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# ❖ SPC&B Update ❖

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A Newsletter for Clients of Sharretts, Paley, Carter & Blauvelt, P.C.

July 11, 2013

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## ***I. Canada Updates Country of Origin Marking Regulations, Customs Self-Assessment Program***

## ***II. Mexico Proposes Enforcement of Lead Limits in Certain Consumer Products***



**I.** The Canadian government recently updated the country of origin marking requirements for goods imported from member countries of the North American Free Trade Agreement as well as non-NAFTA countries. The regulations are intended to (i) harmonize the list of products exempted from marking requirements in the non-NAFTA country of origin marking regulations with those under the NAFTA country of origin marking regulations and (ii) modernize and liberalize the NAFTA country of origin marking requirements to ensure they are aligned with recent NAFTA amendments that were aimed at reflecting current market conditions of global sourcing and recent modifications to the customs tariff.

As a result of these changes, the new list of non-NAFTA products that are exempt from country of origin marking includes the following items.

- ◆ Goods for charitable purposes and not for the purpose of sale
- ◆ Gifts or bequests
- ◆ Antiques or goods produced more than 20 years prior to importation
- ◆ Used goods, with the exception of iron or steel pipes and tubes
- ◆ Goods that are for the exclusive use of the importer or the importer's employees and not for resale to the general public, with the exception of iron or steel pipes and tubes
- ◆ Goods imported for use by the importer and not intended for sale in the form in which they were imported
- ◆ Goods imported under HTSCA 9808.00.00, 9809.00.00 or 9810.00.00
- ◆ Goods imported for subsequent exportation from Canada, with the exception of iron or steel pipes and tubes
- ◆ Goods that, for purposes of temporary duty-free admission, are in transit or in bond or otherwise under customs control
- ◆ Goods that are incapable of being marked
- ◆ Goods that cannot be marked prior to exportation without causing them injury
- ◆ Goods that cannot be marked except at a cost that is substantial in relation to their value for duty so as to discourage their exportation

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- ◆ Goods that cannot be marked without materially impairing their function or substantially detracting from their appearance
- ◆ Goods that are in a container that is marked in a manner that will reasonably indicate their origin to the ultimate purchaser
- ◆ Crude substances
- ◆ Goods that are to undergo production in Canada by the importer, or on the importer's behalf, in a manner that would result in their becoming goods the country of origin of which is Canada
- ◆ Goods in respect of which, by reason of their character or the circumstances of their importation, the ultimate purchaser would reasonably know their country of origin even though the goods are not marked with country of origin
- ◆ Goods that are imported without the required marking and cannot be marked after their importation except at a cost that would be substantial in relation to their value for duty, provided that the failure to mark the goods before importation was not for the purpose of avoiding compliance with the marking requirement
- ◆ Original works of art
- ◆ Goods classified under subheading 6904.10 or headings 85.41 or 85.42
- ◆ Goods in respect of which there is no ultimate purchaser

In another action, the Canada Border Services Agency has amended its regulations to allow U.S. resident importers to participate in Canada's Customs Self-Assessment program. Under the new rules, the CSA is now open to importing individuals who ordinarily reside in the U.S., importing partnerships in which at least one partner ordinarily resides in the U.S., and importing corporations that have their head offices in or operate a branch office in the U.S. (Carriers with their head offices in or operating branch offices in the U.S. are already eligible.)

The CBSA states that under the CSA, which was launched in December 2001, participants receive streamlined clearance of eligible goods in situations involving a CSA authorized importer, CSA authorized carrier and registered driver. Benefits also include streamlined accounting, payment and adjustment processes for all imported goods. According to the CBSA, U.S.-resident CSA-approved importers will receive all the benefits the program has to offer; i.e., they will be able to use their own business systems and processes, which must meet the CBSA's requirements, to forward trade data and to report and remit payment of taxes and duties once a month to their own financial institutions. As a result, they will no longer have to provide data at the time of each shipment to get their goods released.

This change represents Canada's implementation of a joint commitment with the U.S. under the Beyond the Border Action Plan to expand membership in their respective self-assessment programs. U.S. Customs and Border Protection took a similar step last fall when it opened its Importer Self-Assessment program to Canadian resident importers who have been importing into the U.S. for at least two years and meet all other ISA application requirements.

**II.** The Mexican government is reviewing a new proposal (PROY-NOM-004-SSA1-2013) to enforce maximum lead content limits for a range of consumer products. The proposal would prohibit the use of lead compounds as ingredients or raw materials in the manufacture of paints, enamels, coatings, inks, glazed pottery, glazed ceramics and porcelain used to contain and process food and/or beverages; toys, pencils, pens, colors for drawing, modeling clay and other school supplies; inks, cosmetic products, furniture and paints for the exterior and interior of residential buildings, offices, schools and kindergartens; emulsions and enamels; and other consumer products containing lead compounds and that may come in contact with people. Maximum lead limits will be applied and verified in accordance with the following standards, which are similar, although not identical, to the lead standards applicable to the subject products in the United States.

- ◆ NOM-003-SSA1-2006 – Health requirements for the labeling of paints, inks, varnishes, lacquers and enamels.
- ◆ NOM-231-SSA1-2002 – Glazed pottery, glazed ceramics and porcelain. Soluble lead and cadmium limits. Test methods.
- ◆ NOM-252-SSA1-2011 – Toys and school articles. Bioavailability limits for heavy metals. Chemical specifications and test methods.

Producers, sellers and importers would be required to keep records showing that their products do not contain lead-based materials. This standard would enter into force one year from its date of publication in Mexico's official journal. Interested companies would be able to request a one-time exemption for non-compliant products that are still in stock or on store shelves on the date of entry into force of the standard. Companies would be able to file such requests beginning on the date of publication of the final standard and up until three months prior to its entry into force.

If you are concerned about your company's compliance with requirements in Canada, Mexico, or any other country, please contact Gail Cumins at [gcumins@spcblaw.com](mailto:gcumins@spcblaw.com) or Donna Shira at [dshira@spcblaw.com](mailto:dshira@spcblaw.com) or call us at 212-425-0055.

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