

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: