

*What Every Member of the  
Trade Community Should Know About:*

# Granite



AN INFORMED COMPLIANCE PUBLICATION

APRIL 2006

---

**U.S. CUSTOMS and BORDER PROTECTION**

## **NOTICE:**

This publication is intended to provide guidance and information to the trade community. It reflects the position on or interpretation of the applicable laws or regulations by U.S. Customs and Border Protection (CBP) as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

### **Publication History**

First Published February 1997  
Revised January 2004  
Reviewed with No Changes April 2006

## **PRINTING NOTE:**

This publication was designed for electronic distribution via the CBP website (<http://www.cbp.gov>) and is being distributed in a variety of formats. It was originally set up in Microsoft Word97®. Pagination and margins in downloaded versions may vary depending upon which word processor or printer you use. If you wish to maintain the original settings, you may wish to download the .pdf version, which can then be printed using the freely available Adobe Acrobat Reader®.

## PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “***informed compliance***” and “***shared responsibility***,” which are premised on the idea that in order to maximize voluntary compliance with laws and regulations of U.S. Customs and Border Protection, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's rights and responsibilities under customs regulations and related laws. In addition, both the trade and U.S. Customs and Border Protection share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record's failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings (ORR) has been given a major role in meeting the informed compliance responsibilities of U.S. Customs and Border Protection. In order to provide information to the public, CBP has issued a series of informed compliance publications, and videos, on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

This publication, prepared by the National Commodity Specialist Division, ORR, is a study of the classification of granite. “Granite” provides guidance regarding the classification of imported merchandise. We sincerely hope that this material, together with seminars and increased access to rulings of U.S. Customs and Border Protection, will help the trade community to improve voluntary compliance with customs laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Regulations of U.S. Customs and Border Protection, 19 C.F.R. Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

Sandra L. Bell,  
Acting Assistant Commissioner  
Office of Regulations and Rulings

(This page intentionally left blank)

<b>INTRODUCTION.....</b>	<b>7</b>
<b>PRINCIPLES OF STONE CLASSIFICATION .....</b>	<b>7</b>
I. Geological nature .....	7
II. Form.....	8
III. Articles of precious and semi-precious stone .....	8
<b>GRANITE CLASSIFICATION ISSUES.....</b>	<b>8</b>
GEOLOGICAL DISTINCTIONS IN CHAPTER 68:.....	9
1) GRANITE (Subheading 6802.93.00) vs. BASALT (Subheading 6802.99.00) ...	9
2) GRANITE (Subheading 6802.93.00) vs. DIORITE, DIABASE AND GABBRO (Subheading 6802.99.00) .....	9
3) GRANITE (Subheading 6802.93.00) vs. SYENITE (Subheading 6802.99.00)	10
4) GRANITE (Subheading 6802.93.00) vs. GNEISS (Subheading 6802.99.00) ..	10
LABORATORY ANALYSIS .....	11
CHAPTER 25 .....	11
SUBHEADING 2516.11.00 .....	12
SUBHEADING 2516.12.00 .....	12
GEOLOGICAL DEFINITIONS IN CHAPTER 25:.....	13
CHAPTER 25 vs. CHAPTER 68.....	13
HEADING 6802.....	14
Subheading 6802.23.00 vs. Subheading 6802.93.00.....	15
<b>THE IMPORTER'S RESPONSIBILITIES .....</b>	<b>16</b>
INVOICING REQUIREMENTS.....	17
<b>ADDITIONAL INFORMATION.....</b>	<b>18</b>
The Internet.....	18
Customs Regulations .....	18
Customs Bulletin .....	18
Importing Into the United States .....	19
Informed Compliance Publications .....	19
Value Publications.....	20
"Your Comments are Important" .....	21

(This page intentionally left blank)

## INTRODUCTION

When Queen Hatshepsut of ancient Egypt erected obelisks at the temple of Amun at Karnak, she selected granite as the ideal stone for this purpose. She said that granite would allow her name to “endure for eternity and everlastingness.” Thus, from ancient times through the present day, granite has been prized for its strength and durability. From ancient times through the present day, it has been recognized as one of the world’s most important monumental and building stones.

Granite is a coarse-grained, igneous rock consisting largely of quartz and alkali feldspars (usually orthoclase; sometimes microcline). While the principal ingredients of granite are alkali feldspars and quartz, it usually contains several other components as well, including biotite mica, muscovite mica and hornblende. Granite is known for its great strength and ability to take a high polish; consequently it is widely used in construction and as a monumental stone.

Igneous rocks are formed by magmas - molten mixtures of minerals found deep beneath the earth's surface. Intrusive igneous rocks (plutonic rocks) are formed by the cooling of magmas at a considerable depth beneath the earth's surface. On the other hand, extrusive igneous rocks are formed by magmas which have spilled out on the earth's surface (*i.e.*, lava). Intrusive igneous rocks cool and solidify much more slowly than the extrusive igneous rocks formed on the surface. Granite is an intrusive igneous rock (a plutonic rock) formed by magma at some depth beneath the earth's surface.

## PRINCIPLES OF STONE CLASSIFICATION

Stone is classified based on its mineralogical properties and physical form at the time of importation. Laboratory analysis to identify the geological nature of the stone and physical examination to determine the form of the merchandise are crucial to our determination of the applicable subheading in the Harmonized Tariff Schedule of the United States (HTS). The following are the basic principles of classification applicable to importations of stone.

### I. Geological nature

Numerous Headquarters rulings have held that stone is classifiable based on geological definitions. Note rulings HQ 085266, 09-20-89; HQ 085968, 03-14-90; HQ 952679, 01-26-93; HQ 955738, 03-30-94; HQ 950057, 10-31-91; HQ 086894, 11-23-90; HQ 951525, 08-25-92. Therefore, any HTS subheading which refers to a particular stone by name will only cover products which conform to the geological definition of the stone. Often a product which may be called by the name of a specific stone in the trade (*i.e.*, a “commercial” definition) fails to meet the geological definition for that stone; this type of item may not be classified under the HTS provision for the specific stone.

The Headquarters rulings that follow geological definitions are supported by the Explanatory Notes to the HTS, which define stones in terms of their geological nature.

Thus, the Explanatory Notes to heading 2515, HTS, indicate that serpentine is not classified as marble even though it is often called “marble” in the trade, since serpentine and marble are geologically distinct.

Furthermore, the Explanatory Notes to heading 2516, HTS, indicate that ecaussine may not be classified as granite even though it is often called “granite” in the trade, since it is a geologically distinct stone. The Explanatory Notes to heading 2516 (as well as the language of the HTS) describe basalt and granite as distinct stones. Since basalt and granite are geologically different, they are classifiable separately even though basalt is often called “granite” in the trade. The Explanatory Notes to heading 2516 list syenite, gneiss, diabase and diorite as stones which are distinct from granite. Since these stones are geologically different from granite, they may not be classified as granite even though they are often called “granite” in the trade.

## **II. Form**

Generally Chapter 25 covers crude stone and minerals, as well as stone and minerals worked in **very simple physical ways** (e.g., crushed, ground, powdered washed, etc.). Stone worked beyond the point allowable in Chapter 25 is classifiable in Chapter 68. Importations of worked stone classifiable in Chapter 68 are more common than importations of crude or slightly worked stone classifiable in Chapter 25.

## **III. Articles of precious and semi-precious stone**

While monumental and building stone is classified in Chapters 25 and 68, precious or semiprecious stone is classifiable in Chapter 71.

The HTS and the Explanatory Notes indicate that articles of precious or semiprecious stone must be classified in Chapter 71. Note 1(d) to Chapter 68 and Note (1)(a) to Chapter 71 clearly indicate that Chapter 71 takes precedence over Chapter 68. Therefore, articles of precious or semiprecious stone must be classified in Chapter 71 rather than Chapter 68. The Annex to the Explanatory Notes for Chapter 71 list items which we regard as precious or semiprecious stones.

## **GRANITE CLASSIFICATION ISSUES**

The two crucial classification issues for granite involve the geological nature of the stone and the degree to which the stone has been worked. In the first part of this paper we discuss the geological definition of granite; we discuss stones which are geologically distinct from granite but often entered incorrectly as granite. Our initial presentation on geological distinctions will be within the context of the 6802.9 subheadings, since importations of stones classifiable in the 6802.9 provisions are the most common.

The second half of this paper focuses on the extent to which a stone has been worked. We explain the distinction between the worked stone classifiable in Chapter 68 and the crude or slightly worked stone classifiable in Chapter 25. We explain various



distinctions between different subheadings within Chapter 25 that are based on the degree to which the stone has been worked. (During the course of our presentation on Chapter 25, we also discuss geological distinctions within the context of that chapter.) In addition, we discuss distinctions between different subheadings within Chapter 68 (6802.2 vs. 6802.9) which are based on the manner in which the stone has been worked.

## **GEOLOGICAL DISTINCTIONS IN CHAPTER 68:**

As explained above, numerous rulings issued by U.S. Customs have held that geological definitions of stone must be followed under the HTS. In accordance with these rulings, only genuine granite may be classified as granite in subheading 6802.93.00, HTS.

**Several stones which are geologically distinct from granite are often referred to as "granite" in the trade. These stones include basalt, diorite, gabbro, diabase (a.k.a. dolerite), syenite, gneiss and others. Although they are frequently referred to as "granite" in the stone industry and although they may be invoiced incorrectly as granite, these stones may not be classified as granite in subheading 6802.93.00 because they are geologically different from granite. While worked granite is classifiable in subheading 6802.93.00, worked basalt, gabbro, diorite, diabase, syenite and gneiss are classifiable as other stone in subheading 6802.99.00, HTS.**

### **1) GRANITE (Subheading 6802.93.00) vs. BASALT (Subheading 6802.99.00)**

Although basalt is often referred to as "granite" or "black granite," it is geologically distinct from granite. **While basalt is a fine-grained, extrusive igneous rock formed from lava which has spilled out on the earth's surface, granite is a coarse-grained, plutonic rock (intrusive igneous rock) formed by magma at some depth beneath the earth's surface.** Plutonic rock cools and solidifies much more slowly than the extrusive igneous rocks formed on the surface.

**While the principal ingredients in granite are alkali feldspars and quartz, basalt contains little or no quartz and alkali feldspars. The principal ingredient in basalt is plagioclase feldspar (usually labradorite or bytownite). Pyroxene (usually in the form of augite) is another important ingredient of basalt. In addition, basalt may contain magnetite, hematite, ilmenite, apatite and olivine. The dark to black color associated with basalt is created by the plagioclase feldspars within this stone.**

**Despite the fact that basalt is often referred to as "granite" or "black granite" in the trade, geologists regard basalt and granite as two distinct stones.**

### **2) GRANITE (Subheading 6802.93.00) vs. DIORITE, DIABASE AND GABBRO (Subheading 6802.99.00)**

Diorite, diabase and gabbro are often referred to as "granite" in the trade; however, there is no question that these stones are geologically distinct from granite. Admittedly,

these three stones are intrusive igneous rocks and granite is also an intrusive igneous rock. However, the composition of each of these rocks is very different from the composition of granite; therefore, they are regarded as different stones and cannot be classified as granite.

While quartz and alkali feldspars are the most important components of granite, **plagioclase feldspar is the most significant ingredient in gabbro, diorite and diabase.** The plagioclase within these stones is generally in the form of labradorite and/or bytownite. In some instances andesine or anorthite may also be present. These stones may also contain clinopyroxene, olivine, magnetite, ilmenite, chromite, apatite, sulfide, titanite, rutile, hornblende, allanite, orthopyroxene or other minerals.

**Gabbro, diorite and diabase contain little or no quartz or alkali feldspars. In granite, the essential components are alkali feldspars and quartz; consequently, granite is geologically distinct from gabbro, diorite and diabase.**

### **3) GRANITE (Subheading 6802.93.00) vs. SYENITE (Subheading 6802.99.00)**

Although syenite may be somewhat similar to granite in chemical composition, it is regarded as a different stone. Admittedly, alkali feldspars are significant components in both granite and syenite. Like granite, syenite is a coarse-grained, plutonic rock (an intrusive igneous rock). However, there is a crucial difference between these two stones which makes them geologically distinct.

**The principal components in granite are quartz and alkali feldspars. The principal components in syenite are alkali feldspars.** (Generally, syenite also contains plagioclase feldspars as well.) **Unlike granite, syenite generally contains little or no quartz. This distinction between granite and syenite makes them two different stones. Although syenite is sometimes referred to as "granite" in the trade, geologists regard granite and syenite as two geologically distinct entities.**

### **4) GRANITE (Subheading 6802.93.00) vs. GNEISS (Subheading 6802.99.00)**

Gneiss contains feldspars as well as mica (muscovite, phengite and biotite) and quartz. While granite is an igneous rock, gneiss is a metamorphic rock. Gneiss is developed from the metamorphosis of various stones which may include granite, shale, schist or other rocks. However, gneiss itself is regarded as a distinct stone which is geologically different from granite.

Gneiss is characterized by compositional banding; it contains bands or layers of minerals which may be developed from different stones. In gneiss, the minerals are arranged in parallel layers with quartz and feldspars alternating with dark (ferromagnesian) minerals.

In those instances when gneiss is developed from granite, the gneiss is recrystallized granite. The process of recrystallization makes the gneiss a unique stone which is different from granite. Igneous rocks (like granite) and metamorphic rocks (like gneiss) are always regarded as geologically distinct.

The composition of gneiss is sometimes similar to the composition of granite (*i.e.*, when granite metamorphoses into gneiss), although the alignment of the mica in these two stones is different. Like granite, gneiss generally contains abundant feldspars and quartz. However, even when gneiss has a similar chemical composition to granite, these two stones are geologically distinct. **Geological differences between stones are not based solely on differences in chemical composition; the physical differences between two stones can also indicate that they are geologically distinct.** When granite metamorphoses to form gneiss, a new geological entity has been created; this new rock is physically very different from granite although it has a similar chemical composition. **Since the physical forms of granite and gneiss are clearly different, geologists regard these items as different stones.**

## LABORATORY ANALYSIS

Since basalt, gabbro, diorite, diabase, syenite, gneiss and other stones are often invoiced and entered incorrectly as granite, we frequently send samples of products entered in subheading 6802.93 to the U.S. Customs laboratory for analysis. When the laboratory determines that a specific stone was entered incorrectly as granite in subheading 6802.93.00, HTS, the Import Specialist will issue a rate advance notice advising the importer that the merchandise will be classified as other stone in subheading 6802.99.00, HTS.

## CHAPTER 25

The issues discussed above have been treated within the context of Chapter 68 of the HTS. **Generally Chapter 25 of the HTS covers crude stone and minerals, as well as stone and minerals worked in very simple physical ways** (*e.g.*, crushed, ground, powdered, washed, etc.). See Note 1 to Chapter 25. Stone worked beyond the point allowable in Chapter 25 is classifiable in Chapter 68. Merchandise classifiable in Chapter 68 is often entered incorrectly in Chapter 25. Importations of stone classifiable in Chapter 68 are more common than importations of Chapter 25 stone.

The balance of this paper discusses Chapter 25 of the HTS and the distinctions in classification which are based on the degree to which a stone has been worked. We explain the distinction between Chapter 25 and Chapter 68, distinctions between various provisions within Chapter 25 as well as distinctions between various provisions within Chapter 68.

## **SUBHEADING 2516.11.00**

**Crude or roughly trimmed granite is classifiable in subheading 2516.11.00, HTS.** Granite which has been "merely cut by sawing or otherwise into blocks or slabs of a rectangular shape" is classifiable in subheading 2516.12.00.

The Explanatory Notes to heading 2516 indicate that "the stones of this heading may be shaped and processed in the same ways as the stones of heading 25.15." Thus, the definitions of the terms referred to in subheadings 2516.11 and 2516.12 ("crude or roughly trimmed," "merely cut," etc.) may be found in the Explanatory Notes on subheadings 2515.11 and 2515.12. (Headings 2515 and 2516 deal with similar distinctions regarding the degree to which a stone has been worked.)

Based on the Explanatory Notes, "crude and roughly trimmed" granite covered by subheading 2516.11 is defined in the following manner. Crude stone includes "blocks or slabs which have been merely split along the natural cleavage planes of the stone." The surfaces of these blocks or slabs "are often uneven or undulating and frequently bear the marks of the tools used to separate them (crowbars, wedges, picks, etc.)."

Crude granite in subheading 2516.11 also includes "unshaped stone (quarrystone, rubble) obtained by breaking out rocks from the quarry face (using picks, explosives, etc.)." These products have "uneven, broken surfaces and irregular edges" and "often bear the marks of quarrying (blast holes, wedge marks, etc.)."

Subheading 2516.11 also covers "waste of irregular shape arising from the actual extraction of the stone" within the quarry or from "subsequent working." (This includes quarry stones, waste from sawing, etc.) Subheading 2516.11 is applicable assuming these pieces of stone are large enough to be used for cutting or construction. On the other hand, granite granules, chippings and powder would be classifiable in heading 2517.

"Roughly trimmed" granite covered by subheading 2516.11 is "stone which has been very crudely worked after quarrying to form blocks or slabs, still having some rough, uneven surfaces. This working involves removing superfluous protuberances by means of hammer or chisel-type tools."

## **SUBHEADING 2516.12.00**

**Subheading 2516.12.00 covers granite "merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape."** The Explanatory Notes indicate that the blocks and slabs covered by subheading 2516.12 "must bear discernible traces of the sawing (by wire strand or other saws) on their surfaces. If care was taken with the sawing, these traces may be very slight. In such cases, it is useful to apply a sheet of thin paper to the stone and rub it gently and evenly with a pencil held as flat as possible. This often reveals saw marks even on carefully sawn or very granular surfaces."

The Explanatory Notes indicate that subheading 2516.12 may also cover rectangular blocks and slabs of granite "obtained otherwise than by sawing, e.g., by working with a hammer or chisel." However, one must remember that **the type of sawing, cutting or working permitted for products classifiable in subheading 2516.12 is limited to the simple cutting or sawing associated with quarry stone (i.e., simple cutting from the quarry block).** Any cutting which goes beyond simple cutting from the quarry block requires classification in Chapter 68.

## **GEOLOGICAL DEFINITIONS IN CHAPTER 25:**

**Subheading 2516.11.00 (granite - crude and roughly trimmed) and Subheading 2516.12.00 (granite - blocks/slabs) vs. Subheading 2516.90.00 (other stone - including basalt, gabbro, diorite, diabase, syenite, gneiss, etc.)**

**Crude or roughly trimmed basalt, gabbro, diorite, diabase, syenite and gneiss are classifiable as other monumental or building stone in subheading 2516.90.00.** These stones may not be classified as crude or roughly trimmed granite in subheading 2516.11.00, since they are geologically distinct from granite.

**When basalt, gabbro, diorite, diabase, syenite or gneiss is merely cut by sawing or otherwise into blocks or slabs of a rectangular shape, the merchandise is classifiable in subheading 2516.90.00.** Since these stones are geologically distinct from granite, subheading 2516.12.00 is not applicable.

Since products are often entered incorrectly as granite, we frequently send samples of merchandise entered in subheadings 2516.11.00 and 2516.12.00 to our laboratory for analysis. When laboratory analysis reveals that a particular stone has been entered incorrectly as granite, the Import Specialist will issue a rate advance notice advising the importer of the correct classification.

## **CHAPTER 25 vs. CHAPTER 68**

Generally, the permissible methods of working stone and minerals within Chapter 25 are listed in Note 1 to Chapter 25. According to this note, Chapter 25 only covers crude products or items which have been washed, crushed, ground, powdered, levigated, sifted, screened, concentrated by flotation, magnetic separation or other mechanical or physical processes (except crystallization). Note 1 indicates that Chapter 25 does not cover items which have been roasted, calcined, obtained by mixing or subjected to processing beyond that mentioned in each heading.

Please note that there are exceptions to the general rules indicated in Note 1 to Chapter 25. In some instances, the context of a particular Chapter 25 heading indicates that merchandise may be worked beyond the scope permitted in Note 1. (The heading may refer to merchandise which by its very nature must have been subjected to a particular process not provided for in Note 1, or the heading may refer directly to specific processes or conditions which go beyond the scope of Note 1.) Secondly, a limited

number of specific items listed in Note 4 to Chapter 25 may be classified in heading 2530 although worked beyond the scope permitted in Note 1. These exceptions are not relevant to our discussion of monumental and building stone in this paper.

Regarding the classification of monumental and building stone, any cutting which goes beyond simple cutting from the quarry block requires classification in Chapter 68. Thus, **precision cutting, edge working or any cutting or working other than the simplest cutting associated with the quarry would preclude classification in Chapter 25.**

**The following operations dictate classification in Chapter 68:**

- 1) Honing and other operations designed to create a smooth or flat surface**
- 2) The same operations applied to the edges of a stone**
- 3) Polishing applied to either the face or edges of the stone**
- 4) Bossing, dressing, grinding, chamfering, molding, carving, etc.**

**All working which goes beyond the simplest cutting associated with the quarry shifts the classification of stone from Chapter 25 to Chapter 68.** Stone is classifiable in Chapter 25 when it is merely shaped "by splitting, rough cutting or squaring, or squaring by sawing." However, any stone worked beyond this point is classifiable in Chapter 68. See Explanatory Notes to Chapter 68.

According to the Explanatory Notes, heading 2516 only covers stone "in the mass or roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square shape). . . Blocks, etc., which have been further worked, *i.e.*, bossed, dressed with the pick, bushing hammer or chisel, etc., sand-dressed, ground, polished, chamfered, etc., are classified in heading 68.02. The same classification applies to blanks of articles."

## **HEADING 6802**

Heading 6802 provides for worked monumental and building stone and articles thereof. The Explanatory Notes to heading 6802 indicate that natural monumental or building stone "worked beyond the stage of the normal quarry products of Chapter 25" is classifiable in heading 6802. "The heading therefore covers stone which has been **further processed** than mere shaping into blocks, sheets or slabs by splitting, roughly cutting or squaring, or squaring by sawing (square or rectangular faces)."

The Explanatory Notes indicate that **heading 6802 covers stone "in the forms produced by the stone-mason, sculptor, etc."** These forms include "roughly sawn blanks" and "non-rectangular sheets (one or more faces triangular, hexagonal, trapezoidal, circular, etc.)." **In addition, these forms include "stone of any shape**

**(including blocks, slabs or sheets), whether or not in the form of finished articles, which has been bossed i.e., stone which has been given a rock faced finish by smoothing along the edges while leaving rough protuberant faces), dressed with the pick, bushing hammer, or chisel, etc., furrowed with the drag-comb, etc., planed, sand dressed, ground, polished, chamfered, moulded, turned, ornamented, carved, etc."**

In addition to worked monumental and building stone, heading 6802 covers articles of monumental and building stone (except for articles of precious or semiprecious stone classifiable in Chapter 71).

### **Subheading 6802.23.00 vs. Subheading 6802.93.00**

Within heading 6802, there is a distinction between subheadings which begin with the numbers 6802.2 and subheadings which begin with the numbers 6802.9. **The 6802.2 subheadings cover "monumental or building stone, and articles thereof, simply cut or sawn, with a flat or even surface."** Monumental or building stone worked beyond this point is covered by the 6802.9 subheadings.

**Subheading 6802.23.00 provides for granite "simply cut or sawn, with a flat or even surface."** Subheading 2516.12.00 covers granite "merely cut, by sawing or otherwise, into blocks of a rectangular (including square) shape." What is the distinction between the cutting or sawing referred to in Chapter 25 and the cutting or sawing referred to in Chapter 68? As explained above, the cutting or sawing referred to in Chapter 25 is the type of simple cutting associated with quarry stone.

Stone classifiable in heading 2516 may be obtained by blasting from a large quarry block or by cutting from the block. This stone may have surfaces which are obviously irregular. Even when obtained by cutting from the quarry block, stone of heading 2516 will not have perfectly smooth surfaces. **Merchandise classifiable in subheading 2516.12 "must bear discernible traces of the sawing"** (although these traces may be slight in some instances). As explained above, even when these traces are slight, application of a pencil and thin piece of paper will generally reveal the saw marks on stone classifiable in subheading 2516.12. **On the other hand, granite classifiable in subheading 6802.23 will have "a flat or even surface" (i.e., a surface which has been smoothed).** Even when the paper and pencil are applied, no marks of cutting or sawing will be revealed on 6802.23 stone. Subheading 6802.23.00 applies to granite cut or sawn in a manner which goes beyond the cutting from the quarry block associated with Chapter 25 merchandise.

**While subheading 6802.23.00 covers granite simply cut or sawn, with a flat or even surface, subheading 6802.93.00 covers granite worked beyond this point.** Thus, granite which has been polished, beveled, edge worked, carved, molded, ornamented or worked in numerous other ways is classifiable in subheading 6802.93.00. All operations which go beyond cutting or sawing dictate classification in subheading 6802.93.00, rather than subheading 6802.23.00.

When "simply cut or sawn, with a flat or even surface," basalt, gabbro, diorite, diabase, syenite and gneiss are classifiable in subheading 6802.29.00 as other stone. These stones may not be classified as granite in subheading 6802.23.00 because they are geologically different from granite. When basalt, gabbro, diorite, diabase, syenite and gneiss are worked beyond the point of simple cutting or sawing, they are classifiable as other stone in subheading 6802.99.00.

## THE IMPORTER'S RESPONSIBILITIES

Since the enactment of the Customs Modernization Act in December 1993, the legal burden of correctly classifying merchandise has shifted from U.S. Customs to the importer. The importer of record is responsible for determining a particular stone's geological nature prior to the importation and entry of the merchandise. When an importer or broker is aware (e.g., by receipt of a rate advance notice) that a particular stone is geological basalt, gabbro, diorite, diabase, syenite or gneiss (rather than granite), he or she must enter the merchandise under the appropriate provision for other stone despite the fact that the foreign supplier may refer to product as "granite." Moreover, the importer shall advise the supplier that the merchandise is actually basalt, gabbro, diorite, diabase, syenite or gneiss. The importer should encourage the shipper to invoice the item correctly based on its geological nature and discourage its inaccurate description as "granite."

In addition to the importer's responsibility regarding the geological nature of the stone which is being imported, he or she must be aware of the exact manner in which the stone has been worked. Prior to the importation and entry of the merchandise, the importer must determine the precise manner in which the stone has been worked. The importer must obtain this information from the foreign supplier and advise the supplier to include the information on the invoice.

Furthermore, the importer must be familiar with distinctions between merchandise classifiable in heading 6802 and merchandise classifiable in Chapter 25. An importer must determine whether the stone has been cut or sawn in a manner which takes it beyond the scope of Chapter 25. One must also be aware of the distinctions (based on the degree to which the stone has been worked) between different subheadings within heading 6802 and different subheadings within Chapter 25.

If the importer is not certain regarding the geological nature of a stone product or regarding other matters which are pertinent to the classification of the merchandise, he or she may request a binding ruling on the item before it is imported. A ruling request on stone should include information on the exact manner in which the stone has been worked as well as a sample of the item. If the product is too large to submit, the importer should submit a portion of the stone which includes sections of the face as well as the side (or edge) and corner. The ruling request should also



include the brand name or style number of the stone. Based on our laboratory analysis of the sample, we will advise the importer regarding the correct classification for the item.

Ruling requests may be sent to U.S. Customs and Border Protection, Customs Information Exchange (C.I.E.), One Penn Plaza, 10<sup>th</sup> Floor, New York, NY 10119, Attention: Binding Rulings Section.

## **INVOICING REQUIREMENTS**

Pursuant to Section 141.86 of the Customs Regulations [19 C.F.R. 141.86(a)(3)], the specific answers to the following questions are essential and should appear on invoices for granite or other stones:

- 1) What is the geological nature of the stone? (*i.e.*, based on geological definitions, is it granite or is it another stone such as basalt, gabbro, diorite, diabase, syenite or gneiss?) Invoicing stone simply as “granite” is improper unless the item is geological granite.
- 2) What is the brand name and/or style number of the stone?
- 3) Is the product an article, crude or roughly trimmed stone, crushed or ground stone, an unworked slab, a worked slab, etc.? [Indicate the exact form of the imported stone.]
- 4) Has the stone been simply cut from the quarry block or has it been further worked? Has it been precision cut, honed, edge worked, beveled, bossed, dressed with a tool, furrowed, sand dressed, planed, ground, polished, chamfered, molded, turned, ornamented, carved, etc.? [Indicate the precise extent to which the stone has been cut or worked. All operations applied to either the face or the edges of the stone should be described exactly.]
- 5) What is the area and thickness of the product?

## **ADDITIONAL INFORMATION**

### **The Internet**

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, on June 20, 2001, CBP launched the "Know Before You Go" publication and traveler awareness campaign designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is <http://www.cbp.gov>

### **Customs Regulations**

The current edition of *Customs Regulations of the United States* is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound, 2003 edition of Title 19, *Code of Federal Regulations*, which incorporates all changes to the Regulations as of April 1, 2003, is also available for sale from the same address. All proposed and final regulations are published in the *Federal Register*, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the *Federal Register* may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly *Customs Bulletin* described below.

### **Customs Bulletin**

The *Customs Bulletin and Decisions* ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the *Customs Bulletin*. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

## **Importing Into the United States**

This publication provides an overview of the importing process and contains general information about import requirements. The February 2002 edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The February 2002 edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing Into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

## **Informed Compliance Publications**

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About...*" series. Check the Internet web site <http://www.cbp.gov> for current publications.

## Value Publications

*Customs Valuation under the Trade Agreements Act of 1979* is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from U.S. Customs and Border Protection, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

*Customs Valuation Encyclopedia* (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

## **“Your Comments are Important”**

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1-888-REG-FAIR (1-888-734-3247).

**REPORT SMUGGLING 1-800-BE-ALERT OR 1-800-NO-DROGA**



**Visit our Internet web site: <http://www.cbp.gov>**