

NAFTA: Red Flags & Best Practices

NAFTA Red Flags

► What is a “red flag”?

U.S. Customs uses the term “red flag” to refer to circumstances that may indicate compliance problems or violations.

► How does Customs find red flags?

As part of their “focused assessment” program, which gauges importer regulatory compliance, Customs will do a pre-assessment survey of an importer’s internal controls for NAFTA. Customs will then evaluate the results, looking for red flags.

► What are some examples of red flags?

There are two types of red flag categories. Category 1 red flags indicate potential problems that can probably be addressed by the importer. Examples of category 1 red flags include when the importer/exporter..

has insufficient documentation for declaring NAFTA preferences;

offers unreasonable explanations to Customs;

fails to cooperate or respond to Customs;

has high turnover of people in key positions;

has one representative that dominates NAFTA preference claim procedures and recordkeeping without monitoring or management oversight;

and/or is related to the NAFTA producer.

Category 2 red flags are more likely to necessitate exporter involvement and may need to be addressed outside of the focused assessment. They may warrant a referral to the exporter/party for a NAFTA verification. Examples of category 2 red flags include...

imports of NAFTA merchandise for which the exporting country is an unlikely source (i.e. bananas from Canada);

no prior verifications of NAFTA exports from the importer’s principal NAFTA suppliers;

when the alternate Normal Trade Relations duty rate for the imported merchandise is relatively very high;

and/or when the exporter preparing the Certificate of Origin is not the producer of the good but rather a middleman or warehouse.

NAFTA Best Practices

Maintain good interdepartmental communication about NAFTA matters.

Conduct and document periodic reviews of NAFTA, and use the results to make corrections.

Have internal controls that contain prudent business practices that are meant to ensure that the importer can reasonably rely on certification

provided by the exporter.

Develop internal controls that involve verification that the imported merchandise qualifies for NAFTA.

Have procedures in place to furnish Customs copies of applicable certificates of origin when requested.

Visit the plant in the NAFTA country where the products are produced.

Perform an annual review of specific rules of origin that apply to imported or exported merchandise to remain current with any changes to NAFTA requirements.