

“components.” Similarly, the definition of “cost” in paragraph (a)(4) and the definition of “declared customs value” in paragraph (a)(5) have been modified to refer simply to “fabrics.”

2. The following changes have been made to paragraph (b) which concerns the 75/85 percent U.S. fabric content requirements for preferential treatment in subclauses (II) and (III) of the statute:

a. In the introductory text of paragraph (b)(1), reference is made to the year that begins on “October 1, 2002” (rather than “October 1, 2001”) to reflect the applicable effective date set forth in Proclamation 7626.

b. Throughout the paragraph (b) texts, all references to U.S.-formed “fabric components” have been replaced by references to U.S.-formed “fabric,” the words “produced and” have been removed from the expression “produced and entered,” and the parenthetical reference “(exclusive of all findings and trimmings)” has been added as appropriate after references to “fabrics” and “fabric.” These changes simply conform the regulatory text to the wording changes in the statute.

c. Paragraph (b)(1)(i), which concerns the 75 percent requirement of subclause (II) of the statute, has been changed to refer to articles that are “entered as articles described in § 10.223(a)(6),” and paragraph (b)(1)(ii), which concerns the 85 percent requirement of subclause (III) of the statute, has been changed to refer to articles that “conform to the production standards set forth in § 10.223(a)(6).” These wording changes are in response to the statutory wording changes regarding articles that are “entered” and that are “eligible” under clause (iv). The differences in wording in the two regulatory texts are necessary in order to enable the 85 percent standard to operate. CBP notes in this regard that if the universe of articles that are looked at for purposes of assessing compliance with the 85 percent standard is the same as that used for purposes of the 75 percent standard (that is, articles that were entered under the HTSUS subheading that applies to articles described in paragraph (2)(A)(iv)(I) of the statute and § 10.223(a)(6)), it would be impossible in the first year following the statutory changes (that is, starting on October 1, 2002) for a new producer or entity to enter the program, or for a producer or entity that failed to meet the 75 percent standard in the previous year to reenter the program. This is because application of the 85 percent standard presupposes a failure to have met the 75 percent standard in the preceding year, in which case there could not be any entries in the next year under the HTSUS

subheading that applies to articles described in paragraph (2)(A)(iv)(I) of the statute and § 10.223(a)(6) against which compliance with the 85 percent standard can be determined. The wording used in paragraph (b)(1)(ii) of the regulatory text (which is also reflected in the general statement of the paragraph (b)(1) introductory text and in the general rule in paragraph (b)(2)(i)(A)), by referring to articles that meet the U.S./Caribbean cutting and assembly production requirement (regardless of the HTSUS subheading under which they are entered), is intended to avoid this anomalous result.

d. In the general rules of application set forth in paragraph (b)(2)(i), two new subparagraphs (C) and (D) have been added to clarify the application of the different regulatory language for the 75 and 85 percent standards discussed at point c. above, and former subparagraph (D) has been removed because it concerned the year of production which is no longer relevant under the amended statutory text.

e. Also in paragraph (b)(2)(i), former subparagraph (C) has been redesignated as subparagraph (E) and the text has been modified, and a new subparagraph (L) has been added, primarily to reflect that the findings and trimmings referred to in the context of brassieres are not limited to foreign findings and trimmings.

f. Also in paragraph (b)(2)(i), former subparagraph (E) has been redesignated as subparagraph (G) and the text, which concerns a new producer or new entity controlling production, has been revised to incorporate the new wording (“entered as articles described in § 10.223(a)(6)”) of paragraph (b)(1)(i) and to clarify what CBP believes is a necessary conclusion under the statutory text, that is, that in the described context the producer or entity must first meet the 85 (rather than the 75) percent standard.

g. In paragraph (b)(2)(ii), a new Example 2 and a new Example 3 have been added to cover new subparagraphs (C) and (D) of paragraph (b)(2)(i), and Examples 2 through 6 consequently have been redesignated as Examples 4 through 8.

h. Also in paragraph (b)(2)(ii), redesignated Example 6 has been revised in order to replace the former “produced and entered” in the same year scenario with a factual pattern addressing the 75 versus 85 percent standard and entry in different years.

i. Also in paragraph (b)(2)(ii), redesignated Example 7 has been revised in order to reflect that the 85 percent standard (rather than the 75 percent standard) applies to a new

producer or entity controlling production, as stated in redesignated and revised subparagraph (G) of paragraph (b)(2)(i).

3. In paragraph (c)(3)(i), the text of the declaration of compliance has been modified by removing each reference to “components” and by removing the words “produced and” before the word “entered” in blocks 4 and 6, in each case to reflect changes in statutory language.

4. Finally, in paragraph (d)(1)(v), the next to last sentence has been modified to state that the inventory records must indicate that the required production occurred (rather than “identify the date of” production), and the last sentence has been modified to refer to purchases made during the “accounting period” (rather than “year”), because the year of production is not relevant under the amended statute.

Other Amendments

In addition to the changes described above that result from the changes made to the statute by section 3107(a) of the Act, CBP has included a number of other changes in the revised text of § 10.228 set forth in this document. These additional changes, which are intended to clarify or otherwise improve the interim regulatory texts, are as follows:

1. The definition of “cost” in paragraph (a)(4) and the definition of “declared customs value” in paragraph (a)(5) have been revised for purposes of clarity, in particular in order to include rules covering cases in which there is no price based on an exportation to a CBTPA beneficiary country.

2. The definition of “year” in paragraph (a)(6) has been reworded for purposes of clarity.

3. In Example 1 under paragraph (b)(2)(ii), the words “in the first year” have been added to the scenario in the first sentence to clarify that the year in question is one during which the 75 percent standard must be met.

4. In Example 5 under paragraph (b)(2)(ii), the references to foreign origin straps have been replaced by references to “strips and labels” to ensure that the example is clearly directed to findings and trimmings and not to materials that are considered to be components of brassieres.

5. In paragraph (c)(3)(i), the text of the declaration of compliance has been modified by replacing the words “all articles” with “brassieres” in blocks 4 through 6 and by simplifying the wording within block 6.

6. Finally, in paragraph (c)(3)(ii), the subparagraph (E) instruction for completion of block 6 has been removed