

are imported under circumstances meeting the requirements of this section, he may waive submission of the declarations provided for in paragraph (c)(1) of this section.

(4) *Deposit of estimated duties.* For goods returned after having been repaired or altered in Canada other than pursuant to a warranty, the port director shall require a deposit of estimated duties based upon the full cost or value of the repairs or alterations. The cost or value of the repairs or alterations performed in Canada other than pursuant to a warranty, which is to be set forth in the invoice and entry papers as the basis for the assessment of duty for such goods, shall be limited to the cost or value of the repairs or alterations actually performed in Canada, which shall include all domestic and foreign articles furnished for the repairs or alterations but shall not include any of the expenses incurred in the United States whether by way of engineering costs, preparation of plans or specifications, furnishing of tools or equipment for doing the repairs or alterations in Canada, or otherwise.

Subpart G—Origin Verifications and Determinations

§ 181.71 Denial of preferential tariff treatment dependent on origin verification and determination.

Except where a Certificate of Origin either is not submitted when requested under § 181.22(b) of this part or is not acceptable and a corrected Certificate is not submitted or accepted as provided in § 181.22(c) of this part and except as otherwise provided in § 181.23 of this part and except in the case of a pattern of conduct provided for in § 181.76(c) of this part, Customs shall deny preferential tariff treatment on an imported good, or shall deny a post-importation claim for a refund filed under subpart D of this part, only after initiation of an origin verification under § 181.72(a) of this part which results in a determination that the imported good does not qualify as an originating good or should not be accorded such treatment for any other reason as specifically provided for elsewhere in this part.

§ 181.72 Verification scope and method.

(a) *General.* Subject to paragraph (e) of this section, Customs may initiate a verification in order to determine whether a good imported into the United States qualifies as an originating good for purposes of preferential tariff treatment under the NAFTA as stated on the Certificate of Origin pertaining to the good. Such a verification:

(1) May also involve a verification of the origin of a material that is used in the production of a good that is the subject of a verification under this section;

(2) May include verification of the applicable rate of duty applied to an originating good in accordance with Annex 302.2 of the NAFTA and may include a determination of whether a good is a qualifying good for purposes of Annex 703.2 of the NAFTA; and

(3) Shall be conducted only by means of one or more of the following:

(i) A verification letter which requests information from a Canadian or Mexican exporter or producer, including a Canadian or Mexican producer of a material, and which identifies the good or material that is the subject of the verification. The verification letter may be on Customs Form 28 or other appropriate format and may be sent:

(A) By certified or registered mail, or by any other method that produces a confirmation of receipt by the exporter or producer; or

(B) By any other method, regardless of whether it produces proof of receipt by the exporter or producer;

(ii) A written questionnaire sent to an exporter or a producer, including a producer of a material, in Canada or Mexico. The questionnaire:

(A) May be sent by certified or registered mail, or by any other method that produces a confirmation of receipt by the exporter or producer; or

(B) May be sent by any other method, regardless of whether it produces proof of receipt by the exporter or producer; and

(C) May be completed by the Canadian or Mexican exporter or producer either in the English language or in the language of the country in which that exporter or producer is located;

(iii) Visits to the premises of an exporter or a producer, including a producer of a material, in Canada or Mexico to review the types of records referred to in §181.12 of this part and observe the facilities used in the production of the good or material; and

(iv) Any other method which results in information from a Canadian or Mexican exporter or producer, including a Canadian or Mexican producer of a material, that is relevant to the origin determination. The information so obtained may form a basis for a negative determination regarding a good (see §181.75(b) of this part) only if the information is in writing and is signed by the exporter or producer.

(b) *Applicable accounting principles.* When conducting a verification of origin to which Generally Accepted Accounting Principles may be relevant, Customs will apply and accept the Generally Accepted Accounting Principles applicable in the country in which the good is produced or in which the exporter is located.

(c) *Inquiries to importer not precluded.* Nothing in paragraph (a) of this section shall preclude Customs from directing inquiries or requests to a U.S. importer for documents or other information regarding the imported good. If such an inquiry or request involves requesting the importer to obtain and provide written information from the exporter or producer of the good or from the producer of a material that is used in the production of the good, such information shall be requested by the importer and provided to the importer by the exporter or producer only on a voluntary basis, and a failure or refusal on the part of the importer to obtain and provide such information shall not be considered a failure of the exporter or producer to provide the information and shall not constitute a ground for denying preferential tariff treatment on the good.

(d) *Failure to respond to letter or questionnaire—(1) Nonresponse to initial letter or questionnaire.* If the exporter or producer, including a producer of a material, fails to respond to a verification letter or questionnaire sent under paragraph (a)(2)(i) or (a)(2)(ii) of this section within 30 calendar days from the date on which the letter or ques-

tionnaire was sent, or such longer period as may be specified in the letter or questionnaire, Customs shall send a follow-up verification letter or questionnaire to that exporter or producer. The follow-up letter or questionnaire:

(i) Except where the verification letter or questionnaire only involved the origin of a material used in the production of a good and was sent to the producer of the material, may include the written determination referred to in §181.75 of this part, provided that the information specified in paragraph (b) of that section is also included; and

(ii) Shall be sent:

(A) By certified or registered mail, or by any other method that produces a confirmation of receipt by the exporter or producer, if so requested by the customs administration of Canada or Mexico from which the good was exported; or

(B) By any method, if no request under paragraph (d)(1)(ii)(A) of this section has been made by the Canadian or Mexican customs administration.

(2) *Nonresponse to follow-up letter or questionnaire—(i) Producer of a material.* If a producer of a material fails to respond to a follow-up verification letter or questionnaire sent under paragraph (d)(1) of this section, Customs may consider the material to be non-originating for purposes of determining whether the good to which that material relates is an originating good.

(ii) *Exporter or producer of a good.* If the exporter or producer of a good fails to respond to a follow-up verification letter or questionnaire sent under paragraph (d)(1) of this section, Customs may consider the good to be non-originating and consequently may deny preferential tariff treatment on the good as follows:

(A) If the follow-up letter or questionnaire included a written determination as provided for in paragraph (d)(1)(i) of this section and the exporter or producer fails to respond to the follow-up letter or questionnaire within 30 calendar days or such longer period as specified therein:

(1) From the date on which the follow-up letter or questionnaire and written determination were received by

the exporter or producer, if sent pursuant to paragraph (d)(1)(ii)(A) of this section; or

(2) From the date on which the follow-up letter or questionnaire and written determination were either received by the exporter or producer or sent by Customs, if sent in accordance with paragraph (d)(1)(ii)(B) of this section; or

(B) Provided that the procedures set forth in §§ 181.75 and 181.76 of this part are followed, if the follow-up letter or questionnaire does not include a written determination as provided for in paragraph (d)(1)(i) of this section and the exporter or producer fails to respond to the follow-up letter or questionnaire within 30 calendar days or such longer period as specified in the letter or questionnaire:

(1) From the date on which the follow-up letter or questionnaire was received by the exporter or producer, if sent pursuant to paragraph (d)(1)(ii)(A) of this section; or

(2) From the date on which the follow-up letter or questionnaire was either received by the exporter or producer or sent by Customs, if sent in accordance with paragraph (d)(1)(ii)(B) of this section.

(e) *Calculation of regional value content under net cost method*—(1) *General*. Where a Canadian or Mexican producer of a good elects to calculate the regional value content of a good under the net cost method as set forth in General Note 12, HTSUS, and in the appendix to this part, Customs may not, during the time period over which that net cost is calculated, conduct a verification under § 181.72(a) of this part with respect to the regional value content of that good.

(2) *Cost submission for motor vehicles*. Where, pursuant to General Note 12, HTSUS, and the appendix to this part, a Canadian or Mexican producer of a light duty vehicle or heavy duty vehicle, as defined in the appendix to this part, elects to average its regional value content calculation over its fiscal year, Customs may request, in writing, that the producer provide a cost submission reflecting the actual costs incurred in the production of the category of motor vehicles for which the election was made. Such a written re-

quest shall constitute a verification letter under paragraph (a)(2)(i) of this section, and the requested cost submission shall be submitted to Customs within 180 calendar days after the close of the producer's fiscal year or within 60 days from the date on which the request was made, whichever is later.

[T.D. 95-68, 60 FR 46364, Sept. 6, 1995, as amended by T.D. 02-15, 67 FR 15482, Apr. 2, 2002]

§ 181.73 Notification of verification visit.

(a) *Written notification required*. Prior to conducting a verification visit in Canada or Mexico pursuant to § 181.72(a)(2)(iii) of this part, Customs shall give written notification of the intention to conduct the visit. Such notification shall be delivered:

(1) By certified or registered mail, or by any other method that produces a confirmation of receipt, to the address of the Canadian or Mexican exporter or producer whose premises are to be visited;

(2) To the customs administration of the country in which the visit is to occur; and

(3) If requested by the country in which the visit is to occur, to the embassy of that country located in the United States.

(b) *Contents of notification*. The notification referred to in paragraph (a) of this section shall include:

(1) The identity of the Customs office and officer issuing the notification;

(2) The name of the Canadian or Mexican exporter or producer of the good, or producer of the material, whose premises are to be visited;

(3) The date and place of the proposed verification visit;

(4) The object and scope of the proposed verification visit, including specific reference to the good or material that is the subject of the verification;

(5) The names and titles of the Customs officers performing the proposed verification visit;

(6) The legal authority for the proposed verification visit; and

(7) A request that the Canadian or Mexican exporter or producer of the good, or producer of the material, provide its written consent for the proposed verification visit.