

Tracking Federal Regulatory Initiatives

Regulatory Affairs

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Proposed Regulations for Pre-Publication in Part I, Canada Gazette	Statutory Authority & Regulatory Plan Listing
<p>Federal Court Rules, 1998</p> <p>The proposed new rules, totally rewritten and introducing a full case management system for all proceedings before the Federal Court, would harmonize the Federal Court's rules with those of provincial superior courts.</p> <p>Unlike the current rules, the proposed new rules would transfer control over the time taken to prepare a case for disposition from the litigants and counsel to the courts through the introduction of fixed time limits for closing pleadings (within 180 days of commencement), completing examinations for discovery and requisitioning a pre-trial settlement conference (within 360 days or commencement), conducting pre-trials (within 30 days of requisition), and fixing a trial date (no later than 90 days after the conclusion of the pre-trial conference).</p> <p>The new rules would introduce a simplified procedure for actions for monetary relief of not more than \$50,000. Case management judges will closely monitor the progress of cases and, if required, fix timetables for completing steps in the proceedings. The Court would introduce alternate dispute resolution services for litigants.</p> <p>The <i>Federal Court Immigration Rules, 1993</i>, will continue to apply to proceedings under the <i>Immigration Act</i>.</p>	<p>Federal Court Act, sub-section 46(1)</p> <p>Not included in Regulatory Plan</p> <p>To be published in Canada Gazette September 20, 1997</p>

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Exempt from Pre-Publication and Approved

Statutory Authority & Regulatory Plan Listing

Order Prohibiting Entry on Certain Lands in the Yukon Territory (1997, No. 7, Nordenskiöld Wetland Area) (SOR/97-444, OIC 1997-1304); Order Respecting the Withdrawal of Certain Lands in the Yukon Territory (Nordenskiöld Wetland Habitat Protection Area, Y.T.) (SI/97-113, OIC 1997-1305)

Yukon Placer Mining Act, section 98; *Yukon Quartz Mining Act*, section 14.1; *Territorial Lands Act*, paragraph 23(a)

These Orders respond to the request by the Yukon Government that the Nordenskiöld Wetland Area on the Nordenskiöld River be a protected wetland habitat area.

INAC/R-1-I;

In order to ensure that no new third-party interests are created on these lands, an Order Prohibiting Entry on Certain Lands in the Yukon Territory pursuant to section 98 of the *Yukon Placer Mining Act* and section 14.1 of the *Yukon Quartz Mining Act* has been issued.

To be published in Canada Gazette October 1, 1997

This Order, required pursuant to the Little Salmon/Carmacks First Nation Final Agreement, which is expected to be ratified in 1997, will come into effect on the date the agreement comes into force and end on August 31, 2000.

Contact: Ian Sneddon, Chief, Land Management Division, Department of Indian Affairs and Northern Development, Les Terrasses de la Chaudière, 10 Wellington Street, Ottawa, Ontario, K1A 0H4. Tel: 819-997-9090; Fax: 819-953-2590.

Customs Duties Reduction or Removal Order, 1988, amendment (SOR/97-440, OIC 1997-1299)

Customs Tariff, paragraph 68(1)(a)

The *Customs Duties Reduction or Removal Order, 1988*, introduces temporary tariff codes, which are designed to rectify structural problems in the Customs Tariff and/or to assist Canadian manufacturers in competing more effectively with imports by providing Free or reduced rates of duty on inputs. This Order amends the *Customs Duties Reduction or Removal Order, 1988* by introducing 11 new temporary codes.

FIN/97-1

The estimate of revenue foregone to the Government as a result of this Order is approximately \$1,381,100.

To be published in Canada Gazette October 1, 1997

Contact: Deborah Hoeg, International Trade Policy Division, Department of Finance, Ottawa, Ontario, K1A 0G5. Tel: 613-996-7099.

Textured Polyester Filament Yarn Remission Order (SOR/97-441, OIC 1997-1300)

Customs Tariff, section 101

This Order extends the remission of customs duties on textured polyester filament yarn imported for weaving broadwoven fabric for a further two years.

FIN/97-13

The original remission order was introduced in 1990 and renewed in 1995 until Dec. 31, 1996; this order extends the remission until December 31, 1998.

To be published in Canada Gazette October 1, 1997

Total remissions are expected to be some \$3-million.

Contact: Osborn Todd, International Trade Policy Division, Department of Finance, Ottawa, Ontario, K1A 0G5. Tel: 613-996-6479.

Chloralkali Electrolyser Remission Order, 1997 (SOR/97-442, OIC 1997-1301)

Customs Tariff, section 101

This Order remits customs duties on chloralkali electrolyser cells and membranes, imported on or after September 1, 1996, for use in the manufacture of chlorine and sodium hydroxide. This relief was sought by ICI Canada Inc.

FIN/97-13

Tariff relief eliminates an inequity regarding certain imported electrolyser equipment.

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In 1990, the *Chemetics Electrolyser Remission Order*, remitted the duty on similar electrolyser cells for a plant run by a competitor of ICI.

In addition, traditional membranes used in the production of chlorine and sodium hydroxide are duty-free under tariff code 0451. The membranes imported by ICI, however, because of technological changes are subject to a tariff.

The goods on which duty is being remitted are not available from Canadian production.

This Order would result in \$770,000 in customs duties foregone.

Contact: Randy Freda, International Trade Policy Division, Department of Finance, Ottawa, Ontario, K1A 0G5. Tel: 613-992-0539.

Regulations Amending the Valuation for Duty Regulations (SOR/97-443, OIC 1997-1303)

The purpose of the amendment is to provide a definition for the phrase “purchaser in Canada”, to provide more certainty in valuation.

More specifically, for the purposes of subsection 45(1) of the Customs Act, “purchaser in Canada” means:

- a) a resident;
- b) a person who is not a resident but who has a permanent establishment in Canada; or
- c) a person who is neither a resident nor has a permanent establishment in Canada, and who imports the goods, for which the value for duty is being determined,
 - i) for consumption, use of enjoyment by the person in Canada, but not for sale, or
 - ii) for sale by the person in Canada, if, before the purchase of the goods, the person has not entered into an agreement to sell the goods to a resident.

The amendment comes into force September 17, 1997.

Contact: Stuart MacDonald, A/Director, Valuation Division, Trade Administration Branch, Revenue Canada, 9th floor, Sir Richard Scott Building, 191 Laurier Avenue West, Ottawa, Ontario, K1A 0L5. Tel: 613-954-7335.

Regulations Amending the Application of Provincial Laws Regulations (SOR/97-445, OIC 1997-1307)

This amendment will allow for the service by mail of a ticket for any unlawful parking, standing or stopping of a vehicle on a federal property in New Brunswick, as well as providing a means for proving the service of such a ticket.

The change provides an alternative procedure to the *Criminal Code* process.

The amendments come into force September 17, 1997.

Contact: Michel Gagnon, Director, Contraventions Project, Department of Justice, 344 Wellington Street, Ottawa, Ontario, K1A 0H8. Tel: 613-998-5669; Fax: 613-998-1175.

Proof of Origin of Imported Goods Regulations, amendment (SOR/97-446, OIC 1997-1307)

The amendment relaxes the requirement to produce the proof of origin form at the time of importation of goods in order to facilitate the flow of goods at the border.

The amendments come into force September 17, 1997.

Customs Act, subsection 35(1), paragraph 164(1)(h.1)

RC/96-3-I

To be published in Canada Gazette October 1, 1997

Contraventions Act, section 65.1

Jus/97-2-I

To be published in Canada Gazette October 1, 1997

Customs Act, subsection 35.1(4), paragraph 164(1)(i)

RC/97-2-L

To be published in Canada Gazette Oct. 1, 1997

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More specifically:

- Subsection 4(2), as amended, allows as proof of origin either the currently prescribed proof of origin Form A (which is produced under the auspices of the United Nations) or a written and signed exporter's statement of origin in the form set out in the new Schedule to the Regulations. The statement must be completed and signed by the exporter of the goods in the beneficiary country and may be provided on a Canada Customs Invoice, a commercial invoice, or as a separate document to the importer or agent.
- The revised subsection 4(3) of the Regulations exempts commercial importers from the requirement to furnish proof of origin in hard copy for each importation. This exemption applies provided the importer or owner claiming the preferential tariff treatment makes a declaration that the required proof of origin is in his or her possession.
- Subsection 4(5) now serves to clarify that in respect of commercial goods originating in the People's Republic of China and shipped through Hong Kong, proof of origin documentation must be completed and signed by the producer in the People's Republic of China or by the exporter in Hong Kong.
- The separate exemption from the proof of origin form with respect to commercial importations of instant coffee has been dropped altogether, as the import permit requirement for instant coffee was eliminated on July 4, 1989, under Order in Council P.C. 1989-2205. That exemption for instant coffee is no longer required since importers can use the procedure set out above, which was also the procedure allowed for instant coffee prior to this amendment.
- With respect to casual, non-commercial importations, the previous requirement for a written statement from the vendor certifying the origin of the goods is entirely eliminated. As long as there is no evidence to indicate that the goods originate elsewhere, importations of casual goods from one of the beneficiary countries will be entitled to receive the full benefit of the GPT, CARIB CAN or LDDC tariff treatments. This change will bring the Regulations fully into line with present administrative practice.

Contact: Leah Kember, Origin Determination Directorate, Valuation Division, Trade Administration Branch, Revenue Canada, 6th floor, Connaught Building, 555 MacKenzie Avenue, Ottawa, Ontario, K1A 0L5. Tel: 613-952-2789; Fax: 954-2224.

Pre-Published and Approved No comments or changes

Statutory Authority
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Pension Benefits Standards Regulations, 1985, amendment (SOR/97-448; OIC 1997-1315)

The amendment corrects an error made in a 1995 amendment that if left unchanged would result in maximum withdrawal levels significantly lower than intended.

The 1995 amendments permit members leaving a pension plan (or surviving spouses) to transfer pension benefit credits to a Life Income Fund (LIF); it prescribed the maximum withdrawals permitted in a calendar year, so that holders do not exhaust their funds until they reach age 80 (at which point the holder must use funds remaining in the LIF to purchase an immediate life annuity).

Pension Benefits Standards Act, 1985, section 26 and paragraph 39(o)

OSFI/97-10-L

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Pre-Published and Approved No comments or changes

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In addition to correcting the calculation of the maximum withdrawal, the amendment also will result in a definition of the maximum annual withdrawal which is consistent with the formula in effect in most other jurisdictions, an important consideration for employers and experts in employee benefits who frequently ask for uniformity in pension rules.

The proposed amendment was prepublished in the Canada Gazette, Part I, on June 14, 1997 (see *Regulatory Affairs*, Vol. 3, No. 22, pp. 2-3, June 14, 1997); the change comes into effect September 17, 1997.

Contact: Glenn McAllister, Assistant Actuary, Office of the Superintendent of Financial Institutions, 255 Albert Street, Ottawa, Ontario, K1A 0H2. Tel: 613-990-8055; Fax: 613-993-7394.

Pre-Published and Approved With comments or changes

Statutory Authority
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Wildlife Area Regulations, amendment (SOR/97-439, OIC 1997-1294)

The *Wildlife Area Regulations* have been amended to prohibit possession, while fishing, of any lead sinker or jig less than 50 grams in National Wildlife Areas (NWAs) where sport fishing is authorized through permit or notice.

The Department of Canadian Heritage recently amended the *National Parks Fishing Regulations* to prohibit the possession and use of lead sinkers or jigs while fishing in national parks.

“Lead sinker” is defined as an object containing more than 1% by weight of lead used to sink a fishing line. “Lead jig” is defined as a weighted hook containing more than 1% by weight of lead used for fishing.

The action is consistent with Canada’s 1995 Toxic Substance Management Policy, and with commitments called for under a number of international initiatives in which Canada is active.

Other governments have already enacted prohibitions on the use of lead. Great Britain banned the sale of all small lead fishing weights in 1987, due to the widespread lead poisoning of mute swans. In the U.S., Yellowstone National Park has banned the use of lead split-shot sinkers, lead-headed jigs, and soft lead-weighted ribbons. Red Rock Lakes National Wildlife Refuge in Montana has also banned the use of all lead fishing sinkers. In addition, the U.S. Environment Protection Agency is proposing a ban on the manufacture, processing, and sale of small lead sinkers.

High quality, affordable non-toxic alternatives to lead sinkers and jigs are commercially available in Canada. While these non-toxic alternatives are more expensive than lead, it is anticipated that only minimal expenditure increases will be incurred by anglers. The average angler’s total seasonal expenditure is about \$500. The annual budgetary increase for the average angler as a result of switching to non-toxic sinker and jig products is expected to be less than 1 percent.

The proposal was prepublished in the Canada Gazette Part I on November 9, 1996 (See *Regulatory Affairs*, Vol. 2, No. 43, pp. 1-2, November 9, 1996).

Canada Wildlife Act, section 12

EC/96-12-L;
HER/95-3-O-L

Published in Canada
Gazette November 9,
1996

Pre-Published and Approved With comments or changes

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Several stakeholders, including two provinces, questioned the scientific basis for the ban and expressed the concern that the changes were the first step leading to a broad ban on the use of lead sinkers and jigs.

Contact: Terry Mueller, Regulatory Analyst, Program, Analysis and Coordination, Canadian Wildlife Service, Conservation and Protection, Environment Canada, Ottawa, Ontario, K1A 0H3. Tel: 613-997-1272.

Motor Vehicle Safety Regulations, amendment (Section 208 “Occupant Restrain Systems in Frontal Impact” and Section 210 “Seat Belt Anchorages”) (SOR-97-447; OIC 1997-1311)

Motor Vehicle Safety Act,
S.C., 1995, c. 16

1995-TC-67

Under this amendment, as of January 1, 1998, manual three-point seat belts are required at the front outboard seating positions of all vehicles with a gross vehicle weight rating (GVWR) of 4 536 kg or less. This includes multipurpose vehicles (MPVs) and Sports Utility Vehicles (SUVs).

To be published in Canada Gazette Oct. 1, 1997

The earlier proposal had an effective date of Sept. 1, 1997.

This amendment also gives explicit permission for air bag cut-off switches to be installed in vehicles that do not have rear seats and in vehicles where there is insufficient room in the rear seat to properly install an infant restraint system or a rearward-facing child restraint system.

In addition, with the exception of vehicles manufactured for operation by persons with disabilities, passenger cars and trucks and multipurpose passenger vehicles with a GVWR of 3 856 kg or less are subject to dynamic testing.

The fitment of air bags remains optional, and automatic seat belts are no longer permitted.

This amendment also introduces new criteria for evaluating head and chest protection. For vehicles equipped with seat belts only, head protection must be measured in terms of maximum resultant head acceleration, which is limited to 80 g. For vehicles equipped with air bags, either resultant head acceleration may be used or the Head Injury Criterion, but at a lower limit of 700, as calculated over a shorter maximum time interval of 15 milliseconds. The HIC₃₆ of 1000 limit is no longer acceptable.

Chest protection, which was formerly measured in terms of resultant acceleration, is now evaluated in terms of chest compression. Subject to the implementation schedule outlined below, the limit for passenger cars, and trucks and multipurpose passenger vehicles with a GVWR of 2 722 kg or less, is 50 mm. For trucks, buses, and multipurpose passenger vehicles with a GVWR greater than 2 722 kg and less than or equal to 3 856 kg, and with an unloaded vehicle weight (UVW) less than 2 495 kg, the limit is 60 mm.

Several changes have also been made to the testing conditions. It is no longer permissible to use the Hybrid II Anthropomorphic Test Device in dynamic testing; only the Hybrid III ATD may be used. The rollover and side-impact tests have been eliminated, and to further standardize testing conditions, the angle of the collision barrier has been restricted to 90° plus/minus 5° from the line of travel.

New air bag labelling requirements have also been introduced. One or more labels must be affixed on or near the sun visor, in both English and French, warning users not to install an infant restraint system or a rearward-facing child restraint system at a seat equipped with an air bag and not to sit too close to the air bag module.

Where there is no air bag at the front passenger position, the caution against installing a rearward-facing infant restraint system is not required.

Pre-Published and Approved With comments or changes

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Where the vehicle is equipped with an air bag cut-off switch, the caution must warn against installing the restraint system without first deactivating the air bag. These cautions must also be included in the owner's manual, with an additional warning against placing objects on the air bag module or between the module and the occupant. In addition, the owner's manual must contain information on how to operate the air bag cut-off switch, a statement explaining when it should be used, and a warning about the consequences of its misuse. The Regulation stipulates the content, but not the specific wording, of warning labels and the cautions that must be included in owners' manuals. This approach permits the use of labels that conform to the requirements of the U.S.

Several changes have also been made to the testing conditions. It is no longer permissible to use the Hybrid II Anthropomorphic Test Device in dynamic testing; only the Hybrid III ATD may be used. The rollover and side-impact tests have been eliminated, and to further standardize testing conditions, the angle of the collision barrier has been restricted to 90° plus/minus 5° from the line of travel.

In addition to amending section 208, this regulatory initiative also makes two changes to section 213.1, "Infant Restraint Systems". A requirement has been added for infant restraint systems and rearward-facing child restraint systems to bear a warning not to install them in the front seat of a vehicle equipped with a passenger-side frontal air bag. In addition, the installation instructions for infant restraint systems and rearward-facing child restraint systems must explain the consequences of disregarding this warning. The Department published its intention to make these changes to section 213.1 in the Canada Gazette Part I on March 2, 1996, and no comments were received. It was subsequently decided to include these requirements in this amendment.

Changes of an editorial nature have also been made to section 208. The text has been rewritten to clarify its meaning, the title has been changed to "Occupant Restraint Systems in Frontal Impact", and related provisions have been grouped under separate headings. The requirements that applied to automatic seat belts have been deleted, and a number of changes were made with regard to definitions. The term "air bag" has been defined in subsection 2(1) of the Regulations, replacing the previously used expressions "gas-inflated occupant protection system" and "automatic occupant protection system that may be deployed when the vehicle is involved in a collision". Definitions for the terms "special driver accommodation" and "vehicle manufactured for operation by persons with disabilities" have been added to subsection 2(1), and the definition for "Seating Reference Point" has been revised to make it consistent with that of the U.S.

With the exception of the requirements governing head and chest protection, the provisions outlined above come into effect on January 1, 1998.

The effective date of the new requirements for the Belt-Fit Test Device (BFTD) has been postponed to September 2001 for passenger cars and September 2002 for trucks, buses, and multipurpose passenger vehicles with a GVWR of 3 856 kg or less. The industry had requested that more research be carried out before the BFTD becomes mandatory.

Contact: André St-Laurent, Road Safety and Motor Vehicle Regulation, Transport Canada, 344 Slater Street, Ottawa, Ontario. K1A 0N5. Tel: 613-998-1964

Ministerial Orders Approved

Statutory Authority & Regulatory Plan Listing

Domestic Substances List, amendments (SOR/97-433; SOR/97-434; SOR/97-435; SOR/97-436)

The four amendments add 29 substances to Part I of the Domestic Substances List (DSL).

The additions are:

- 68130-35-8; 117527-94-3;
- 25214-36-2 T; 28431-58-5 T; 28477-54-5 T; 63744-65-0 T; 65104-04-3 T; 68130-35-8 T; 68475-51-4 T; 103991-34-0 T; 110553-27-0 T; 127733-92-0 T; 141091-62-5 T; 147358-21-2 T;
- 26916-05-2 T; 29911-28-2 T; 36487-02-2 T; 64652-60-4 N; 68333-71-1 T; 72828-34-3 T; 117581-13-2 T; 130800-24-7 T; 150409-26-0 T; 176429-34-8 T;
- 22677-47-0; 27288-99-9; 68441-69-0; 68834-14-0; 77402-38-1.

The Orders come into effect on September 16, 1997.

Contacts: Gordon Stringer, A/Head, New Substances Notification Section, New Substances Division, Commercial Chemicals Evaluation Branch, Department of the Environment, Hull, Quebec, K1A 0H3. Tel: 819-953-9348; Arthur Sheffield, A/Director, Regulatory and Economic Assessment Branch, Regulatory Affairs & Program Integration Directorate, Department of the Environment, Hull, Quebec K1A 0H3. Tel: 819-953-1172.

RCMP External Review Committee Rules of Practice and Procedure, amendment (SOR/97-437)

The amendments correct problems identified by the Standing Joint Committee for the Scrutiny of Regulations and make several technical changes.

The changes to correct problems identified by the Standard Joint Committee include:

- changes to the process set out under sections 7 and 8 of the Rules, designed to ensure that the process of providing written submissions to the Review Committee meets the requirements of natural justice;
- changes to paragraph 12(b) of the Rules to reflect the process more accurately;
- changes to sections 19 and 20, to reflect the wording under the *RCMP Act* more accurately.

The Order comes into effect on September 16, 1997.

Contact: Shawn Scromeda, Deputy Registrar, RCMP External Review Committee, P.O. Box 1159, Station "B", Ottawa, Ontario, K1P 5R2. Tel: 613-998-2134.

Canadian Environmental Protection Act, subsection 25 (1)

Not included in Regulatory Plan

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Royal Canadian Mounted Police Act, section 29

Not included in Regulatory Plan

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