Trade Zone Regulations at 19 CFR §146 Should be Rewritten**

#### **Background**

- U.S. Customs and Border Protection ("CBP") provides the receipt, processing, and shipment oversight of the U.S. Foreign-Trade Zones Program once a foreign-trade zone project has been approved by the U.S. Foreign-Trade Zones Board.
- CBP's oversight of the operation, maintenance and administration of a zone project is governed through the regulatory framework established under Part 146 of Title 19 of the Code of Federal Regulations ("19 CFR Part 146 or Part 146") and codified under Title 19 of the U.S. Code.
- Part 146 of the Customs Regulations has not been updated in 30 years, since it was published in 1986, despite significant changes in the CBP FTZ Manual, CBP operational processes, the Automated Commercial Environment (ACE), and port practices. As a result, the current regulatory framework governing the foreign-trade program is out of date and does not accurately reflect today's operational environment. For example, those regulations do not discuss NAFTA/Duty Deferral and FTA Compliance, Temporary Removal and the electronic filing procedures requested by CBP.
- CBP recognized the need for the rewrite and undertook a full review of Part 146 several years ago. The NAFTZ participated in a collaborative effort with CBP to address revisions to Part 146 from an industry perspective.
- As part of the rewrite process, the NAFTZ brought forward important changes/additions that were needed to clarify operational considerations, avoid confusion or various interpretations and to ensure consistency with CBP's on-going automation and technology changes under the Automated Commercial Environment ("ACE") migration. Those issues include, but are not limited to:
  - 1. Reordering of Sections & Addition of Clarifying Language.**
  - 2. Significant Reduction of Use of the CBPF 216**
  - 3. Three Methods of CBP Form 214 Filing Activity**
  - 4. Five Day Rule**
  - 5. Direct Delivery**
  - 6. Zone to Zone Transfer**

- 7. Weekly Estimated Entry**
- 8. Zone Use for Preferential Status Duty Merchandise**
- 9. FTZ Operator as a Bonded Carrier**
- 10. FTZ Personnel Background Inquiries**
- 11. Application for Activation**
- 12. Temporary Removal**
- 13. NAFTA Duty Deferral**
- 14. U.S. Chile FTA Duty Deferral**
- 15. FTZ Board Production Authority & Restrictions**
- 16. Expansion of Input Quality Control Program**
- 17. Shortage/Overage Recordings/Reporting**
- 18. Fines, Penalties, Liquidated Damages, Suspension & Recommendation of Revocation**

- Currently, the draft rewrite remains under review by the Office of Regulations & Rulings ("OR&R") at CBP Headquarters. We expect the issuance of a Notice of Proposed Rulemaking ("NPRM") to move the rulemaking process to the next step in 2017.

#### **NAFTZ Position**

- The rewrite of the current regulations will have a significantly positive impact on the U.S. Foreign-Trade Zones Program, which based on the latest figures from the Department of Commerce, accounts for over 12% of all U.S. imports.
- While the NAFTZ has worked collaboratively with CBP Headquarters to develop an updated draft of the Part 146 Regulations, there are still several areas that remain issues of concern from an industry perspective.
- It is crucial that the provisions of the revised Part 146 Regulations are consistent with the new automated environment under ACE.
- The Part 146 must be a priority focus for CBP in 2017 to ensure that U.S. foreign-trade zone operations can continue to operate successfully in the modern era of trade security.

#### **ABOUT THE NAFTZ:**

The NAFTZ is the sole trade association representing the interests of U.S. Foreign-Trade Zone (FTZ) grantees, operators, and users. Foreign-Trade Zones represent every major U.S. industry.

## **Rewrite of 19 CFR Part 146**

### **Page 2**

In 2014, there were 420,000 American workers employed by 2,700 companies operating foreign-trade zones across the United States. According to the most figures from the Department of Commerce, exports from FTZs reached a record \$99.2 billion in 2014, and 12.1% of all merchandise imported into the United States is processed in an FTZ.

#### **FOR MORE INFORMATION:**

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