Regulatory News: Alerts & Updates

Regulatory Alert: U.S. announces Section 338 import exclusions tariff scope adjustments on Canada goods

September 14, 2026

On September 8, 2026, the United States government issued five Presidential Proclamations pursuant to Section 338 of the Tariff Act of 1930 that implement new import restrictions, amend current tariff schedules, and update federal procurement guidelines for Canadian-origin goods. The measures introduce import exclusions on designated product categories and adjust the product coverage for existing 50% ad valorem tariffs established under prior Proclamations 11046, 11047, and 11048.

WHAT HAS CHANGED?

The updated regulatory framework introduces three primary changes impacting cross-border trade between the U.S. and Canada:

1. Import exclusions on select commodities: certain Canadian-origin products will be prohibited from commercial importation into the U.S. based on specific Harmonized Tariff Schedule of the United States (HTSUS) classifications set forth in the proclamation annexes, which are summarized below and linked in the References section on page 3. These import restrictions become effective for impacted goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. ET on September 29, 2026.
   - Designated alcoholic and malt beverages: beer made from malt, wine, hard cider, vermouth, sake, distilled spirits (including Canadian whisky/rye, bourbon, vodka, gin, rum, brandy, tequila, mezcal, bitters, liqueurs, and cordials), and non-alcoholic beer.
   - Specified agricultural and food ingredients: whey protein concentrates, modified whey, fluid whey, dried whey, and molasses products.
   - Motorcycles and mopeds equipped with reciprocating internal combustion piston engines exceeding 800 cc.

   Note: Commodities subject to this prohibition that are exported and in transit prior to the effective date will not be banned from entry upon arrival in the U.S. but will instead be entered for consumption subject to the 50% Section 338 ad valorem duty rate.

2. Modification of the 50% ad valorem tariff scope: the U.S. tariff schedule established under prior Section 338 actions will be amended to add specific product lines and remove certain non-agricultural bulk materials. These tariff scope modifications become effective for impacted goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. ET on **September 15, 2026**.
   - Added to 50% tariff scope: golf carts, all-terrain vehicles (ATVs), utility task vehicles (UTVs), motorboats, recreational watercraft, certain paper and paperboard products, fabricated steel structures and structural components, aluminum articles and structural assemblies, specialty cheeses not made of cow milk, furniture, mattresses, mattress supports, and lighting fixtures.
   - Removed from 50% tariff scope: salt, rock salt, Portland cement, chemically pure sugars, toilet/facial tissue, paper towels/napkins, bedsheets and similar household articles made of paper pulp or cellulose, unwrought refined lead, certain electrical equipment (switchgear assemblies), and fishing rod parts and accessories.

   Note: Section 338 duties apply in addition to standard Column 1 rates and Section 232 or Section 301 duties. In addition, the 50% tariffs apply independently of preferential duty treatment under the U.S.-Mexico-Canada Agreement (USMCA). Valid USMCA Certificates of Origin do not exempt shipments from Section 338 tariffs or import prohibitions.

3. Federal supply schedule restrictions: the U.S. General Services Administration (GSA) has been directed to declare all Canadian-origin products and contractors ineligible for large, long-term U.S. federal procurement supply awards. These restrictions became effective immediately on **September 8, 2026**.

U.S. Customs and Border Protection (CBP) issued Cargo Systems Messaging Service (CSMS) #69851916 to provide implementation instructions for these five new Section 338 proclamations, which include the applicable HTSUS numbers and available exemptions.

Q & A

1. **What is the statutory authority used to establish these changes?**
   Under Section 338 of the Tariff Act of 1930 (19 U.S. Code § 1338), the U.S. government maintains statutory authority to adjust tariff treatment, restrict market access, and modify customs entry requirements for designated commodities.

2. **Does a valid USMCA certificate of origin exempt a shipment from Section 338 tariffs or import exclusions?**
   No. Preferential tariff treatment under USMCA does not exempt shipments from Section 338 duties or import bans. Even if an entry claims USMCA preferential duty rates (e.g., 0% under SPI "S" or "S+"), the 50% Section 338 duties must be reported under Chapter 99 (subheading 9903.03) and paid in full. Valid USMCA claims will continue to remove Chapters 1-97 rates and/or Merchandise Processing Fees (MPFs) where applicable.

3. **How do these actions affect goods stored in US Foreign Trade Zones (FTZs)?**
   Qualifying merchandise admitted into an FTZ must be categorized under Privileged Foreign Status. When the merchandise is subsequently withdrawn from the FTZ and entered for U.S. consumption, the goods will be subject to the Section 338 duty rate and restrictions in effect at the time privileged status was elected.

4. **Can Section 338 duties be recovered through duty drawback?**
   Yes. In CSMS #69606660, U.S. CBP confirmed that Section 338 duties are eligible for duty drawback refunds upon subsequent exportation of eligible merchandise or manufactured articles, subject to standard drawback filing regulations.

5. **How do Section 338 duties interact with existing Section 232 tariffs? Are they cumulative?**
   Yes. Section 338 duties apply in addition to Section 232 tariffs and are cumulative. If an imported Canadian article is subject to Section 232 duties (e.g., steel or aluminum derivatives) as well as additional Section 338 duties, both must be separately declared under their respective Chapter 99 HTSUS subheadings on the entry summary and paid concurrently. Section 338 duties do not replace, offset, or absorb Section 232 duties.

6. **If a shipment of Canadian-origin beer is on the road before September 29, 2026, can it still enter the U.S.?**
   Yes, if the shipment meets the in-transit criteria. Shipments of excluded goods exported and in transit prior to 12:01 a.m. ET on September 29, 2026, will be allowed commercial entry for consumption and assessed the 50% Section 338 tariff.

7. **What specific documentation is required to prove a shipment of excluded commodities was in transit before the September 29th deadline?**
   Importers and customs brokers must submit carrier-issued transport documents indicating the exact date and time of export/dispatch (e.g., dated bill of lading, master or house air waybill, Canadian export reporting documentation, or automated tracking logs showing the vehicle departed Canada prior to the cutoff).

REFERENCES

Presidential Proclamation “Excluding Certain Canadian Alcoholic Beverages from Importation into the United States in Response to Continued Discrimination Against the Commerce of the United States with Respect to Alcoholic Beverages” published on September 8, 2026
https://www.whitehouse.gov/presidential-actions/2026/09/excluding-certain-canadian-alcoholic-beverages-from-importation-into-the-united-states-in-response-to-continued-discrimination-against-the-commerce-of-the-united-states-with-respect-to-alcoholic-bever/

Presidential Proclamation “Excluding Certain Canadian Products from Importation into the United States in Response to Continued Discrimination Against the Commerce of the United States with Respect to Dairy” published on September 8, 2026
https://www.whitehouse.gov/presidential-actions/2026/09/excluding-certain-canadian-products-from-importation-into-the-united-states-in-response-to-continued-discrimination-against-the-commerce-of-the-united-states-with-respect-to-dairy/

Presidential Proclamation “Excluding Certain Canadian Products from Importation into the United States in Response to Continued Discrimination Against the Commerce of the United States with Respect to Motor Vehicles” published on September 8, 2026
https://www.whitehouse.gov/presidential-actions/2026/09/excluding-certain-canadian-products-from-importation-into-the-united-states-in-response-to-continued-discrimination-against-the-commerce-of-the-united-states-with-respect-to-motor-vehicles/

Presidential Proclamation “Modifying the Scope of Products of Canada Subject to the Additional Duties Imposed to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Alcoholic Beverages” published on September 8, 2026
https://www.whitehouse.gov/presidential-actions/2026/09/modifying-the-scope-of-products-of-canada-subject-to-the-additional-duties-imposed-to-offset-canadian-discrimination-against-the-commerce-of-the-united-states-with-respect-to-alcoholic-beverages/

Presidential Proclamation "Modifying the Scope of Products of Canada Subject to the Additional Duties Imposed to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Motor Vehicles" published on September 8, 2026
https://www.whitehouse.gov/presidential-actions/2026/09/modifying-the-scope-of-products-of-canada-subject-to-the-additional-duties-imposed-to-offset-canadian-discrimination-against-the-united-states-with-respect-to-motor-vehicles/

Presidential Proclamation 11046 "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Alcoholic Beverages" published on July 20, 2026
https://www.federalregister.gov/documents/2026/07/23/2026-14991/imposing-additional-duties-to-offset-canadian-discrimination-against-the-commerce-of-the-united

Presidential Proclamation 11047 "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Dairy" published on July 20, 2026
https://www.federalregister.gov/documents/2026/07/23/2026-14992/imposing-additional-duties-to-offset-canadian-discrimination-against-the-commerce-of-the-united

Presidential Proclamation 11048 "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Motor Vehicles" published on July 20, 2026
https://www.federalregister.gov/documents/2026/07/23/2026-14997/imposing-additional-duties-to-offset-canadian-discrimination-against-the-commerce-of-the-united

Presidential Proclamation 11056 "Temporary Suspension of Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Alcoholic Beverages, Dairy, and Motor Vehicles" published on August 18, 2026
https://www.federalregister.gov/documents/2026/08/24/2026-17294/temporary-suspension-of-additional-duties-to-offset-canadian-discrimination-against-the-commerce-of

U.S. Customs and Border Protection (CBP) CSMS #69851916 published on September 11, 2026
https://content.govdelivery.com/bulletins/gd/USDHSCBP-429db0c?wgt_ref=USDHSCBP_WIDGET_2

FedEx Regulatory Alert "U.S. imposes Section 338 tariffs upon certain products of Canada" published on August 25, 2026
https://www.fedex.com/content/dam/fedex/ca-canada/MVP/downloads/2026/CA_EN_US-Imposes-Section-338-Tariffs.pdf