

National Association of Foreign-Trade Zones
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NAFTZ Issue Brief

15 CFR Part 400: Anticipated Changes to Production Authority

BACKGROUND AND RECENT DEVELOPMENTS

In 2012, the Department of Commerce completed a comprehensive rewrite of the regulations at 15 CFR §400 that govern the U.S. Foreign-Trade Zones program. Those revisions sought to simplify FTZ Board application procedures, address compliance with uniform treatment requirements, and increase transparency and flexibility for “production” activity. The regulations currently define “production” as an:

activity involving the substantial transformation of a foreign article resulting in a new and different article having a different name, character, and use, or activity involving a change in the condition of the article which results in a change in the customs classification of the article or in its eligibility for entry for consumption. (15 CFR §400.2(o)).

Current application procedures and the Preamble to the regulations focus production scope of authority first on the written commercial descriptions of the materials, components and finished products, with HTSUS numbers primarily serving to supplement the written descriptions.

During the summer of 2015 the NAFTZ undertook an effort to identify ways in which the current regulations could be revised to offer more flexibility for firms conducting (or seeking to conduct) production activities in zones. As a result of that effort and after meeting with the NAFTZ, in September 2015, the FTZ Board announced two proposed changes to the way it approaches granting “production” authority:

1. Allow HTS-based production scope of authority
 - a. Both six-digit and eight-digit HTS were discussed
2. Allow retrospective production notification
 - a. Granted to additional foreign-status inputs for previously approved production operations and authorized finished products, provided notification is submitted to the Board within 90 days of commencement of use of new foreign-status inputs (subject to certain limitations)

NAFTZ POSITION

- The NAFTZ supports allowing scope of production authority based on six-digit HTS numbers (inputs and finished products). The NAFTZ believes HTS-based scope of authority will provide greater flexibility for operators and users.

- The current regulations pertaining to production authority do not adequately allow FTZ operator/user companies to modify their list of approved imported components to reflect the changing demands of global competition. Therefore, the NAFTZ supports the FTZ Board's retrospective filing initiative to better allow companies to maintain compliance and keep production activities in operation.
- The NAFTZ will continue to work cooperatively with the FTZ Board to implement both of these initiatives with the goal of ensuring that any pilot programs and/or regulatory changes are clear and in the FTZ community's best interest.

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. 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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