

Advocacy Recommends that CBP/Treasury Assess Costs and Impact of Uniform Rules of Origin for Imported Merchandise

On December 1, 2008, the U.S. Small Business Administration's (SBA's) Office of Advocacy (Advocacy) submitted comments to Customs and Border Protection (CBP) and the Department of the Treasury on their *Proposed Uniform Rules of Origin for Imported Merchandise Rule*. [73 Fed. Reg. 43385 (July 25, 2008)]. The proposed rule would amend CBP's regulations by establishing uniform rules governing determinations of the country of origin (COO) of imported merchandise and amend the COO rules for certain products to reflect various international agreements.

A complete copy of Advocacy's letter to CBP and Treasury is available at:
www.sba.gov/advo/laws/comments/.

- The proposed rule would change the rules for COO determinations from the current "substantial transformation" system to a "tariff shift" process. Such a change would require numerous small businesses to change their current business practices to incorporate the new requirements.
- CBP and Treasury certified that that the proposed rule would not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (RFA). The agencies further claimed that the analytical requirements of the RFA do not apply to the proposed rule because the proposal reflects recent judicial guidance and standardized country of origin marking requirements for NAFTA and non-NAFTA trade. However, the agencies' explanation in support of their RFA certification does not provide a sufficient factual basis as required by Section 605(b) of the RFA.
- Advocacy recommends that CPB and Treasury either prepare an Initial Regulatory Flexibility Analysis for the proposed rule, or provide a factual basis for certifying that the rule would not, if adopted, have a significant economic impact on a substantial number of small entities.

For more information about rule, please visit Advocacy's Web page at www.sba.gov/advo or contact Bruce Lundegren, Assistant Chief Counsel, at (202) 205-6144 (or bruce.lundegren@sba.gov).