

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 146

RIN 1505-AB27

Expanded Weekly Entry Procedure for Foreign Trade Zones

AGENCY: Customs and Border Protection, Homeland Security; Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws a notice of proposed rulemaking published in the *Federal Register* by Customs and Border Protection (CBP) on July 25, 2002, which proposed to amend the CBP Regulations in accordance with the Trade and Development Act of 2000 to expand the weekly entry procedures for foreign trade zones. Public comment on the proposed rulemaking was solicited. Commenters uniformly expressed concern that the proposed rule limited weekly entry procedures to consumption entries, and that amendments to the regulations were unnecessary because the law was self-effectuating. After careful consideration, CBP has decided to withdraw the proposed rulemaking pending assessment of a more comprehensive regulatory scheme for weekly entry procedures from foreign trade zones.

DATES: The effective date of this withdrawal is June 7, 2005.

FOR FURTHER INFORMATION CONTACT: William G. Rosoff, Chief, Duty and Refund Determination Branch, Office of Regulations and Rulings, Customs and Border Protection, Tel. (202) 572-8807.

SUPPLEMENTARY INFORMATION:

Background

Prior NPRM

On July 25, 2002, Customs and Border Protection (CBP) published a notice of proposed rulemaking (NPRM) in the *Federal Register* (67 FR 48594) proposing changes to part 146 of the CBP Regulations (19 CFR part 146). Part 146 pertains to the documentation and recordkeeping requirements governing, among other things, the admission of merchandise into a foreign trade zone, its manipulation, manufacture, storage, destruction, or exhibition while in the zone, and its entry or removal from the zone. The proposed changes were intended to implement amendments to that part's underlying statutory

authority (19 U.S.C. 1484) as effected by section 410 of the Trade and Development Act of 2000 (the "Act"), (Pub. L. 106-200, 114 Stat. 251).

Amendments to 19 U.S.C. 1484 Effected by the Act

Section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), sets forth the procedures generally governing the entry of imported merchandise for customs purposes.

Section 410 of the Act amended 19 U.S.C. 1484 by adding a new paragraph (i) that provided for an expanded weekly entry procedure for foreign trade zones under limited circumstances. Specifically, section 1484(i):

- Expanded the weekly entry system beyond its previous coverage to allow all merchandise (other than merchandise the entry of which is prohibited by law or for which the filing of an entry summary is required before the merchandise is released from customs custody) withdrawn from a foreign trade zone during any 7-day period, to be the subject of a single estimated entry or release.

- Provided that merchandise falling within this expanded procedure is eligible for treatment as a single estimated entry or release of merchandise for purposes of the merchandise processing fee that CBP assesses on importers in order to offset administrative costs incurred in processing imported merchandise that is formally entered or released. *See* 19 U.S.C. 58c(a)(9)(A).

- Authorized the Secretary of the Treasury to require that foreign trade zone operators or users employ a CBP-approved electronic data interchange system to file entries and pay applicable duties, fees, and taxes with respect to the entries.

Proposed Conforming Amendments to § 146.63(c) of the CBP Regulations

Section 146.63 of the CBP Regulations (19 CFR 146.63) sets forth the procedures applicable to consumption entries from a foreign trade zone. Section 146.63(c) pertains to weekly consumption entries, and is limited to merchandise that is manufactured or otherwise changed in a zone within 24 hours of physical transfer from the zone for consumption.

In the July 25, 2002, *Federal Register* document, CBP proposed amendments to § 146.63(c) to reflect the terms of newly amended 19 U.S.C. 1484(i). In this regard, it was proposed to amend § 146.63(c) to expand the weekly entry procedures applicable to foreign trade zones to include merchandise involved in activities other than exclusively

assembly-line type production operations. Additionally, pursuant to 19 U.S.C. 1484 (i)(2)(A)(i) and (ii), it was proposed that all weekly entry procedures covering estimated removals of merchandise from a foreign trade zone for any consecutive 7-day period, and the associated entry summaries, would have to be filed exclusively through the Automated Broker Interface with duties, fees and taxes scheduled for payment through the Automated Clearinghouse. The proposed rulemaking also provided that the estimated weekly entry or release would be treated as a single entry or release for purposes of assessing merchandise processing fees under 19 U.S.C. 58c(a)(9)(A).

Discussion of Comments

Fifty-seven comments were received from Foreign Trade Zone users, operators, municipalities and brokers in response to the solicitation of comments. All were critical of the proposed rule. Most commenters objected to the issuance of proposed regulations because, in their view, the legislation was self-implementing and no regulations were necessary to give the law effect. The commenters were also uniformly critical of the proposed rule's limitation to consumption entries, and expressed the view that the Act was intended to permit the use of weekly entry procedures for other types of entries (*i.e.*, zone-to-zone transfers, transfer for transportation and transportation for exportation).

Withdrawal of Proposal

In view of the comments received, and following further consideration of the matter, CBP has determined to withdraw the notice of proposed rulemaking that was published in the *Federal Register* (67 FR 48594) on July 25, 2002. CBP will continue to assess the feasibility of a more comprehensive regulatory scheme for zone removals in cooperation with interested members of the public.

Robert C. Bonner,

Commissioner, Bureau of Customs and Border Protection.

Approved: June 2, 2005.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.
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