

collected by CBP at the time of arrival) or prepayment at the port in accordance with paragraph (b)(3) of this section;

(3) Fee under paragraph (c) of this section (commercial vehicles): for each individual arrival, class code 492; for prepayment of the maximum calendar year fee, class code 902. Payment location: port of arrival for each individual arrival (fee to be collected by CBP at the time of arrival) or prepayment in accordance with paragraph (c)(3) of this section;

(4) Fee under paragraph (d) of this section (railroad cars): for each individual arrival (under the monthly payment and statement filing procedure), class code 493; for prepayment of the maximum calendar year fee, class code 903. Payment location: for individual arrivals (monthly payment and statement filing), see paragraph (d)(4)(ii) of this section; for prepayment, see paragraph (d)(3) of this section;

(5) Fee under paragraph (e) of this section (private vessels and aircraft): for private vessels, class code 904; for private aircraft, class code 494. Payment location: port of arrival for each individual arrival (fee to be collected by CBP at the time of arrival) or prepayment in accordance with paragraph (e)(2) of this section;

(6) Fee under paragraph (f) of this section (dutiable mail): class code 496. Payment location: see paragraph (f) of this section;

(7) Fee under paragraph (g)(1)(i) of this section (the \$5 fee for commercial vessel and commercial aircraft passengers): class code 495. Payment location: see paragraph (g)(5) of this section;

(8) Fee under paragraph (g)(1)(ii) of this section (the \$1.75 fee for commercial vessel passengers): class code 484. Payment location: see paragraph (g)(5) of this section; and

(9) Fee under paragraph (h) of this section (customs broker permits): for district permits, class code 497; for national permits, class code 997. Payment location: see paragraph (h) of this section.

* * * * *

■ 3. Paragraphs (a), (c)(2), and (d) of § 24.25 are amended by removing the reference “§ 142.13(c)” wherever it appears and adding, in its place, the reference “§ 142.13(b)”.

PART 111—CUSTOMS BROKERS

■ 4. The authority citation for Part 111 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202, (General Note 23, Harmonized Tariff Schedule of the United States), 1624, 1641.

* * * * *

Section 111.96 also issued under 19 U.S.C. 58c; 31 U.S.C. 9701.

■ 5. Section 111.19 is amended by revising paragraphs (c) and (f)(4) to read as follows:

§ 111.19 Permits.

* * * * *

(c) *Fees.* Each application for a district permit under paragraph (b) of this section must be accompanied by the \$100 and \$125 fees specified in §§ 111.96(b) and (c). In the case of an application for a national permit under paragraph (f) of this section, the \$100 fee specified in § 111.96(b) and the \$125 fee specified in § 111.96(c) must be paid at the port through which the applicant's license was delivered (see § 111.15) prior to submission of the application. The \$125 fee specified in § 111.96(c) also must be paid in connection with the issuance of an initial district permit concurrently with the issuance of a license under paragraph (a) of this section.

* * * * *

(f) *National permit.* * * *

(4) Attach a receipt or other evidence showing that the fees specified in § 111.96(b) and (c) have been paid in accordance with paragraph (c) of this section.

* * * * *

■ 6. Section 111.96 is amended by revising paragraph (b); in paragraph (c), by removing from the second sentence the words “or upon filing the application for the” and adding in their place the words “or in connection with the filing of an application for a; and by removing from the same sentence the reference “§ 111.19(f)(4)” and adding in its place “§ 111.19(c)”. The revision reads as follows:

§ 111.96 Fees.

* * * * *

(b) *Permit fee.* A fee of \$100 must be paid in connection with each permit application under § 111.19 to defray the costs of processing the application, including an application for reinstatement of a permit that was revoked by operation of law or otherwise.

* * * * *

Dated: July 21, 2003.

Robert C. Bonner,
Commissioner, Customs and Border Protection.

Approved: July 21, 2003.

Timothy E. Skud,
Deputy Assistant Secretary of the Treasury.
[FR Doc. 03–18837 Filed 7–23–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 102

[CBP Dec. 03—11]

Technical Corrections: Rules of Origin of Imported Goods (Other than Textile and Apparel Products) for Purposes of the NAFTA

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule; corrections.

SUMMARY: This document makes technical corrections to the Customs Regulations to reflect the terms of the current version of the Harmonized Tariff Schedule of the United States within the specific tariff shift rules and related requirements for determining the country of origin of imported goods (other than textiles and apparel products) for purposes of the NAFTA.

DATES: These corrections are effective July 24, 2003.

FOR FURTHER INFORMATION CONTACT: Robert Altnu, International Agreements Staff, Office of Regulations and Rulings, Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, Tel. (202) 572–8754.

SUPPLEMENTARY INFORMATION:

Background

Section 102.20 of the Customs Regulations (19 CFR 102.20) lists specific tariff shift rules and other requirements for determining the country of origin of imported goods (other than textiles and apparel products covered by § 102.21) for certain North American Free Trade Agreement (NAFTA) purposes. Specifically, § 102.20 prescribes tariff rules that may be used to determine when a good is a good of a NAFTA country (United States, Canada or Mexico). See the NAFTA Implementation Act, Public Law 103–182, 107 Stat. 437 (December 8, 1993).

Section 102.20 presents the origin rules in terms of tariff classification changes (tariff shifts) and/or specific operations which are required in order for origin to be conferred. The rule applicable to a particular good is determined by that good's tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS) at the time the country of origin determination is made.

Need for Correction

Pursuant to section 1205 of the Omnibus Trade and Competitiveness Act of 1988, the International Trade Commission is required to keep the HTSUS under continuous review and prepare investigations proposing modifications thereto to the President. See U.S. International Trade Commission Investigation No. 1205-5 (final), Proposed Modifications to the Harmonized Tariff Schedule of the United States, Publication 3430 (June 2001).

In 2002, the HTSUS was amended which resulted in the transfer of certain goods, for tariff classification purposes, to different or newly created tariff provisions, as well as the removal of tariff provisions currently referenced in § 102.20. See Presidential Proclamation 7515, dated December 18, 2001 (66 FR 66549, dated December 26, 2001). The changes to the HTSUS involve product coverage and/or numbering of select headings and subheadings, and are not intended to have any other substantive effect. See T.D. 96-48, Rules for Determining the Country of Origin of a Good for Purposes of Annex 311 of the North American Free Trade Agreement, 61 FR 28934 (June 6, 1996) and 60 FR 22312 (May 5, 1995). This document makes technical corrections to § 102.20 to reflect the terms of the current version of the HTSUS. The following examples are offered to illustrate the need for technical corrections to § 102.20.

Example: Pursuant to the existing terms of § 102.20(b), the tariff shift rule for HTSUS headings 1301-1302 permits a change to these headings "from any other chapter." Prior to the 2002 amendments to the HTSUS, poppy straw concentrates were classifiable in Chapter 13 and therefore did not undergo the requisite tariff shift necessary to confer origin. As a result of the 2002 amendments to the HTSUS, certain concentrates of poppy straw were moved from Chapter 13 and provided for under subheading 2939.11.00, HTSUS. Poppy straw concentrates classifiable in this provision (Chapter 29) would now satisfy the tariff shift rule for Chapter 13 pursuant to the existing terms of § 102.20(b). In order to reflect the original scope of the tariff shift rule for Chapter 13 within § 102.20(b), the tariff shift rule needs

to be amended to specifically exclude changes from HTSUS subheading 2939.11 from conferring origin.

Example: In 2002, a new subheading was created at 1904.30.00, HTSUS, which provides for "bulgur wheat." This product was previously classified in the basket "other" provision under subheading 1904.90.00, HTSUS. As the new subheading 1904.30.00, HTSUS, is not included in the tariff shift rules set forth in § 102.20(d), the goods classifiable under this provision are currently precluded from having their origin determined pursuant to § 102.20(d). The technical corrections in this document amend the tariff shift rules in § 102.20(d) to add this new tariff provision and the rule "from any other heading," which was the rule for bulgur wheat when it was classified under subheading 1904.90 in the 2001 version of the HTSUS.

Executive Order 12866, Regulatory Flexibility Act, Inapplicability of Prior Public Notice and Comment Procedures and Delayed Effective Date Requirements

This document does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866. Because these amendments merely update the Customs Regulations by reflecting the terms of the 2002 HTSUS within the specific tariff shift rules and related requirements for determining the country of origin of imported goods (other than textiles and apparel products) for purposes of the NAFTA, Customs and Border Protection (CBP) has determined, pursuant to the provisions of 5 U.S.C. 553(b)(B), that prior public notice and comment procedures on this regulation are unnecessary and contrary to the public interest. For the same reasons, pursuant to the provisions of 5 U.S.C. 553(d)(3), there is good cause for dispensing with a delayed effective date. Because the document is not subject to the requirements of 5 U.S.C. 553, as noted, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Drafting Information

The principal author of this document was Ms. Suzanne Kingsbury, Regulations Branch, Office of Regulations and Rulings, CBP. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 102

Customs duties and inspection, Imports, Rules of origin, Trade agreements.

Amendment to the Regulations

■ For the reasons stated above, part 102 of the Customs Regulations (19 CFR part 102) is amended as set forth below.

PART 102—RULES OF ORIGIN

■ 1. The authority citation for part 102 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

■ 2. In § 102.20, the table is amended by:

■ a. Removing the entries for "2009.11-2009.30", "2009.40-2009.80", "2816.20", "2816.30", "2841.10-2841.40", "2901.10-2901.90", "2905.49-2905.50", "2907.29-2907.30", "2933.11-2934.90", "3002.90", "3809.91-3809.99", "3817.10-3817.20", "4101-4103", "4104-4107", "4108-4111", "4601", "4811.10-4811.31", "4811.39", "4811.40-4811.90", "4823.11", "4823.20-4823.59", "6812.10", "6812.20", "6812.30", "6812.40", "8101.10-8101.92", "8101.93", "8102.10-8102.92", "8102.93", "8103.10-8113.00", "8508.10-8508.80", "8508.90", "9009.90", "9021.11", "9021.19", and "9112.10-9112.80";

■ b. Adding entries, in numerical order, for "1904.30", "2009.11-2009.39", "2009.41-2009.80", "2816.40", "2841.10-2841.30", "2901.10-2901.29", "2905.49-2905.59", "2907.29", "2933.11-2934.99", "3006.70", "3006.80", "3809.91-3809.93", "3817", "3825.10-3825.69", "3825.90", "4101", "4102", "4103", "4104-4106", "4107", "4112", "4113", "4114.10-4115.20", "4601.20-4601.99", "4811", "4823.12", "4823.20-4823.40", "8101.10-8101.95", "8101.96", "8102.10-8102.95", "8102.96", "8103.20-8113.00", "9009.91-9009.99", "9021.10", and "9112.20";

■ c. Revising the entries in the "Tariff shift and/or other requirements" column adjacent to the "HTSUS" column listing for "1301-1302", "2821.20", "2937-2941", "3001.10", "3001.20-3001.90", "3002.10-3002.90", "3003.10", "3003.20", "3003.31", "3003.39", "3003.40", "3003.90", "3004.10", "3004.20", "3004.31", "3004.32", "3004.39", "3004.40", "3004.50", "3004.90", "3005.10", "3006.10", "3006.20-3006.60", "3402.11", "3402.12-3402.20", "4401-4411", "6812.90", "8467.91-8467.99", "8471.60-8472.90", "8479.10-8479.89", and "9404.30-9404.90"; and

■ d. Adding in paragraph (h) titled "Section VIII: Chapters 41 through 43", in the "Chapter 42 Note" between the clauses "4202.32.40 through 4202.32.95" and "4202.92.15 through 4202.92.30", the reference ", 4202.92.05".

■ The additions and revisions read as follows:

§ 102.20 Specific rules by tariff classification.

* * * *

HTSUS	Tariff shift and/or other requirements
1301–1302	A change to heading 1301 through 1302 from any other chapter, except from concentrates of poppy straw of subheading 2939.11
1904.30	A change to subheading 1904.30 from any other heading
2009.11–2009.39	A change to subheading 2009.11 through 2009.39 from any other chapter
2009.41–2009.80	A change to subheading 2009.41 through 2009.80 from any other chapter
2816.40	A change to subheading 2816.40 from any other subheading, except a change to oxides, hydroxides and peroxides of strontium of subheading 2816.40 from subheading 2530.90
2821.20	A change to subheading 2821.20 from any other subheading, except from earth color mineral substances of 2530.90 or from subheading 2601.11 through 2601.20
2841.10–2841.30	A change to subheading 2841.10 through 2841.30 from any other subheading, including another subheading within that group
2901.10–2901.29	A change to subheading 2901.10 through 2901.29 from any other subheading, including another subheading within that group, except from acyclic petroleum oils of heading 2710 or from subheading 2711.13, 2711.14, 2711.19, or 2711.29
2905.49–2905.59	A change to subheading 2905.49 through 2905.59 from any other subheading, including another subheading within that group
2907.29	A change to subheading 2907.29 from any other subheading, including a change to phenol-alcohols of subheading 2907.29, from polyphenols of subheading 2907.29, or a change to polyphenols of subheading 2907.29 from phenol-alcohols of subheading 2907.29, except a change from subheading 2707.99
2933.11–2934.99	A change to subheading 2933.11 through 2934.99 from any other subheading, including another subheading within that group
2937–2941	A change to heading 2937 through 2941 from any other heading, including another heading within that group, except a change to concentrates of poppy straw of subheading 2939.11 from poppy straw extract of subheading 1302.19
3001.10	A change to subheading 3001.10 from any other subheading, except from subheading 0206.10 through 0208.90 or 0305.20, heading 0504 or 0510, or subheading 0511.99 if the change from these provisions is not to a powder classified in subheading 3001.10, and except a change from subheading 3006.80
3001.10–3001.90	A change to subheading 3001.20 through 3001.90 from any other subheading, including another subheading within that group, except a change from subheading 3006.80
3002.10–3002.90	A change to subheading 3002.10 through 3002.90 from any other subheading, including another subheading within that group, except a change from subheading 3006.80
3003.10	A change to subheading 3003.10 from any other subheading, except from subheading 2941.10, 2941.20, 3003.20, or 3006.80
3003.20	A change to subheading 3003.20 from any other subheading, except from subheading 2941.30 through 2941.90, or 3006.80
3003.31	A change to subheading 3003.31 from any other subheading, except from subheading 2937.12 or 3006.80
3003.39	A change to subheading 3003.39 from any other subheading, except from hormones or their derivatives classified in Chapter 29, or except from subheading 3006.80
3003.40	A change to subheading 3003.40 from any other subheading, except from heading 1211, subheading 1302.11, 1302.19, 1302.20, 1302.39, or 3006.80 or alkaloids or derivatives thereof classified in Chapter 29
3003.90	A change to subheading 3003.90 from any other subheading, provided that the domestic content of the therapeutic or prophylactic component is no less than 40 percent by weight of the total therapeutic or prophylactic content, or except from subheading 3006.80

HTSUS	Tariff shift and/or other requirements
3004.10	A change to subheading 3004.10 from any other subheading, except from subheading 2941.10, 2941.20, 3003.10, 3003.20, or 3006.80
3004.20	A change to subheading 3004.20 from any other subheading, except from subheading 2941.30 through 2941.90, 3003.20, or 3006.80
3004.31	A change to subheading 3004.31 from any other subheading, except from subheading 2937.12, 3003.31, 3003.39, or 3006.80
3004.32	A change to subheading 3004.32 from any other subheading, except from subheading 3003.39 or 3006.80, or from adrenal corticosteroid hormones classified in Chapter 29
3004.39	A change to subheading 3004.39 from any other subheading, except from subheading 3003.39 or 3006.80, or from hormones or derivatives thereof classified in Chapter 29
3004.40	A change to subheading 3004.40 from any other subheading, except from heading 1211, subheading 1302.11, 1302.19, 1302.20, 1302.39, 3003.40 or 3006.80, or alkaloids or derivatives thereof classified in Chapter 29
3004.50	A change to subheading 3004.50 from any other subheading, except from subheading 3003.90 or 3006.80, or vitamins classified in Chapter 29 or products classified in heading 2936
3004.90	A change to subheading 3004.90 from any other subheading, except from subheading 3003.90 or 3006.80, and provided that the domestic content of the therapeutic or prophylactic component is no less than 40 percent by weight of the total therapeutic or prophylactic content
3005.10	A change to subheading 3005.10 from any other subheading, except from subheading 3006.80 or 3825.30
3006.10	A change to subheading 3006.10 from any other subheading, except from subheading 1212.20, 3006.80, 3825.30, or 4206.10
3006.20–3006.60	A change to subheading 3006.20 through 3006.60 from any other subheading, including another subheading within that group, except from subheading 3006.80 or 3825.30
3006.70	A change to subheading 3006.70 from any other subheading, except from subheading 3006.80 or 3825.30, and provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound
3006.80	A change to subheading 3006.80 from any other chapter
* * * * *	
3402.11	A change to subheading 3402.11 from any other subheading, except from mixed alkylbenzenes of heading 3817
3402.12–3402.20	A change to subheading 3402.12 through 3402.20 from any other subheading, including another subheading within that group
* * * * *	
3809.91–3809.93	A change to subheading 3809.91 through 3809.93 from any other subheading, including another subheading within that group
* * * * *	
3817	A change to heading 3817 from any other heading, including changes from one product to another within that heading, except from subheading 2902.90
* * * * *	
3825.10–3825.69	A change to subheading 3825.10 through 3825.69 from any other chapter, except from Chapter 28 through 38, 40 or 90
3825.90	A change to subheading 3825.90 from any other subheading, except from subheading 3824.90, and provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound
* * * * *	
4101	A change to hides or skins of heading 4101 which have undergone a tanning (including a pre-tanning) process which is reversible from any other good of heading 4101 or from any other chapter; or
4102	A change to any other good of heading 4101 from any other chapter
4102	A change to hides or skins of heading 4102 which have undergone a tanning (including a pre-tanning) process which is reversible from any other good of heading 4102 or from any other chapter; or
4103	A change to any other good of heading 4102 from any other chapter.
4103	A change to hides or skins of heading 4103 which have undergone a tanning (including a pre-tanning) process which is reversible from any other good of heading 4103 or from any other chapter; or
4104–4106	A change to any other good of heading 4103 from any other chapter
4104–4106	A change to heading 4104 through 4106 from any other heading, including another heading within that group, except from hides or skins of heading 4101 through 4103 which have undergone a tanning (including a pre-tanning) process which is reversible, or from heading 4107, 4112 or 4113
4107	A change to heading 4107 from any other heading except from hides or skins of heading 4101 which have undergone a tanning (including a pre-tanning) process which is reversible, or from heading 4104
4112	A change to heading 4112 from any other heading except from hides or skins of heading 4102 which have undergone a tanning (including a pre-tanning) process which is reversible, or from heading 4105
4113	A change to heading 4113 from any other heading except from hides or skins of heading 4103 which have undergone a tanning (including a pre-tanning) process which is reversible, or from heading 4106
4114.10–4115.20	A change to subheading 4114.10 through 4115.20 from any other subheading, including a subheading within that group
* * * * *	
4401–4411	A change to heading 4401 through 4411 from any other heading, including another heading within that group; or

HTSUS	Tariff shift and/or other requirements
	A change to strips continuously shaped along the ends and also continuously shaped along the edges or faces of heading 4409 from strips continuously shaped only along the edges or faces of heading 4409
* * * * *	
4601.20–4601.99	A change to subheading 4601.20 through 4601.99 from any other subheading, including another heading within that group
* * * * *	
4811	A change to paper or paperboard in strips or rolls of a width not exceeding 15 cm of heading 4811 from strips or rolls of a width exceeding 15 cm of heading 4811 or any other heading, except from heading 4817 through 4823; A change to paper or paperboard in rectangular (including square) sheets with the larger dimension not exceeding 36 cm or the other dimension not exceeding 15 cm in the unfolded state of heading 4811 from strips or rolls of a width exceeding 15 cm of heading 4811, paper or paperboard in rectangular (including square) sheets with the larger dimension exceeding 36 cm and the other dimension exceeding 15 cm in the unfolded state of heading 4811 or any other heading, except from heading 4817 through 4823; or A change to any other good of heading 4811 from any other chapter
* * * * *	
4823.12	A change to subheading 4823.12 from any other subheading
* * * * *	
4823.20–4823.40	A change to subheading 4823.20 through 4823.40 from any other chapter
* * * * *	
6812.90	A change to subheading 6812.90 from any other heading; or A change to yarn and thread of subheading 6812.90 from any other subheading including from any other good also classified in subheading 6812.90; or A change to cords and string, whether or not plaited of subheading 6812.90 from any other subheading or from any other good also classified in subheading 6812.90, except from yarn and thread of subheading 6812.90; or, A change to woven or knitted fabric of subheading 6812.90 from any other subheading including from any other good also classified in subheading 6812.90.
* * * * *	
8101.10–8101.95	A change to subheading 8101.10 through 8101.95 from any other subheading, including another subheading within that group; or A change to any of the following goods classified in subheading 8101.10 through 8101.95, including from materials also classified in subheading 8101.10 through 8101.95: Matte; unwrought; bars except from rods or profiles; rods except from bars or profiles; profiles except from rods or bars; plates except from sheets or strip; sheets except from plate or strip; strip except from sheets or plate; foil except from sheet or strip
8101.96	A change to subheading 8101.96 from any other subheading, except from subheading 8101.95
* * * * *	
8102.10–8102.95	A change to subheading 8102.10 through 8102.95 from any other subheading, including another subheading within that group; or A change to any of the following goods classified in subheading 8102.10 through 8102.95, including from materials also classified in subheading 8102.10 through 8102.95: Matte; unwrought; bars except from rods or profiles; rods except from bars or profiles; profiles except from rods or bars; plates except from sheets or strip; sheets except from plate or strip; strip except from sheets or plate; foil except from sheet or strip
8102.96	A change to subheading 8102.96 from any other subheading, except from subheading 8102.95
* * * * *	
8103.20–8113.00	A change to subheading 8103.20 through 8113.00 from any other subheading, including another subheading within that group; or A change to any of the following goods classified in subheading 8103.20 through 8113.00, including from materials also classified in subheading 8103.20 through 8113.00: Matte; unwrought; powder except from flakes; flakes except from powder; bars except from rods or profiles; rods except from bars or profiles; profiles except from rods or bars; wire except from rod; plates except from sheets or strip; sheets except from plate or strip; strip except from sheets or plate; foil except from sheet or strip; tubes except from pipes; pipes except from tubes; tube or pipe fittings except from tubes or pipes; cables/stranded wire/plaited bands
* * * * *	
8467.91–8467.99	A change to subheading 8467.91 through 8467.99 from any other heading, except from heading 8407, or except from heading 8501 when resulting from a simple assembly
* * * * *	
8471.60–8472.90	A change to printing machines of subheading 8472.90 from any other subheading, except from subheading 8443.11 through 8443.60;

HTSUS	Tariff shift and/or other requirements
	A change to subheading 8471.60 through 8472.90 from any other subheading outside that group, except from subheading 8504.40 or heading 8473; or A change to subheading 8471.60 through 8472.90 from any other subheading within that group or from subheading 8504.90 or from heading 8473, provided that the change is not the result of simple assembly
8479.10–8479.89	A change to printing machines of subheading 8479.89 from any other subheading, except from subheading 8443.11 through 8443.60; or A change to subheading 8479.10 through 8479.89 from any other subheading, including another subheading within that group
9009.91–9009.99	A change to subheading 9009.91 through 9009.99 from any other heading
9021.10	A change to subheading 9021.10 from any other subheading, except from nails classified in heading 7317 or screws classified in heading 7318 when resulting from a simple assembly
9112.20	A change to subheading 9112.20 from any other subheading, except from subheading 9112.90 when that change is pursuant to General Rule of Interpretation 2(a)
9404.30–9404.90	A change to down- and/or feather-filled goods classified in subheading 9404.30 through 9404.90 from any other heading; or For all other goods classified in subheading 9404.30 through 9404.90, a change from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5804, 5806, 5809 through 5810, 5901, 5903 through 5904, 5906 through 5907, or 6001 through 6006, or subheading 6307.90

Robert C. Bonner,
Commissioner, Customs and Border Protection.

Approved: July 21, 2003.

Timothy E. Skud,
Deputy Assistant Secretary of the Treasury.
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DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 133

[CBP Decision 03–12]

RIN 1515–AC98

Civil Fines for Importation of Merchandise Bearing a Counterfeit Mark

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to clarify the limit on the amount of a civil fine which may be assessed by the Bureau of Customs and Border Protection (CBP; a bureau of

the new Department of Homeland Security that encompasses much of the agency formerly known as the U.S. Customs Service) when imported merchandise bearing a counterfeit mark is seized under 19 U.S.C. 1526(e). The regulations currently use, as a measurement for determining the limit, the domestic value of merchandise as if it had been genuine, based on the manufacturer's suggested retail price of the merchandise at the time of seizure. The language set forth in the amended regulation adheres more closely to the statutory language, basing the limit of the civil fine on the value of the genuine good according to the manufacturer's suggested retail price (MSRP), without any reference to domestic value. Because the MSRP excludes discounted sales and markdowns, it is usually greater than the good's domestic value. Removing the distinction between the statutory and regulatory language will clear up confusion and result in CBP more uniformly determining the amount of a civil fine when merchandise bearing a counterfeit mark is imported.

EFFECTIVE DATE: August 25, 2003.

FOR FURTHER INFORMATION CONTACT: Lynne O. Robinson, Office of Regulations and Rulings: (202) 572–8743.

SUPPLEMENTARY INFORMATION:

Background

The Anticounterfeiting Consumer Protection Act of 1996 (the ACPA; Pub. L. 104–153, 110 Stat. 1386) was signed into law on July 2, 1996, to ensure that Federal law adequately addresses the scope and sophistication of modern counterfeiting which costs American businesses an estimated \$200 billion a year worldwide. Toward that end, the ACPA amended section 526 of the Tariff Act of 1930, as amended (19 U.S.C. 1526), to provide two new tools to fight the importation of counterfeit goods: (1) the seizure, forfeiture, and destruction of merchandise bearing a counterfeit mark under 19 U.S.C. 1526(e) (section 1526(e)), as amended by section 9 of the ACPA, and (2) the imposition of a civil fine under 19 U.S.C. 1526(f) (section 1526(f)), a new section of law created under section 10 of the ACPA.

Under section 1526(e), merchandise bearing a counterfeit mark that is seized and forfeited must be destroyed except where the merchandise is not unsafe or a hazard to health and the trademark owner has consented to its disposal by one of several alternative methods (see sections 1526(e)(1),(2) and (3)). This provision ensures that a violator cannot regain possession of the forfeited goods and distribute them in some other manner (including making another attempt to import them at another U.S.