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**DEPARTMENT OF HOMELAND SECURITY
BUREAU OF CUSTOMS AND BORDER PROTECTION**

DEPARTMENT OF THE TREASURY

19 CFR PART 10

[USCBP-20006-]

CBP Dec. 06- ____

RIN XXXX-XXXX

UNITED STATES – JORDAN FREE TRADE AGREEMENT

AGENCY: Customs and Border Protection; Homeland Security (“DHS”); Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document amends title 19 of the Code of Federal Regulations (“CFR”) on an interim basis to implement the preferential tariff treatment and other customs-related provisions of the U.S. – Jordan Free Trade Agreement entered into by the United States and the Hashemite Kingdom of Jordan.

DATES: Interim rule effective [insert date of publication in the **Federal Register**]; comments must be received by [insert date 60 days after date of publication in the **Federal Register**].

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number [INSERT DOCKET NUMBER].

- Mail: Trade and Commercial Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the SUPPLEMENTARY INFORMATION section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of Regulations and Rulings, Bureau of Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: Seth Mazze, Office of Field Operations (202-344-2634).

Legal Aspects: Ed Caldwell, Office of Regulations and Rulings (202-572- 8872).

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. CBP also invites comments that relate to the economic, environmental, or federalism effects that might

result from this interim rule. Comments that will provide the most assistance to CBP in developing these procedures will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See ADDRESSES above for information on how to submit comments.

Background

On October 24, 2000, the United States and the Hashemite Kingdom of Jordan (the “Parties”) entered into an agreement, the U.S.-Jordan Free Trade Agreement (“US-JFTA”), designed to eliminate tariffs and other trade barriers between the two countries. The provisions of the U.S.-JFTA were adopted by the United States with the enactment of the United States – Jordan Free Trade Area Implementation Act (the “Act”), Public Law 107-43 (115 Stat. 243) on September 28, 2001. On December 7, 2001, President Bush signed Proclamation 7512 which, inter alia, modified the Harmonized Tariff Schedule of the United States (“HTSUS”) in order to implement the duty reductions provided for by the U.S.-JFTA. Under Proclamation 7512, such modifications were effective, with respect to goods entered, or withdrawn from warehouse for consumption, on or after December 17, 2001.

Customs and Border Protection (“CBP”) is responsible for administering the provisions of the U.S.-JFTA and the Act that relate to the importation of goods into the United States from Jordan. Therefore, the regulations set forth in this document pertain specifically to US-JFTA customs-related provisions, such as rules of origin, that govern the duty-free or reduced-duty treatment of products imported into the United States from Jordan. These rules do not confer origin or establish a criterion for determining the

origin of imported goods for any other purpose. For example, origin determinations for country of origin marking purposes under 19 U.S.C. 1304 are not affected.

Article 2 and Annex 2.2 of the US-JFTA set forth the rules of origin and documentary requirements that apply for purposes of obtaining preferential treatment under the U.S.-JFTA. Annex 2.1 of the US.JFTA sets forth the terms for the immediate elimination or staged reduction of duties on products of Jordan, with all products to become duty free within a ten-year period (by the year 2010). The basic rules of origin under the US-JFTA are set forth in General Note 18, HTSUS. The specific duty treatment afforded to individual products under the US-JFTA is reflected throughout the HTSUS in the "Special" Rate of duty subcolumn where the symbol "JO" appears in parentheses.

The basic rules of origin set forth in Annex 2.2 of the US-JFTA closely parallel the origin rules governing duty-free treatment under section 213(a) of the Caribbean Basin Economic Recovery Act ("CBERA") (19 U.S.C. 2703(a). To be eligible for reduced or duty-free treatment under the US-JFTA, a good imported into the United States from Jordan must meet three basic requirements: (1) it must be imported directly from Jordan into the customs territory of the United States; (2) it must be a product of Jordan, i.e., it either must be wholly the growth, product, or manufacture of Jordan or must be a new or different article of commerce that has been grown, produced, or manufactured in Jordan; and (3) it must have a minimum domestic content, i.e., at least 35 percent of its appraised value must be attributed to the cost or value of materials produced in Jordan plus the direct costs of processing operations performed in Jordan.

Annex 2.2 of the US-JFTA further parallels the origin rules set forth in the CBERA and implementing regulations (19 CFR 10.191 – 10.198) in that: (1) the definitions or explanations of “imported directly”, “wholly the growth, product, or manufacture”, “cost or value of materials”, and “direct costs of processing operations” are essentially the same as those under the CBERA; (2) the cost or value of U.S.-produced materials may be counted toward the Jordan domestic content requirement to a maximum of 15 percent of the appraised value of the imported good; and (3) simple combining or packaging operations or mere dilution with water or another substance will confer neither Jordanian origin on an imported good nor Jordanian or U.S. origin on a constituent material of an imported good.

In addition, for purposes of demonstrating compliance with the origin criteria, Annex 2.2 of the US-JFTA establishes the requirements for submitting a declaration to CBP that provides all pertinent information concerning the production or manufacture of an imported good. The documentary requirements provided are similar to those utilized under the CBERA, Generalized System of Preferences (“GSP”), and Andean Trade Agreement.

The regulations are discussed in detail below.

Discussion of Amendments

Part 10, Subpart K

General Provisions

Section 10.701 outlines the scope of new Subpart K, Part 10 of the CBP regulations. This section also clarifies that, except where the context otherwise requires, the requirements contained in Subpart K, Part 10 are in addition to general

administrative and enforcement provisions set forth elsewhere in the CBP regulations. Thus, for example, the specific merchandise entry requirements contained in Subpart K, Part 10 are in addition to the basic entry requirements contained in Parts 141-143 of the CBP regulations.

Section 10.702 sets forth definitions of terms or expressions used in multiple contexts or places within Subpart K, Part 10. The definition of “wholly the growth, product, or manufacture of Jordan” in paragraph (b) reflects the definition set forth in Annex 2.2 of the US-JFTA except that reference is made to “Jordan” rather than to a “Party” in order to reflect a U.S. import context. Additional definitions which apply in a more limited Subpart K, Part 10 context are set forth elsewhere with the substantive provisions to which they relate.

Import Requirements

Section 10.703 sets forth the procedure for claiming US-JFTA preferential tariff treatment at the time of importation. Unlike certain other free trade agreements to which the United States is a Party, such as the North American Free Trade Agreement (NAFTA) and the United States-Chile Free Trade Agreement (US-CFTA), the US-JFTA does not specify a procedure for making a post-importation claim. Therefore, Subpart K, Part 10 contains no regulatory provisions governing such claims. However, a protest against an alleged error in the liquidation of an entry may be brought under the normal procedures to contest a denial of US-JFTA benefits (see Part 174, CBP regulations (19 CFR Part 174)).

Section 10.704, as provided in Annex 2.2, paragraph 10(b) of the US-JFTA, requires a U.S. importer, upon request, to submit a declaration setting forth all pertinent

information concerning the production or manufacture of the good. Section 10.705 sets forth certain importer obligations regarding the truthfulness of information and documents submitted in support of a claim for preferential tariff treatment.

Section 10.706 provides that the importer's declaration is not required for certain non-commercial or low-value importations.

Section 10.707 implements the portion of Annex 2.2, paragraph 10(b) of the US-JFTA concerning the maintenance of records necessary for the preparation of the declaration.

Section 10.708 provides for the denial of US-JFTA tariff benefits if the importer fails to comply with any of the requirements under Subpart K, Part 10, CBP regulations.

Rules of Origin

Section 10.709 sets forth the basic country of origin rules for obtaining preferential tariff treatment under the US-JFTA, as set forth in Annex 2.2 of the US-JFTA, section 102 of the Act, and General Note 18, HTSUS. Paragraph (a)(1) requires an eligible US-JFTA good to be either "wholly the growth, product, or manufacture of Jordan" or "new or different article of commerce which has been grown, produced, or manufactured in Jordan", reflecting standards set forth in Annex 2.2, paragraph 1(a), of the US-JFTA. Paragraph (a)(2) of § 10.709 references the value-content requirement set forth in Annex 2.2, paragraph 1(c), of the US-JFTA.

Paragraph (b)(1) of § 10.709 implements Annex 2.2, paragraph 2, of the US-JFTA, relating to the simple combing or packaging or mere dilution exceptions to the "new or different article of commerce" requirement. Since the language in the US-JFTA in this regard is identical to that used in the CBERA statute (see 19 U.S.C. 2703(a)(2)),

paragraph (b)(1) incorporates by reference the examples and principles set forth in § 10.195(a)(2) of the implementing CBERA regulations. Paragraph (b)(2) reflects the exception to the “new or different article of commerce” requirement set forth in the footnote to Annex 2.2, paragraph 4, of the US-JFTA, relating to the processing of certain fruits into juices.

Paragraph (c) of § 10.709 provides that the rules of origin for textile and apparel products found in § 102.21 of the CBP regulations (19 CFR 102.21) will be used to determine whether textile and apparel goods from Jordan satisfy the “wholly the growth, product, or manufacture” or “new or different article of commerce” requirements of § 10.709(a), consistent with Annex 2.2, paragraph 9, of the US-JFTA.

Section 10.710 sets forth provisions relating to the 35 percent value-content requirement of the US-JFTA. Paragraph (a) specifies the basic requirement contained in Annex 2.2, paragraph 1(c), of the US-JFTA.

Paragraph (b) concerns the inclusion of U.S.-produced materials up to 15 percent of the appraised value, as provided for in Annex 2.2, paragraph 5, of the US-JFTA and in the Act. Paragraph (c) concerns the cost or value of materials that may be applied toward satisfaction of the 35 percent value-content requirement and is based on provisions contained in the US-JFTA, the Act, and in section 10.196 of the CBI regulations. Paragraph (c)(1) defines “materials produced in Jordan” in a manner similar to the approach taken in section 10.196(a) of the CBERA regulations. Paragraph (c)(ii) thereof was specifically drafted to reflect: (1) the application of the simple combining or packaging or mere dilution language to materials, as provided in Annex 2.2, paragraph 2, of the US-JFTA; and (2) the country of origin language which

also applies to materials under Annex 2.2, paragraph 4, of the US-JFTA. The last sentence of paragraph (c)(1)(ii) refers to the useful examples contained in CBERA section 10.196(a), and the words “except where the context otherwise requires” are intended to alert the reader to the fact that some aspects of those examples apply only in a CBERA context. Paragraph (c)(2) sets forth the elements includable under the cost or value of materials, as provided in Annex 2.2, paragraph 6, of the US-JFTA.

Paragraph (d) sets forth provisions regarding direct costs of processing operations for purposes of the 35 percent value-content requirement, as contained in Annex 2.2, paragraph 7, of the US-JFTA.

Section 10.711 reflects the definition of “imported directly,” as set forth in Annex 2.2, paragraph 8, of the US-JFTA.

Section 10.712 provides that claims for preferential tariff treatment under the US-JFTA will be subject to such verification as CBP deems necessary.

Inapplicability of Notice and Delayed Effective Date Requirements

Pursuant to section 553 of the Administrative Procedure Act (“APA”) (5 U.S.C. §553), agencies amending their regulations generally are required to publish a notice of proposed rulemaking in the Federal Register that solicits public comment on the proposed amendments, consider public comments when determining the content of the final amendments, and publish the final amendments at least 30 days prior to their effective date. However, section 553(a)(1) of the APA provides that the standard notice and comment procedures do not apply to agency rulemaking that involves the foreign affairs function of the United States. CBP has determined that these interim regulations

involve the foreign affairs function of the United States because they implement preferential tariff treatment and related provisions of the U.S.-JFTA.

In addition, section 553(b)(B) of the APA provides that notice and public procedure are not required when an agency for good cause finds them impracticable, unnecessary, or contrary to the public interest. CBP finds that providing notice and public procedure for these regulations would be impracticable, unnecessary, and contrary to the public interest because they establish procedures that the public needs to know in order to claim the benefit of a tariff preference under the U.S.-JFTA. In this regard, duty reductions provided for by the U.S.-JFTA, with respect to goods entered or withdrawn from warehouse for consumption, went into effect on December 17, 2001. Therefore, the importing public needs the certainty of regulations as soon as possible.

Finally, sections 553(d)(1) and (d)(3) of the APA exempt agencies from the requirement of publishing notice of final rules at least 30 days prior to their effective date when a substantive rule grants or recognizes an exemption or relieves a restriction and when the agency finds that good cause exists for not meeting the advance publication requirement. For the reasons described above, CBP has determined that these regulations grant an exemption and relieve restrictions and that good cause exists for dispensing with a delayed effective date.

Executive Order 12866 and Regulatory Flexibility Act

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States and implements an international agreement, as described above, and therefore is

specifically exempted by section 3(d)(2) of Executive Order 12866. Because a notice of proposed rulemaking is not required under section 553(b) of the APA for the reasons described above, CBP notes that the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 et seq.), do not apply to this rulemaking. Accordingly, CBP also notes that this interim rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and §604.

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. §553). For this reason, the collections of information contained in these regulations have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. §3507) under control number XXXXXXXX.

The collections of information in these regulations are in §§10.410 and 10.411. This information is required in connection with claims for preferential tariff treatment and for the purpose of the exercise of other rights under the U.S.-JFTA and the Act and will be used by CBP to determine eligibility for a tariff preference or other rights or benefits under the U.S.-JFTA and the Act. The likely respondents are business organizations including importers, exporters and manufacturers.

Estimated total annual reporting burden: (insert)

Estimated average annual burden per respondent: (insert)

Estimated number of respondents: (insert)

Estimated annual frequency of responses: (insert)

Comments concerning the collections of information and the accuracy of the estimated annual burden, and suggestions for reducing that burden, should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

Signing Authority

This document is being issued in accordance with section 0.1(a)(1) of the CBP Regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his delegate) to approve regulations related to certain CBP revenue functions.

List of Subjects

19 CFR Part 10

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements (United States-Jordan Free Trade Agreement).

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

AMENDMENTS TO THE REGULATIONS

Accordingly, chapter I of title 19, Code of Federal Regulations (19 CFR chapter I), is amended as set forth below.

PART 10 - ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for Part 10 continues to read and the specific authority for new Subpart K is added to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

Sections 10.701 through 10.712 issued under 19 U.S.C. 1202 (General Note 18, HTSUS) and Pub. L. 107-43, 115 Stat. 243 (19 U.S.C. 2112 note).

2. Part 10, CBP regulations, is amended by adding a new Subpart K to read as follows:

Subpart K – United States-Jordan Free Trade Agreement

Sec.

General Provisions

10.701 Scope.

10.702 Definitions.

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10.703 Filing of claim for preferential tariff treatment.

10.704 Declaration.

10.705 Importer obligations.

10.706 Declaration not required.

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Rules of Origin

10.709 Country of origin criteria.

10.710 Value-content requirement.

10.711 Imported directly.

Origin Verifications

10.712 Verification of claim for preferential tariff treatment.

SUBPART K – UNITED STATES – JORDAN FREE TRADE AGREEMENT

General Provisions

§ 10.701 Scope.

This subpart implements the duty preference and related customs provisions applicable to imported goods under the United States – Jordan Free Trade Agreement (the US-JFTA) entered into on October 24, 2000, and under the United States – Jordan Free Trade Area Implementation Act (the Act; 115 Stat. 243). Except as otherwise specified in this subpart, the procedures and other requirements set forth in this subpart are in addition to the customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the US-JFTA and the Act are contained in Part 163 of this chapter.

§ 10.702 Definitions.

The following definitions apply for purposes of §§10.701 through 10.712:

(a) Claim for preferential tariff treatment. “Claim for preferential tariff treatment” means a claim that a good is entitled to the duty rate applicable under the US-JFTA;

(b) Customs authority. “Customs authority” means the competent authority that is responsible under the law of a country for the administration of customs laws and regulations;

(c) Customs territory of the United States. “Customs territory of the United States” means the 50 states, the District of Columbia, and Puerto Rico;

(d) Days. “Days” means calendar days unless otherwise specified;

(d) Entered. “Entered” means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States;

(e) Good. “Good” means any merchandise, product, article, or material;

(f) Harmonized System. “Harmonized System” means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

(g) Heading. “Heading” means the first four digits in the tariff classification number under the Harmonized System;

(h) HTSUS. “HTSUS” means the Harmonized Tariff Schedule of the United States as promulgated by the U.S. International Trade Commission;

(i) Material. “Material” means a good that is used in the production of another good;

(j) New or different article of commerce. “New or different article of commerce” means a good that has been substantially transformed into a new and different article of

commerce having a new name, character, or use distinct from the good or material from which it was so transformed;

(k) Party. “Party” means the United States or the Hashemite Kingdom of Jordan;

(l) Preferential tariff treatment. “Preferential tariff treatment” means the duty rate applicable under the US-JFTA;

(m) Subheading. “Subheading” means the first six digits in the tariff classification number under the Harmonized System;

(m) Textile or apparel good. “Textile or apparel good” means a good listed in the Annex to the Agreement on Textiles and Clothing (commonly referred to as “the ATC”), which is part of the WTO Agreement;

(o) WTO Agreement. “WTO Agreement” means the Marrakesh Agreement Establishing the World Trade Organization of April 15, 1994;

(p) Wholly the growth, product, or manufacture of Jordan. “Wholly the growth, product, or manufacture of Jordan” refers both to any good which has been entirely grown, produced, or manufactured in Jordan and to all materials incorporated in a good which has been entirely grown, produced, or manufactured in Jordan, as distinguished from goods or materials imported into Jordan from another country, whether or not such goods or materials were substantially transformed into new or different articles of commerce after their importation into Jordan.

Import Requirements

§ 10.703 Filing of claim for preferential tariff treatment.

An importer may make a claim for US-JFTA preferential tariff treatment by including on the entry summary, or equivalent documentation, the symbol “JO” as a prefix to the subheading of the HTSUS under which each qualifying good is classified, or by the method specified for equivalent reporting via an authorized electronic data interchange system.

§ 10.704 Declaration

(a) Contents. An importer who claims preferential tariff treatment on a good under the US-JFTA must submit, at the request of the port director, a declaration setting forth all pertinent information concerning the production or manufacture of the good. A declaration submitted to CBP under this paragraph:

(1) Need not be in a prescribed format but must be in writing or must be transmitted electronically pursuant to any electronic means authorized by CBP for that purpose;

(2) Must include the following information:

(i) The legal name, address, telephone and e-mail address of the importer of record of the good;

(ii) The legal name, address, telephone and e-mail address of the responsible official or authorized agent of the importer signing the declaration (if different from the information required by paragraph (a)(2)(i) of this section);

(iii) The legal name, address, telephone and e-mail address of the exporter of the good (if different from the producer);

(iv) The legal name, address, telephone and e-mail address of the producer of the good (if known);

(v) A description of the good, quantity, numbers, and marks of packages, invoice numbers, and bills of lading;

(vi) A description of the operations performed in the production of the good in Jordan and identification of the direct costs of processing operations;

(vii) A description of any materials used in the production of the article which are wholly the growth, product, or manufacture of Jordan or the United States, and a statement as to the cost or value of such materials;

(viii) A description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the article which are claimed to have been sufficiently processed in Jordan so as to be materials produced in Jordan; and

(ix) A description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in Jordan.

(3) Must include a statement, in substantially the following form:

“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 these representations;

The goods comply with all the requirements for preferential tariff treatment specified for those goods in the United States-Jordan Free Trade Agreement; and

This document consists of _____ pages, including all attachments.”

(b) Responsible official or agent. The declaration must be signed and dated by a responsible official of the importer or by the importer’s authorized agent having knowledge of the relevant facts.

(c) Language. The declaration must be completed in the English language.

(d) Applicability of declaration. The declaration may be applicable to:

(1) A single importation of a good into the United States, including a single shipment that results in the filing of one or more entries and a series of shipments that results in the filing of one entry; or

(2) Multiple importations of identical goods into the United States that occur within a specified blanket period, not exceeding 12 months, set out in the declaration. For purposes of this paragraph, "identical goods" means goods that are the same in all respects relevant to the production that qualifies the goods for preferential tariff treatment.

§ 10.705 Importer obligations.

(a) General. An importer who makes a claim for preferential tariff treatment under § 10.703(a) of this subpart:

(1) Will be deemed to certify that the good is eligible for preferential tariff treatment under the US-JFTA:

(2) Is responsible for the truthfulness of the information and data contained in the declaration provided for in § 10.704 of this subpart;

(3) Is responsible for submitting any supporting documents requested by CBP and for the truthfulness of the information contained in those documents. CBP will

allow for the direct submission by the exporter or producer of business confidential or other sensitive information, including cost and sourcing information.

(b) Compliance. In order to make a claim for preferential tariff treatment under § 10.703(a) of this subpart, the importer:

(1) Must have records that explain how the importer came to the conclusion that the good qualifies for preferential tariff treatment. Those records must include documents that support a claim that the good in question qualifies for preferential tariff treatment because it meets the applicable rules of origin set forth in General Note 18, HTSUS, and in this subpart. Those records may include a properly completed declaration as set forth in § 10.704 of this subpart; and

(2) May be required to present evidence that the good was “imported directly”, as that term is defined in § 10.711 of this subpart, if the good was shipped through an intermediate country.

(c) Information provided by exporter or producer. The fact that the importer has made a claim for preferential tariff treatment or prepared a declaration based on information provided by an exporter or producer will not relieve the importer of the responsibility referred to in paragraph (a) of this section.

§ 10.706 Declaration not required.

(a) General. Except as otherwise provided in paragraph (b) of this section, an importer will not be required to submit a declaration under § 10.704 of this subpart for:

(1) A non-commercial importation of a good; or

(2) A commercial importation for which the value of the goods does not exceed U.S. \$2,500.

(b) Exception. If the port director determines that an importation described in paragraph (a) of this section may reasonably be considered to have been carried out or planned for the purpose of evading compliance with the rules and procedures governing claims for preference under the US-JFTA, the port director will notify the importer that for that importation the importer must submit to CBP a declaration. The importer must submit such a declaration within 30 days from the date of the notice. Failure to timely submit the declaration will result in denial of the claim for preferential treatment.

§ 10.707 Maintenance of records.

(a) General. An importer claiming preferential tariff treatment for a good under § 10.703(a) of this subpart must maintain, for five years after the date of importation of the good, all records and documents necessary for the preparation of the declaration.

(b) Applicability of other recordkeeping requirements. The records and documents referred to in paragraph (a) of this section are in addition to any other records required to be made, kept, and made available to CBP under Part 163 of this chapter.

(c) Method of maintenance. The records and documents referred to in paragraph (a) of this section must be maintained by importers as provided in § 163.5 of this chapter.

§ 10.708 Effect of noncompliance; failure to provide documentation regarding third-country transportation.

(a) Effect of noncompliance. If the importer fails to comply with any requirement under this subpart, including submission of a complete declaration under

§ 10.704 of this subpart, when requested, the port director may deny preferential treatment to the imported good.

(b) Failure to provide documentation regarding third country transportation.

Where the requirements for preferential tariff treatment set forth elsewhere in this subpart are met, the port director nevertheless may deny preferential treatment to a good if the good is shipped through or transshipped in a country other than Jordan or the United States, and the importer of the good does not provide, at the request of the port director, evidence demonstrating to the satisfaction of the port director that the good was “imported directly”, as that term is defined in § 10.711 of this subpart.

Rules of Origin

§10.709 Country of origin criteria.

(a) Except as otherwise provided in paragraph (b) of this section, a good imported directly from Jordan into the customs territory of the United States will be eligible for preferential tariff treatment under the US-JFTA only if:

(1) The good is either:

(i) Wholly the growth, product, or manufacture of Jordan; or

(ii) A new or different article of commerce that has been grown,

produced, or manufactured in Jordan; and

(2) The good satisfies the value-content requirement specified in § 10.710 of this subpart.

(b) Exceptions. (1) Combining, packaging, and diluting operations. No good will be considered to meet the requirements of paragraph (a)(1) of this section by virtue of having merely undergone simple combining or packaging operations, or mere dilution

with water or mere dilution with another substance that does not materially alter the characteristics of the article. The principles and examples set forth in §10.195(a)(2) of this part will apply equally for purposes of this paragraph.

(2) Certain juices. A good will not be considered to meet the requirements of paragraph (a)(1) of this section if the good:

(i) Is imported into Jordan, and, at the time of importation, would be classified in heading 0805, HTSUS; and

(ii) Is processed in Jordan into a good classified in any of subheadings 2009.11 through 2009.30, HTSUS.

(c) Textile and apparel goods. For purposes of determining whether a textile or apparel good meets the requirements of paragraph (a)(1) of this section, the provisions of § 102.21 of this chapter will apply.

§ 10.710 Value-content requirement.

(a) General. A good may be eligible for preferential tariff treatment under the U.S.-JFTA only if the sum of the cost or value of the materials produced in Jordan, plus the direct costs of processing operations performed in Jordan, is not less than 35 percent of the appraised value of the good at the time it is entered.

(b) Materials produced in the United States. For purposes of determining the percentage referred to paragraph (a) of this section, an amount not to exceed 15 percent of the appraised value of the good at the time it is entered may be attributed to the cost or value of materials produced in the customs territory of the United States. The principles set forth in paragraph (c)(1) of this section will apply in determining

whether a material is “produced in the customs territory of the United States” for purposes of this paragraph.

(c) Cost or value of materials. (1) Materials produced in Jordan defined. For purposes of paragraph (a) of this section, the words “materials produced in Jordan” refer to those materials incorporated into a good that are either:

(i) Wholly the growth, product, or manufacture of Jordan; or

(ii) Subject to the exceptions specified in § 10.709(b)(1) of this subpart, substantially transformed in Jordan into a new and different article of commerce that has a new name, character, or use, which is then used in Jordan in the production or manufacture of a new or different article of commerce that is imported into the United States. Except where the context otherwise requires, the examples set forth in §10.196(a) of this part will apply for purposes of this paragraph.

(2) Determination of cost or value of materials. (i) The cost or value of materials produced in Jordan or in the United States includes:

(A) The manufacturer’s actual cost for the materials;

(B) When not included in the manufacturer’s actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer’s plant;

(C) The actual cost of waste or spoilage (material list), less the value of recoverable scrap; and

(D) Taxes and/or duties imposed on the materials by a Party, provided they are not remitted upon exportation.

(ii) Where a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value will be determined by computing the sum of:

(A) All expenses incurred in the growth, production, or manufacture of the material, including general expenses;

(B) An amount for profit; and

(C) Freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

(iii) If the pertinent information needed to compute the cost or value of a material is not available, the port director may ascertain or estimate the value thereof using all reasonable ways and means at his or her disposal.

(d) Direct costs of processing operations. (1) Items included. For purposes of paragraph (a) of this section, the words "direct costs of processing operations" mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific goods under consideration. Such costs include, but are not limited to the following, to the extent that they are includable in the appraised value of the imported goods:

(i) All actual labor costs involved in the growth, production, manufacture, or assembly of the specific goods, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(ii) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific goods;

(iii) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific goods; and

(iv) Costs of inspecting and testing the specific goods.

(2) Items not included. For purposes of paragraph (a) of this section, the words "direct costs of processing operations" do not include items that are not directly attributable to the goods under consideration or are not costs of manufacturing the product. These include, but are not limited to:

(i) Profit; and

(ii) General expenses of doing business that either are not allocable to the specific goods or are not related to the growth, production, manufacture, or assembly of the goods, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

§ 10.711 Imported directly.

(a) General. To be eligible for preferential tariff treatment under the U.S.-JFTA, a good must be imported directly from Jordan into the customs territory of the United States. For purposes of this requirement, the words "imported directly" mean:

(1) Direct shipment from Jordan to the United States without passing through the territory of any intermediate country;

(2) If shipment is from Jordan to the United States through the territory of an intermediate country, the goods in the shipment do not enter into the commerce of the intermediate country and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or

(3) If shipment is through an intermediate country and the invoices and other documents do not show the United States as the final destination, then the goods in the shipment are imported directly only if they:

(i) Remained under the control of the customs authority in the intermediate country;

(ii) Did not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail, provided that the goods are imported as a result of the original commercial transaction between the importer and the producer or the producer's sales agent; and

(iii) Have not been subjected to operations other than loading and unloading, and other activities necessary to preserve the goods in good condition.

(b) Documentary evidence. An importer making a claim for preferential tariff treatment under the US-JFTA may be required to demonstrate, to CBP's satisfaction, that the goods were "imported directly" as that term is defined in § 10.711 of this subpart. An importer may demonstrate compliance with this section by submitting documentary evidence. Such evidence may include, but is not limited to, bills of lading, airway bills, packing lists, commercial invoices, receiving and inventory records, and customs entry and exit documents.

Origin Verifications

§10. 712 Verification of claim for preferential treatment.

A claim for preferential tariff treatment made under § 10.703 of this subpart, including any statements or other information submitted to CBP in support of the claim,

will be subject to such verification as the port director deems necessary. In the event that the port director for any reason is prevented from verifying the claim, the port director may deny the claim for preferential tariff treatment.

PART 163 – RECORDKEEPING

3. The authority citation for Part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510,1624.

* * * * *

4. Section 163.1(a)(2) is amended by re-designating paragraph (a)(2)(viii) as (a)(2)(ix) and adding a new paragraph (viii) to read as follows: [**note:** this amendment assumes that the Singapore FTA interim regs. have already re-designated (vii) as (viii).]

§ 162.1 Definitions.

* * * * *

(a) * * *

(2) * * *

(viii) **The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the United States-Jordan Free Trade Agreement (US-JFTA), including a US-JFTA declaration if previously required by the port director.**

* * * * *

5. The Appendix to Part 163 is amended by adding a new listing under § IV in numerical order to read as follows:

Appendix to Part 163 – Interim (a)(1)(A) List.

* * * * *

IV. * * *

§ 10.704 US-JFTA records that the importer may have in support of a US-JFTA claim for preferential tariff treatment, including an importer's declaration if previously required by the port director.

* * * * *

PART 178 - APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

6. The authority citation for Part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 et seq.

7. Section 178.2 is amended by adding new listings to the table in numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB control No.
* * * * *	* * * * *	* * * * *
§§ 10.703 and 10.704.	Claim for preferential tariff treatment under the U.S.-Jordan Free Trade Agreement	
* * * * *	* * * * *	* * * * *

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Commissioner
Customs and Border Protection

Approved:

Deputy Assistant Secretary of the Treasury