



FedEx Regulatory Alerts & Updates

Regulatory Alert: Change in Marking Requirements for Hong Kong Origin Merchandise into U.S.

August 27, 2020

BACKGROUND

On July 14, the Trump Administration issued Executive Order 13939 on Hong Kong Normalization. Pursuant to Executive Order 13936, U.S. Customs and Border Protection (CBP) issued a notice on August 11, 2020 requiring that for purposes of the U.S. marking statute, 19 U.S.C. 1304, all goods of Hong Kong SAR, China origin must be physically marked as country of origin "China."

CBP issued a 45-day extension to the original effective date of September 25, 2020 to allow manufacturers and importers ample time to comply. The new requirements will be in effect for all goods entered or withdrawn from warehouse for consumption into the U.S. after November 9, 2020.

CBP reserves the right to detain or refuse any shipment that does not comply with the new marking requirements.

WHAT HAS CHANGED?

Any goods that foreign manufacturers and exporters, as well as the U.S. importer, determine to be products of Hong Kong SAR origin now must be physically marked as made in China.

CBP has stated this new marking requirement does not change entry summary procedures. Customs entries for goods that are produced in Hong Kong SAR will continue to list the International Organization for Standardization (ISO) country code 'HK' as the country of origin. This will differ from the physical marking of the products.

Q&A

Q1: Does this change impact Section 301 tariffs?

A1: Not at this time. Products made in Hong Kong SAR, China are not currently subject to Section 301 tariffs, antidumping, or countervailing duties applicable to certain China-origin merchandise. As such, it is imperative that the shipping documents clearly state if goods were produced in Hong Kong SAR so that the proper duties are assessed.

To help ensure your entries of Hong Kong SAR origin goods are filed correctly, it is recommended that foreign shippers add verbiage to the commercial invoice that clearly identifies the country of origin for both marking and entry purposes similar to the following example: “Product of Hong Kong / Country of Origin China for Marking Purposes.”

Q2: What if a foreign shipper is not sure of the specific origin of the merchandise or applicable marking requirements?

A2: It is advised the shipper contact the producer or manufacturer of the merchandise or contact a trade compliance professional for further guidance. Also, there are two regulations on U.S. marking requirements cited in the reference section below.

Q3: Are there exceptions to the marking requirements?

A3: Yes, exceptions are detailed in Subpart D found in the 19 CFR 134 Country of Origin Marking reference below.

Q4: Since CBP does not enforce this change until November 9, 2020, does it matter how imported articles made in Hong Kong are marked?

A4: CBP announced on August 14, 2020 that they are adding a 45-day period of “informed compliance” for this new marking rule. The informed compliance begins on September 25, 2020. During periods of informed compliance, CBP may not take enforcement action over compliance with new provisions except for the more extreme violators. Thus, if CBP sees what they interpret as deliberate marking violations, they can apply full enforcement on a specific shipment or exporter.

REFERENCES

CBP August 11, 2020 Federal Register Notice Country of Origin Marking of Products of Hong Kong:

<https://www.federalregister.gov/documents/2020/08/11/2020-17599/country-of-origin-marking-of-products-of-hong-kong>

CBP Frequently Asked Questions - Guidance on Marking of Goods of Hong Kong – Executive Order 13936

<https://www.cbp.gov/trade/rulings/frequently-asked-questions-guidance-marking-goods-hong-kong-executive-order-13936>

Executive Order 13936 on Hong Kong Normalization

<https://www.federalregister.gov/documents/2020/07/17/2020-15646/the-presidents-executive-order-on-hong-kong-normalization>

19 U.S.C 1304

<https://www.govinfo.gov/app/details/USCODE-2010-title19/USCODE-2010-title19-chap4-subtitle1-part1-sec1304/summary>

19 CFR 134 – Country of Origin Marking

<https://www.ecfr.gov/cgi-bin/text-idx?SID=2e75a2f932c2c84dd3d9a09fee32237f&mc=true&node=pt19.1.134&rgn=div5>

CSMS #43729326 “Additional 45-day Compliance Period for Executive Order 13936 – Hong Kong Normalization”

<https://content.govdelivery.com/accounts/USDHSCBP/bulletins/29b41ae?reqfrom=share>