



M E M O

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RE: Request for Emergency Processing of information collection under the Paperwork Reduction Act related to the regulations implementing the United States-Mexico-Canada Agreement Implementation Act.

On November 30, 2018, the Governments of the United States of America, the United Mexican States, and Canada signed the Protocol Replacing the North American Free Trade Agreement with the Agreement between the United States of America, the United Mexican States, and Canada (USMCA). The USMCA trade agreement replaces the 1994 North American Free Trade Agreement. The USMCA was ratified by all three countries as of March 30, 2020. The Preamble to the USMCA states that the Parties are resolved to, among other things, “facilitate trade in goods and services between the Parties by preventing, identifying, and eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting good regulatory practices,” and that the Parties are resolved to “promote the protection and enforcement of labor rights, the improvement of working conditions, the strengthening of cooperation and the Parties’ capacity on labor issues.”

On January 29, 2020, the United States-Mexico-Canada Implementation Act (Act) was signed into law, thus ratifying and implementing USMCA’s provisions. Section 202A of the Act in part implements Article 7 of the Appendix to Annex 4-B of the USMCA. This Article establishes labor value content requirements for passenger vehicles, light trucks, and heavy trucks, pursuant to which an importer can obtain preferential tariff treatment for a covered vehicle only if it meets certain minimum percentage benchmarks concerning the portion of the vehicle produced by workers who meet certain wage requirements.

The Department of Labor (Department) is charged with promulgating regulations relating to these wage requirements. The regulations create recordkeeping requirements that will implicate the Paperwork Reduction Act. The Department has created a new information collection and is requesting emergency processing of this information collection.

The Act and subsequent regulations involve preferential tariff treatment for some U.S. motor vehicle producers. Section 202A(c)(1)(A) of the Act says that motor vehicles are eligible for the preferential tariff only if they have provided a certification of the labor value content requirements, and 202A(c)(1)(B) states that the certification is not considered to be properly filed until the Department has reviewed the certification (or at least the high-wage portions) for errors and omissions.

The rule is effective July 1, 2020, which is also the date on which the USMCA enters into force. Respondents will be immediately required to create and maintain the records needed for the Department to use to verify any information they use in conducting calculations for their certification. CBP will submit the information collection burdens for the actual certification. If the Department does not have a way to verify certification data for producers who submit their certifications once the treaty enters into force, producers/importers could lose money from not being able to get preferential tariffs for their vehicles, or they will have to delay importing covered vehicles into the United States, causing difficulty for businesses that sell cars, rent cars, etc., and for consumers. There is some question whether this may also prevent the United States from meeting its treaty obligations under the USMCA.

The Department anticipates publishing a notice in the Federal Register inviting public comment following the receipt of the OMB's Notice of Action on the emergency processing request.