

Rules of Origin and NAFTA

What are rules of origin? Rules of origin are a method of verification that customs officials use to determine whether or not goods are entitled to preferential tariff treatment under NAFTA. Sometimes, goods are considered “wholly originating” (meaning that there are no foreign components present in the good itself), while other goods require a percentage of value-added from a NAFTA country because the good does contain some foreign components.

How are rules of origin presently verified for NAFTA claims? Verification requires that the importer file a certificate of origin for their NAFTA entry claims when a customs official requests one. Certificates are considered “proof” that an imported good is, in fact, originating in/from a NAFTA country. Currently, for the oil and gas industry, this means that producers (exporters) are responsible for supplying importers with certification of goods being directly from the well-heads in their production fields.

What are the problems with the NAFTA rules of origin for oil and gas? There are three major problems with rules of origin for the oil and gas industry:

- 1.) Unlike other free trade agreements, NAFTA does not allow for importers to certify the origin of their goods. Instead, that responsibility resides strictly with the exporters.**
- 2.) Importers are solely dependent upon producers to supply certificates of origin. If an importer does not provide a certificate upon request, it would be forced to pay duties on goods that should otherwise receive preferential tariff treatment.**
- 3.) There are no incentives for producers to provide certificates of origin to importers and shippers. The producer is not penalized if it does not provide certification. Once the product leaves the well-head and enters into the pipeline system, the product is no longer the responsibility of the producer.**

What is the solution? A modernized NAFTA should contain new language for rules of origin for the oil and gas industry that are more flexible and less constrictive. Importers should be permitted to self-certify their NAFTA entries through standard commercial documents with consistent data elements between them. This modification would save importers millions on unnecessary duties and streamline the entry system, making it easier for customs officials to verify entries and for importers to provide sufficient evidence to prove that their goods qualify for NAFTA preferential tariff treatment.