



## DO YOU NEED A NON- PROCESSING STIPULATION TO AVOID THE CHINA ORIGIN 25% TARIFF INCREASE ON FTZ MERCHANDISE

Do you currently have China origin, non-duty paid, NPF / PF status finished goods inventory, that will not be further processed, on-hand in your FTZ that will be affected by the additional 25% Tariff duty on Friday July 6<sup>th</sup>? Consider making Customs entry by July 5<sup>th</sup>. In order to retain that inventory in your Zone longer than 5 days, you need to ensure that you have been approved by Customs for a Non-Processing Stipulation (NPS). Without a Non-Processing Stipulation, you are bound by the Five Day Rule - Section 146.71(c), C.R which requires physical removal from the zone within 5 days from the time the Customs entry is made .

What is a Non-Processing Stipulation?

- Not in Regulations – Found in Customs FTZ Manual
- Allows for Unlimited Extension of Time for Removal of Entered Merchandise
- No Further Manipulation / Manufacturing While in the Zone That Would Change HTS Classification or Avoid a Quota
- Operator Must be Able to Identify Constructively Transferred Product
- Operator Must Submit Request for Non-Processing Stipulation (NPS) and Certification to Customs
- Approval of Request is not Guaranteed

The U.S. Trade Representative (USTR) will impose 25% duties effective July 6, 2018 on a list of China products pursuant to a determination under Section 301 of the Trade Act of 1974 (19 U.S.C. § 2411) that certain laws, policies, practices, and actions of the Government of China are unreasonable or discriminatory and harm American intellectual property rights and technology.

- The first list includes 818 HTSUS tariff provisions (of the original proposed 1,333 tariff provisions) covering aircraft, marine, agricultural machinery, hydraulic and pneumatic engines, electric motors, LEDs, motor vehicles, switches, control panels, certain printed circuit assemblies, ships, lasers, and other products. Customs will begin to assess 25% additional duties effective 12:01 a.m. Eastern Daylight Time on July 6, 2018. A new HTSUS subheading 9903.88.01 provision has been created. The Federal Register notice includes the new HTSUS language in Annex A 82 Fed. Reg. 28710 (June 20, 2018). Significantly, some products were dropped from the proposed Section 301 list including pharmaceuticals in HTSUS Chapter 30, syringes, catheters and needles, steel and aluminum pipe, TVs, monitors, weapons, smart cards, and golf carts.

- The USTR will separately announce a procedure to request product exclusions from the 25% Section 301 duties. The USTR will issue a Federal Register notice in a few weeks on the product exclusion process.
- The new HTSUS language confirms that the 25% duties apply to products of China and: (a) are in addition to any regular duties and antidumping and countervailing duties, (b) apply even if the article qualifies for special tariff treatment under Civil Aircraft Agreement, NAFTA, Pharmaceutical agreement, etc., and (c) do not apply to products properly claimed in HTSUS Chapter 98.

Please contact [Marshall Miller](#), [Linda King](#), or [Brian Murphy](#) with questions about the Non-Processing Stipulation, Section 301 actions, their potential impact and/or ways to minimize potential liability.

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