

NORTH AMERICAN FREE TRADE AGREEMENT

Rules of Origin

Please note that the NAFTA Certificate of Origin is NOT a required document to ship to Canada or Mexico. In fact, it should only be filled out if the product qualifies for NAFTA preferential treatment. Products not manufactured or produced within the NAFTA region DO NOT qualify for NAFTA preferential tariff treatment. For items manufactured or produced within the United States please follow the steps below to determine if your product qualifies for NAFTA preferential tariff treatment.

How to Qualify Your Product for NAFTA Preferential Tariff Treatment

- 1) Determine your [HS or Schedule B number](#) at the six-digit level. (Note: This step is very important as an incorrect HS or Schedule B number will result in an incorrect determination of if your product qualifies.)
- 2) Determine the Most-Favored Nation (MFN) duty rate for your product (MFN is the equivalent to U.S. Normal Trade Relations). To obtain this information, call a trade specialist at 1-800-USA-TRADE or for Canada go to the [Canadian Tariff Schedule](#) to determine the rate. Going to Canada, if the rate is already ZERO then there is NO reason to fill out the NAFTA Certificate of Origin. Going to Mexico, if the rate is already ZERO then there still is a savings of the 0.8% customs processing fee by filling out the Certificate of Origin.
- 3) If there is an MFN tariff rate, then the next step to determine if your product qualifies for NAFTA preferential tariff treatment depends on if you are the manufacturer or not.

If you are NOT the manufacturer you need to contact the manufacturer and request a copy of a Origin or a Producer's Affidavit written on company letterhead stating that the product (include the HS number and description) originates in the United States and qualifies for NAFTA.

If you ARE the manufacturer you need to consult the rule of origin to determine which types of foreign components, if any are allowed in the final product. (Note: Rules of origin are found in Schedule T of the Harmonized Tariff of the United States.

- 4) If you are NOT the manufacturer, once you have a Producer's Affidavit from the manufacturer then you should fill out a new Certificate of Origin using the information provided by the manufacturer and keep the manufacturer's Certificate of Origin on file. If you ARE the manufacturer you need to get a bill of materials for your final product. You need to determine the HS or Schedule B number for all parts that you do not have documentation as being of U.S. origin. If any of the foreign component parts have HS or Schedule B numbers that DO NOT meet the product's rule of origin, then the product does not qualify for NAFTA and the exporter should NOT fill out a NAFTA Certificate of Origin. If the specific rule of origin has a regional value-content requirement then the qualification of the product will depend on the amount of NAFTA [regional value content](#) in the product. Please note that regional value-content can only be applied if the specific product's rule of origin requires it.

Basic Rules of Origin

A rule of origin may consist of:

- 1) a change in tariff classification. See the HTS, General Note 12T for the rules of origination.
- 2) a regional value-content requirement; or
- 3) both a change in tariff classification and a regional value content requirement. *Note: It is necessary to refer to the rule associated with the product being exported. Regional value content can only be applied when it is allowed under a product-specific rule.*

Example of a rule of origin:

Please note that within the rules of origin chapter refers to the first two (2) digits of the HS code, heading refers to the first four (4) digits of the HS code, and subheading refers to the first (6) digits of the HS code.

Rule of Origin: "A change to heading 1902 through 1905 from any other chapter."

Products: Breads, pastries, cakes, biscuits (HS 1905.90)

Non-NAFTA input: Flour (classified in HS chapter 11), imported from Europe.

Explanation: For all products classified in HS headings 1902 through 1905, all non-NAFTA inputs must be classified in an HS chapter other than HS chapter 19 in order for the product to obtain preferential duty treatment. These baked goods would qualify for tariff preference because the non-originating goods are classified outside of HS chapter 19. (The flour is in chapter 11). However, if these products were produced with non-originating mixes, then these products would not qualify because mixes are classified in HS chapter 19, the same chapter as baked goods.

Other Factors: A thorough reading of [Chapter Four](#) of the NAFTA is necessary for anyone attempting to determine the origin of a product's eligibility for preferential duty rates. However, to improve understanding of these subjects, a brief discussion appears below of some unusual factors, beyond the product-specific rules of origin that may be considered in determination of origination.

De Minimis Rule: The de minimis rule provides an additional possibility of qualifying as originating for a good that cannot meet the required "tariff shift." Despite not undergoing the specified tariff shift, a good may still be originating if the value of the non-originating materials that do not undergo the tariff classification do not exceed 7% of the adjusted value of the good. The value of these non-originating materials must also be included in the "value of non-originating materials" for any applicable regional value content requirement and the good must meet all other applicable requirements. Exceptions do exist to the application of the de minimis rule and they can be found in Article 405 of the NAFTA.

Fungible Goods and Materials: Fungible goods and materials refers to goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical. According to the Article 406 of the NAFTA, where fungible goods are handled together and commingled such that it is impossible to determine which are originating and which are not, their origin may be decided based upon any of the inventory methods recognized in the Generally Accepted Accounting Principles. Physical separation of the goods is not necessary.