

# NAFTA

friend or foe?

# WHAT IS NAFTA?

1. An improper NAFTA claim may result in which of the following actions by Customs?

- a) a \$10,000 penalty per occurrence
- b) trick question—the Department of State may take action, not Customs
- c) a pizza party
- d) revocation of importer license

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b) trick question—the Department of State may take action, not Customs

c) a pizza party

d) revocation of importer license

**ALWAYS  
CONSULT WITH  
AN EXPERT.**

## **2 conditions to claim NAFTA:**

- goods must qualify
- NAFTA certificate must be properly completed

2. What's the first step in qualifying your goods under NAFTA?

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**determine the classification of the finished article**



**What is proper qualification?**

DEPARTMENT OF HOMELAND SECURITY  
U.S. Customs and Border Protection

OMB No. 1651-0098  
Exp. 03-31-2012  
See back of form for Paperwork Reduction Act Notice.

**NORTH AMERICAN FREE TRADE AGREEMENT  
CERTIFICATE OF ORIGIN**

19 CFR 181.11, 181.22

*Please print or type*

<p>1. EXPORTER NAME AND ADDRESS</p> <p><b>Bob's Ceiling Fans</b> 123 Main Street Batavia, NY 12345</p> <p>TAX IDENTIFICATION NUMBER:</p>	<p>2. BLANKET PERIOD</p> <hr/> <p>FROM</p> <p><b>1-1-10</b></p> <hr/> <p>TO</p> <p><b>12-31-10</b></p>
<p>3. PRODUCER NAME AND ADDRESS</p> <p>TAX IDENTIFICATION NUMBER:</p>	<p>4. IMPORTER NAME AND ADDRESS</p> <p><b>Various</b></p> <p>TAX IDENTIFICATION NUMBER:</p>

5. DESCRIPTION OF GOOD(S)	6. HS TARIFF CLASSIFICATION NUMBER	7. PREFERENCE CRITERION	8. PRODUCER	9. NET COST	10. COUNTRY OF ORIGIN
Model ABC123 Ceiling fan with 150 watt motor	8414.59	B	NO(3)	NO	US

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I CERTIFY THAT:

- THE INFORMATION ON THIS DOCUMENT IS TRUE AND ACCURATE AND I ASSUME THE RESPONSIBILITY FOR PROVING SUCH REPRESENTATIONS. I UNDERSTAND THAT I AM LIABLE FOR ANY FALSE STATEMENTS OR MATERIAL OMISSIONS MADE ON OR IN CONNECTION WITH THIS DOCUMENT;
- I AGREE TO MAINTAIN AND PRESENT UPON REQUEST, DOCUMENTATION NECESSARY TO SUPPORT THIS CERTIFICATE, AND TO INFORM, IN WRITING, ALL PERSONS TO WHOM THE CERTIFICATE WAS GIVEN OF ANY CHANGES THAT COULD AFFECT THE ACCURACY OR VALIDITY OF THIS CERTIFICATE;
- THE GOODS ORIGINATED IN THE TERRITORY OF ONE OR MORE OF THE PARTIES, AND COMPLY WITH THE ORIGIN REQUIREMENTS SPECIFIED FOR THOSE GOODS IN THE NORTH AMERICAN FREE TRADE AGREEMENT AND UNLESS SPECIFICALLY EXEMPTED IN ARTICLE 411 OR ANNEX 401, THERE HAS BEEN NO FURTHER PRODUCTION OR ANY OTHER OPERATION OUTSIDE THE TERRITORIES OF THE PARTIES; AND
- THIS CERTIFICATE CONSISTS OF 

1
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 PAGES, INCLUDING ALL ATTACHMENTS.

11.	11a. AUTHORIZED SIGNATURE		11b. COMPANY <b>Bob's Ceiling Fans</b>	
	11c. NAME <i>(Print or Type)</i>		11d. TITLE <b>Logistics Manager</b>	
	11e. DATE <i>(MM/DD/YYYY)</i> <b>01/01/2010</b>	11f. TELEPHONE NUMBER <b>585-555-1212</b>	(Voice)	(Facsimile) <b>585-555-1213</b>

3. The percentage of foreign content is the determining factor for NAFTA qualification.

a) true

b) false

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a) true

b) false

# Qualifying non-originating materials

**EITHER**

**tariff  
shift**

**OR**

**regional  
value  
content**

**OR**

**both**

# tariff shift

- goods must **SHIFT** from one tariff to another
- the shift must meet requirements in the rule
- goods that meet the tariff shift rule don't need to contain any originating material
- some classifications don't have a regional value content (RVC) provision and must meet the tariff shift rule



# Preferential duty rates

## *Annex 401 Originating Goods*

- |       |   |
|-------|---|
| A     | Wholly obtained or produced entirely in the territory         |
| <hr/> |   |
| B     | Articles meeting the Annex 401 rules of origin                |
| <hr/> |   |
| C     | Produced entirely in the territory from originating materials |



# Preferential duty rates

## *Annex 401 Originating Goods*

D	Unassembled goods, goods classified with their parts
<hr/>	
E	Automatic data processing goods
<hr/>	
F	Agricultural goods

4. NAFTA preference criteria A can be used for...

- a) machines and parts
- b) computers and electronics
- c) scrap material
- d) live animals
- e) c and d

#### 4. NAFTA preference criteria A can be used for...

- a) machines and parts
- b) computers and electronics
- c) scrap material
- d) live animals
- e) c and d**

# Preference criteria A

- minerals
- crops
- live animals
- scrap metal
- forest product/lumber



5. Which rules of origin must be met to qualify for NAFTA preference criteria B?

- a) tariff shift rule
- b) Regional Value Content (RVC) rule
- c) both a and b
- d) all of the above

5. Which rules of origin must be met to qualify for NAFTA preference criteria B?

- a) tariff shift rule
- b) Regional Value Content (RVC) rule
- c) both a and b
- d) all of the above**

# Preference criteria B

Goods made entirely in a NAFTA country and the rules of origin have been satisfied\*

\*de minimis

# 7% de minimis rule

- Article 405 for tariff shift
- most products: by value, adjusted to FOB basis
- textiles: by weight
- exceptions



# Regional Value Content

6. Non-producers should obtain a  
\_\_\_\_\_ prior to claiming  
NAFTA.

6. Non-producers should obtain a NAFTA Certificate prior to claiming NAFTA.

# Preference criteria C

Goods produced entirely in the territories of one or more NAFTA countries of **exclusively originating materials**

# Operations that don't confer origin

- dilution with water
- simple packaging
- change from one classification to another as a result of change in end-use

# Transshipment of goods

goods must ship from a NAFTA country to qualify

# NAFTA certificate of origin

- a legal document
- who should sign it
- how should it be stored
- when should it be completed
- why should it be reviewed



M O H A W K G L O B A L  
**TRADE**ADVISORS



# NAFTA Qualification Workshop

Ceiling fan with 150 watt motor-8414.59



## ceiling fan with 150 watt motor—8414.59

<b>Component</b>	<b>Origin</b>	<b>Tariff</b>	<b>Value</b>
Nuts & Bolts	US	C	
Wiring	Mexico	C	
Housing	Canada	B	
Motor	US	B	
Rubber Gaskets	Mexico	C	
Nut	US	C	
Washers	US	C	

## ceiling fan with 150 watt motor—841

Component	Company	Grade
Nuts & Bolts	Co	C
Wiring	Co	C
Housing	da	B
Motor		B
Rubber Gaskets	co	C
Nut		C
Washers		C

ceiling fan with 150 watt motor—8414.59

Component	Origin	Tariff	Value
Nuts & Bolts	China	7318	
Wiring	Germany	7408	
Housing	Korea	<b>7326</b>	
Motor	Japan	8501	
Rubber Gaskets	Taiwan	4016	
Nut	China	7318	
Washers	India	7318	

ceiling fan with 150 watt motor—8414.59

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Nuts & Bolts	China	7318	
Wiring	Germany	7408	
Housing	Korea	<b>7326</b>	
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Rubber Gaskets	Taiwan	4016	
Nut	China	7318	
Washers	India	7318	

**Rule 30B(A), Preference Criteria = B**

ceiling fan with 150 watt motor—8414.59

Component	Origin	Tariff	Value
Nuts & Bolts	China	7318	
Wiring	Germany	7408	
Housing	Korea	<b>8414</b>	
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Rubber Gaskets	Taiwan	4016	
Nut	China	7318	
Washers	India	7318	

## ceiling fan with 150 watt motor—8414.59

Component	Origin	Tariff	Value
Nuts & Bolts	China	7318	
Wiring	Germany	7408	
Housing	Korea	<b>8414</b>	
Motor	Japan	8501	
Rubber Gaskets	Taiwan	4016	
Nut	China	7318	
Washers	India	7318	

**Rule 30B(A), Does Not Qualify**

## ceiling fan with 150 watt motor—8414.59

Component	Origin	Tariff	Value
Nuts & Bolts	China	7318	0.25
Wiring	Mexico		9.00
Housing	Korea	8414.90	10.00
Motor	Canada		30.00
Rubber Gaskets	US		.25
Nut	Mexico		.25
Washers	US		.25

**Does this qualify for NAFTA?**



## ceiling fan with 150 watt motor—8414.59

<b>Component</b>	<b>Origin</b>	<b>Tariff</b>	<b>Value</b>
Nuts & Bolts	China	7318	0.25
Wiring	Mexico		9.00
Housing	Korea	8414.90	10.00
Motor	Canada		30.00
Rubber Gaskets	US		.25
Nut	Mexico		.25
Washers	US		.25
<b>Value of non-originating materials</b>			<b>\$10.25</b>
<b>Value of originating materials</b>			<b>\$39.75</b>
<b>Total material cost</b>			<b>\$50.00</b>
<b>Selling price of fan</b>			<b>\$75.00</b>

# Calculate Regional Value Content (RVC)

- 1 Subtract the value of nonoriginating materials from the transaction value (selling price).

$$75 - 10.25 = 64.75$$

- 2 Divide the result by the transaction value.

$$64.75 \div 75 = 0.8633$$

- 3 Multiply the result by 100.

$$0.86 \times 100 = 86.33\%$$

- 4 If result is 60% or more, it qualifies for NAFTA under transaction value.

**86.33%. Yes, it qualifies for NAFTA.**

## ceiling fan with 150 watt motor—8414.59

<b>Component</b>	<b>Origin</b>	<b>Tariff</b>	<b>Value</b>
<b>Nuts &amp; Bolts</b>	China	7318	0.25
<b>Wiring</b>	Germany	7408	9.00
<b>Housing</b>	Korea	8414.90	10.00
<b>Motor</b>	Malaysia	8501	30.00
<b>Rubber Gaskets</b>	Taiwan	4016	0.25
<b>Nut</b>	China	7318	0.25
<b>Washers</b>	India	7318	0.25

**Does this qualify for NAFTA?**

## ceiling fan with 150 watt motor—8414.59

<b>Component</b>	<b>Origin</b>	<b>Tariff</b>	<b>Value</b>
<b>Nuts &amp; Bolts</b>	China	7318	0.25
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<b>Housing</b>	Korea	8414.90	10.00
<b>Motor</b>	Malaysia	8501	30.00
<b>Rubber Gaskets</b>	Taiwan	4016	0.25
<b>Nut</b>	China	7318	0.25
<b>Washers</b>	India	7318	0.25
<b>Value of non-originating materials</b>			<b>\$50.00</b>
<b>Value of originating materials</b>			<b>\$0.00</b>
<b>Total material cost</b>			<b>\$50.00</b>
<b>Selling price of fan</b>			<b>\$75.00</b>

# Calculate Regional Value Content (RVC)

- 1 Subtract the value of nonoriginating materials from the transaction value (selling price).

$$75 - 50 = 25$$

- 2 Divide the result by the transaction value.

$$25 \div 75 = 0.3333$$

- 3 Multiply the result by 100.

$$0.3333 \times 100 = 33.33\%$$

- 4 If result is 60% or more, it qualifies for NAFTA under transaction value.

**33.33%. No, it doesn't qualify for NAFTA.**

## 7. Fill in the blanks for these “Red Flags”.

Importer’s staff lacks \_\_\_\_\_ of the NAFTA eligibility rules and requirements.

Importer does not request, maintain, or review \_\_\_\_\_ for accuracy.

Imports with a specific rule of origin that is very \_\_\_\_\_.

Imports subject to a very high \_\_\_\_\_.

## 7. Fill in the blanks for these “Red Flags”.

Importer’s staff lacks knowledge of the NAFTA eligibility rules and requirements.

Importer does not request, maintain, or review NAFTA certificate for accuracy.

Imports with a specific rule of origin that is very complicated.

Imports subject to a very high duty rate.

# Red Flags





# Best Practices



# Tools & Tips

Download informed compliance publications from U.S. Customs at [cbp.gov](http://cbp.gov)

Consult with your Customs broker and freight forwarder

Talk to U.S. Customs

Obtain binding rulings when possible



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