U.S. Customs and Border Protection

6 CFR PART 27

8 CFR PARTS 270, 274A, AND 280

19 CFR PART 4

COAST GUARD

33 CFR PART 27

TRANSPORTATION SECURITY ADMINISTRATION

49 CFR PART 1503

RIN 1601–AB05

CIVIL MONETARY PENALTY ADJUSTMENTS FOR INFLATION

AGENCY: Department of Homeland Security.

ACTION: Final rule.

SUMMARY: In this final rule, the Department of Homeland Security (DHS) makes the 2022 annual inflation adjustment to its civil monetary penalties. On November 2, 2015, the President signed into law The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act). Pursuant to the 2015 Act, all agencies must adjust their civil monetary penalties annually and publish the adjustment in the **Federal Register**. Accordingly, this final rule adjusts the Department's civil monetary penalties for 2021 pursuant to the 2015 Act and Executive Office of the President (EOP) Office of Management and Budget (OMB) guidance. The new penalties will be effective for penalties assessed after January 11, 2022 whose associated violations occurred after November 2, 2015.

DATES: This rule is effective on January 11, 2022.

FOR FURTHER INFORMATION CONTACT: Hillary Hunnings, 202–282–9043, *hillary.hunnings@hq.dhs.gov.*

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I. Statutory and Regulatory Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114–74 section 701 (Nov. 2, 2015)) (2015 Act).[1] The 2015 Act amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act required agencies to: (1) Adjust the level of civil monetary penalties with an initial "catch-up" adjustment through issuance of an interim final rule (IFR) and (2) make subsequent annual adjustments for inflation. Through the "catch-up" adjustment, agencies were required to adjust the maximum amounts of civil monetary penalties to more accurately reflect inflation rates.

For the subsequent annual adjustments, the 2015 Act requires agencies to increase the penalty amounts by a cost-of-living adjustment. The 2015 Act directs OMB to provide guidance to agencies each year to assist agencies in making the annual adjustments. The 2015 Act requires agencies to make the annual adjustments no later than January 15 of each year and to publish the adjustments in the **Federal Register**.

[1] The 2015 Act was part of the Bipartisan Budget Act of 2015, Public Law 114–74 (Nov. 2, 2015).

Pursuant to the 2015 Act, DHS undertook a review of the civil penalties that DHS and its components administer.[2] On July 1, 2016, DHS published an IFR adjusting the maximum civil monetary penalties with an initial "catch-up" adjustment, as required by the 2015 Act.[3] DHS calculated the adjusted penalties based upon nondiscretionary provisions in the 2015 Act and upon guidance that OMB issued to agencies on February 24, 2016.[4] The adjusted penalties were effective for civil penalties assessed after August 1, 2016 (the effective date of the IFR), whose associated violations occurred after November 2, 2015 (the date of enactment of the 2015 Act). On January 27, 2017, DHS published a final rule making the annual adjustment for 2017.[5] On April 2, 2018, DHS made the 2018 annual inflation adjustment.[6] On April 5, 2019, DHS made the 2019 annual inflation adjustment.[7] On June 17, 2020, DHS made the 2020 annual inflation adjustment.[8] On October 18, 2021, DHS made the 2021 annual inflation adjustment.[9]

II. Overview of the Final Rule

This final rule makes the 2022 annual inflation adjustments to civil monetary penalties pursuant to the 2015 Act and pursuant to guidance OMB issued to agencies on December 15, 2021.[10] The penalty amounts in this final rule will be effective for penalties assessed after January 11, 2022 where the associated violation occurred after November 2, 2015. Consistent with OMB guidance, the 2015 Act does not change previously assessed penalties that the agency is actively collecting or has collected.

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[2] The 2015 Act applies to all agency civil penalties except for any penalty (including any addition to tax and additional amount) under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*) and the Tariff Act of 1930 (19 U.S.C. 1202 *et seq.*). *See* sec. 4(a)(1) of the 2015 Act. In the case of DHS, several civil penalties that are assessed by U.S. Customs and Border Protection (CBP) and the U.S. Coast Guard (USCG) fall under the Tariff Act of 1930, and therefore DHS did not adjust those civil penalties in this rulemaking.

[3] *See* 81 FR 42987.

[4] Office of Mgmt. & Budget, Exec. Office of The President, M–16–06, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Table A: 2016 Civil Monetary Penalty Catch-Up Adjustment Multiplier by Calendar Year, (Feb. 24, 2016) (*https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2016/m-16–06.pdf*).

[5] *See* 82 FR 8571.

[6] *See* 83 FR 13826.

[7] *See* 84 FR 13499.

[8] *See* 85 FR 36469.

[9] *See* 86 FR 57532.

[10] Office of Mgmt. and Budget, Exec. Office of the President, M–22–07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2021) (*https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22–07.pdf*).

The adjusted penalty amounts will apply to penalties assessed after the effective date of this final rule. We discuss civil penalties by DHS component in Section III below. For each component identified in Section III, below, we briefly describe the relevant civil penalty (or penalties), and we provide a table showing the increase in the penalties for 2022. In the table for each component, we show (1) the penalty name, (2) the penalty statutory and or regulatory citation, (3) the penalty amount as adjusted in the 2021 final rule, (4) the cost-of-living adjustment multiplier for 2022 that OMB provided in its December 15, 2021, guidance, and (5) the new 2022 adjusted penalty. The 2015 Act instructs agencies to round penalties to the nearest $1. For a more complete discussion of the method used for calculating the initial "catch-up" inflation adjustments and a component-by-component breakdown to the nature of the civil penalties and relevant legal authorities, please see the IFR preamble at 81 FR 42987–43000.

III. Adjustments by Component

In the following sections, we briefly describe the civil penalties that DHS and its components, the Cybersecurity and Infrastructure Security Agency (CISA), the U.S. Customs and Border Protection (CBP), the U.S. Immigration and Customs Enforcement (ICE), the U.S. Coast Guard (USCG), and the Transportation Security Administration (TSA), assess. Other components not mentioned do not impose any civil monetary penalties. We include tables at the end of each section, which list the individual adjustments for each penalty.

A. Cybersecurity and Infrastructure Security Agency

The Cybersecurity and Infrastructure Security Agency (CISA) administers only one civil penalty that the 2015 Act affects. That penalty assesses fines for violations of the Chemical Facility Anti-Terrorism Standards (CFATS). CFATS is a program that regulates the security of chemical facilities that, in the discretion of the Secretary, present high levels of security risk. DHS established the CFATS program in 2007 pursuant to section 550 of the Department of Homeland Security Appropriations Act of 2007 (Pub. L. 109–295).[11] The CFATS regulation is located in part 27 of title 6 of the Code of Federal

[11] Section 550 has since been superseded by the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014 (Pub. L. 113–254). The new legislation codified the statutory authority for the CFATS program within Title XXI of the Homeland Security Act of 2002, as amended. *See* 6 U.S.C. 621 *et seq*. Public Law 113–254 authorized the CFATS program from January 18, 2015, to January 17, 2019. Public Law 116–150 extends the CFATS program authorization to July 27, 2023.

Regulations (CFR). Below is a table showing the 2022 adjustment for the CFATS penalty that CISA administers.

TABLE 1—CFATS CIVIL PENALTY ADJUSTMENT

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Penalty for non-compliance with CFATS regulations.	6 U.S.C. 624(b)(1); 6 CFR 27.300(b)(3).	$35,905 per day..	1.06222	$38,139 per day.

* Office of Mgmt. and Budget, Exec. Office of the President, M–22–07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2021) (*https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22–07.pdf*).

B. U.S. Customs and Border Protection

The U.S. Customs and Border Protection (CBP) assesses civil monetary penalties under various titles of the United States Code (U.S.C.) and the CFR. These include penalties for certain violations of title 8 of the CFR regarding the Immigration and Nationality Act of 1952 (Pub. L. 82–414, as amended) (INA). The INA contains provisions that impose penalties on persons, including carriers and aliens, who violate specified provisions of the INA. The relevant penalty provisions appear in numerous sections of the INA; however, CBP has enumerated these penalties in regulation in one location—8 CFR 280.53. For a complete list of the INA sections for which penalties are assessed, in addition to a brief description of each violation, see the 2016 IFR preamble at 81 FR 42989–42990. For a complete list and brief description of the non-INA civil monetary penalties assessed by CBP subject to adjustment and a discussion of the history of the DHS and CBP adjustments to the non-INA penalties, see the 2019 annual inflation adjustment final rule preamble at 84 FR 13499, 13500 (April 5, 2019).

Below is a table showing the 2022 adjustment for the penalties that CBP administers.

TABLE 2—U.S. CUSTOMS AND BORDER PROTECTION CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Penalties for non-compliance with arrival and departure manifest requirements for passengers, crewmembers, or occupants transported on commercial vessels or aircraft arriving to or departing from the United States.	8 U.S.C. 1221(g); 8 CFR 280.53(b)(1) (INA section 231(g)).	$1,436	1.06222	$1,525.
Penalties for non-compliance with landing requirements at designated ports of entry for aircraft transporting aliens.	8 U.S.C. 1224; 8 CFR 280.53(b)(2) (INA section 234).	$3,901	1.06222	$4,144.
Penalties for failure to depart voluntarily	8 U.S.C. 1229c(d); 8 CFR 280.53(b)(3) (INA section 240B(d)).	$1,644–$8,224 ...	1.06222	$1,746–$8,736.
Penalties for violations of removal orders relating to aliens transported on vessels or aircraft under section 241(d) of the INA, or for costs associated with removal under section 241(e) of the INA.	8 U.S.C. 1253(c)(1)(A); 8 CFR 280.53(b)(4) (INA section 243(c)(1)(A)).	$3,289	1.06222	$3,494.

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Penalties for failure to remove alien stowaways under section 241(d)(2) of the INA.	8 U.S.C. 1253(c)(1)(B); 8 CFR 280.53(b)(5) (INA section 243(c)(1)(B)).	$8,224	1.06222	$8,736.
Penalties for failure to report an illegal landing or desertion of alien crewmen, and for each alien not reported on arrival or departure manifest or lists required in accordance with section 251 of the INA.	8 U.S.C. 1281(d); 8 CFR 280.53(b)(6) (INA section 251(d)).	$390 for each alien	1.06222	$414 for each alien.
Penalties for use of alien crewmen for longshore work in violation of section 251(d) of the INA.	8 U.S.C. 1281(d); 8 CFR 280.53(b)(6) (INA section 251(d)).	$9,753	1.06222	$10,360.
Penalties for failure to control, detain, or remove alien crewmen.	8 U.S.C. 1284(a); 8 CFR 280.53(b)(7) (INA section 254(a)).	$975–$5,851 ...	1.06222	$1,036–$6,215.
Penalties for employment on passenger vessels of aliens afflicted with certain disabilities.	8 U.S.C. 1285; 8 CFR 280.53(b)(8) (INA section 255).	$1,951	1.06222	$2,072.
Penalties for discharge of alien crewmen.	8 U.S.C. 1286; 8 CFR 280.53(b)(9) (INA section 256).	$2,925–$5,851 ...	1.06222	$3,107–$6,215.
Penalties for bringing into the United States alien crewmen with intent to evade immigration laws.	8 U.S.C. 1287; 8 CFR 280.53(b)(10) (INA section 257).	$19,505	1.06222	$20,719.

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Penalties for failure to prevent the unauthorized landing of aliens.	8 U.S.C. 1321(a); 8 CFR 280.53(b)(11) (INA section 271(a)).	$5,851	1.06222	$6,215.
Penalties for bringing to the United States aliens subject to denial of admission on a health-related ground.	8 U.S.C. 1322(a); 8 CFR 280.53(b)(12) (INA section 272(a)).	$5,851	1.06222	$6,215.
Penalties for bringing to the United States aliens without required documentation.	8 U.S.C. 1323(b); 8 CFR 280.53(b)(13) (INA section 273(b)).	$5,851	1.06222	$6,215.
Penalties for failure to depart	8 U.S.C. 1324d; 8 CFR 280.53(b)(14) (INA section 274D).	$823	1.06222	$874.
Penalties for improper entry	8 U.S.C. 1325(b); 8 CFR 280.53(b)(15) (INA section 275(b)).	$82–$412 .	1.06222	$87–$438.
Penalty for dealing in or using empty stamped imported liquor containers.	19 U.S.C. 469.....	$546	1.06222	** $580.
Penalty for employing a vessel in a trade without a required Certificate of Documentation.	19 U.S.C. 1706a; 19 CFR 4.80(i).	$1,368	1.06222	$1,453.
Penalty for transporting passengers coastwise for hire by certain vessels (known as Bowaters vessels) that do not meet specified conditions.	46 U.S.C. 12118(f)(3)	$546	1.06222	** $580.

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Penalty for transporting passengers between coastwise points in the United States by a non-coastwise qualified vessel.	46 U.S.C. 55103(b); 19 CFR 4.80(b)(2).	$822	1.06222	$873.
Penalty for towing a vessel between coastwise points in the United States by a non-coastwise qualified vessel.	46 U.S.C. 55111(c); 19 CFR 4.92.	$957–$3,011, plus $164 per ton.	1.06222	$1,017–$3,198 plus $174 per ton.

* Office of Mgmt. and Budget, Exec. Office of the President, M–22–07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2021) (*https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22–07.pdf).*

*** No applicable conforming edit to regulatory text.*

C. U.S. Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement (ICE) assesses civil monetary penalties for certain employment-related violations arising from the INA. ICE's civil penalties are located in title 8 of the CFR.

There are three different sections in the INA that impose civil monetary penalties for violations of the laws that relate to employment actions: Sections 274A, 274B, and 274C. ICE has primary enforcement responsibilities for two of these civil penalty provisions (sections 274A and 274C), and the Department of Justice (DOJ) has enforcement responsibilities for one of these civil penalty provisions (section 274B). The INA, in sections 274A and 274C, provides for imposition of civil penalties for various specified unlawful acts pertaining to the employment eligibility verification process (Form I–9, Employment Eligibility Verification), the employment of unauthorized aliens, and document fraud.

Because both DHS and DOJ implement the three employment-related penalty sections in the INA, both Departments' implementing regulations reflect the civil penalty amounts. For a complete description of the civil money penalties assessed and a discussion of DHS's and DOJ's efforts to update the penalties in years past, see the IFR

preamble at 81 FR 42991. Below is a table showing the 2022 adjustment for the penalties that ICE administers.[12]

TABLE 3—U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Civil penalties for failure to depart voluntarily, INA section 240B(d).	8 U.S.C. 1229c(d); 8 CFR 280.53(b)(3).	$1,644–$8,224 ...	1.06222	$1,746–$8,736.
Civil penalties for violation of INA sections 274C(a)(1)–(a)(4), penalty for first offense.	8 CFR 270.3(b)(1)(ii)(A) ...	$487–$3,901 ...	1.06222	$517–$4,144.
Civil penalties for violation of INA sections 274C(a)(5)–(a)(6), penalty for first offense.	8 CFR 270.3(b)(1)(ii)(B) ...	$412–$3,289 ...	1.06222	$438–$3,494.
Civil penalties for violation of INA sections 274C(a)(1)–(a)(4), penalty for subsequent offenses.	8 CFR 270.3(b)(1)(ii)(C) ...	$3,901–$9,753 ...	1.06222	$4,144–$10,360.
Civil penalties for violation of INA sections 274C(a)(5)–(a)(6), penalty for subsequent offenses.	8 CFR 270.3(b)(1)(ii)(D) ...	$3,289–$8,224 ...	1.06222	$3,494–$8,736.

[12] Table 3 also includes two civil penalties that are also listed as penalties administered by CBP. These are penalties for failure to depart voluntarily, INA section 240B(d), and failure to depart after a final order of removal, INA section 274D. Both CBP and ICE may administer these penalties, but as ICE is the DHS component primarily responsible for assessing and collecting them, they are also listed among the penalties ICE administers.

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Violation/ prohibition of indemnity bonds	8 CFR 274a.8(b)	$2,360	1.06222	$2,507.
Civil penalties for knowingly hiring, recruiting, referral, or retention of unauthorized aliens—Penalty for first offense (per unauthorized alien).	8 CFR 274a.10(b)(1)(ii)(A)	$590–$4,722 ...	1.06222	$627–$5,016.
Penalty for second offense (per unauthorized alien).	8 CFR 274a.10(b)(1)(ii)(B)	$4,722–$11,803..	1.06222	$5,016–$12,537.
Penalty for third or subsequent offense (per unauthorized alien).	8 CFR 274a.10(b)(1)(ii)(C)	$7,082–$23,607 .	1.06222	$7,523–$25,076.
Civil penalties for I–9 paperwork violations.	8 CFR 274a.10(b)(2)	$237–$2,360 ...	1.06222	$252–$2,507.
Civil penalties for failure to depart, INA section 274D.	8 U.S.C. 1324d; 8 CFR 280.53(b)(14).	$823	1.06222	$874.

* Office of Mgmt. and Budget, Exec. Office of the President, M–22–07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2021) (*https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-07.pdf).*

D. U.S. Coast Guard

The Coast Guard is authorized to assess close to 150 penalties involving maritime safety and security and environmental stewardship that are critical to the continued success of Coast Guard missions. Various statutes in titles 14, 16, 19, 33, 42, 46, and 49 of the U.S.C. authorize these penalties. Titles 33 and 46 authorize the vast majority of these penalties as these statutes deal with navigation,

navigable waters, and shipping. For a complete discussion of the civil monetary penalties assessed by the Coast Guard, see the 2016 IFR preamble at 81 FR 42992.

The Coast Guard has identified the penalties it administers, adjusted those penalties for inflation, and is listing those new penalties in a table located in the CFR—specifically, Table 1 in 33 CFR 27.3. Table 1 in 33 CFR 27.3 identifies the statutes that provide the Coast Guard with civil monetary penalty authority and sets out the inflation-adjusted maximum penalty that the Coast Guard may impose pursuant to each statutory provision. Table 1 in 33 CFR 27.3 provides the current maximum penalty for violations that occurred after November 2, 2015.

The applicable civil penalty amounts for violations occurring on or before November 2, 2015, are set forth in previously published regulations amending 33 CFR part 27. To find the applicable penalty amount for a violation that occurred on or before November 2, 2015, look to the prior versions of the CFR that pertain to the date on which the violation occurred.

Table 4 below shows the 2022 adjustment for the penalties that the Coast Guard administers.

TABLE 4—U.S. COAST GUARD CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Saving Life and Property	14 U.S.C. 521(c)..	$10,967	1.06222	$11,649
Saving Life and Property; Intentional Interference with Broadcast.	14 U.S.C. 521(e)..	1,125	1.06222	1,195
Confidentiality of Medical Quality Assurance Records (first offense).	14 U.S.C. 936(i); 33 CFR 27.3	5,508	1.06222	5,851
Confidentiality of Medical Quality Assurance Records (subsequent offenses).	14 U.S.C. 936(i); 33 CFR 27.3	36,726	1.06222	39,011
Obstruction of Revenue Officers by Masters of Vessels.	19 U.S.C. 70; 33 CFR 27.3	8,212	1.06222	8,723

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Obstruction of Revenue Officers by Masters of Vessels-Minimum Penalty.	19 U.S.C. 70; 33 CFR 27.3	1,916	1.06222	2,035
Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge.	19 U.S.C. 1581(d).....	** 5,000	N/A	** 5,000
Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge-Minimum Penalty.	19 U.S.C. 1581(d).....	** 1,000	N/A	** 1,000
Anchorage Ground/ Harbor Regulations General	33 U.S.C. 471; 33 CFR 27.3	11,906	1.06222	12,647
Anchorage Ground/ Harbor Regulations St. Mary's river.	33 U.S.C. 474; 33 CFR 27.3	822	1.06222	873
Bridges/Failure to Comply with Regulations	33 U.S.C. 495(b); 33 CFR 27.3	30,058	1.06222	31,928
Bridges/ Drawbridges.....	33 U.S.C. 499(c); 33 CFR 27.3	30,058	1.06222	31,928
Bridges/Failure to Alter Bridge Obstructing Navigation.	33 U.S.C. 502(c); 33 CFR 27.3	30,058	1.06222	31,928
Bridges/ Maintenance and Operation	33 U.S.C. 533(b); 33 CFR 27.3	30,058	1.06222	31,928
Bridge to Bridge Communication; Master, Person in Charge or Pilot.	33 U.S.C. 1208(a); 33 CFR 27.3	2,190	1.06222	2,326
Bridge to Bridge Communication; Vessel.....	33 U.S.C. 1208(b); 33 CFR 27.3	2,190	1.06222	2,326
Oil/Hazardous Substances: Discharges (Class I per violation).	33 U.S.C. 1321(b)(6)(B)(i); 33 CFR 27.3.	19,505	1.06222	20,719

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Oil/Hazardous Substances: Discharges (Class I total under paragraph).	33 U.S.C. 1321(b)(6)(B)(i); 33 CFR 27.3.	48,762	1.06222	51,796
Oil/Hazardous Substances: Discharges (Class II per day of violation).	33 U.S.C. 1321(b)(6)(B)(ii); 33 CFR 27.3.	19,505	1.06222	20,719
Oil/Hazardous Substances: Discharges (Class II total under paragraph).	33 U.S.C. 1321(b)(6)(B)(ii); 33 CFR 27.3.	243,808	1.06222	258,978
Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment.	33 U.S.C. 1321(b)(7)(A); 33 CFR 27.3.	48,762	1.06222	51,796
Oil/Hazardous Substances: Discharges (per barrel of oil or unit discharged) Judicial Assessment.	33 U.S.C. 1321(b)(7)(A); 33 CFR 27.3.	1,951	1.06222	2,072
Oil/Hazardous Substances: Failure to Carry Out Removal/Comply With Order (Judicial Assessment).	33 U.S.C. 1321(b)(7)(B); 33 CFR 27.3.	48,762	1.06222	51,796
Oil/Hazardous Substances: Failure to Comply with Regulation Issued Under 1321(j) (Judicial Assessment).	33 U.S.C. 1321(b)(7)(C); 33 CFR 27.3.	48,762	1.06222	51,796
Oil/Hazardous Substances: Discharges, Gross Negligence (per barrel of oil or unit discharged) Judicial Assessment.	33 U.S.C. 1321(b)(7)(D); 33 CFR 27.3.	5,851	1.06222	6,215

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Oil/Hazardous Substances: Discharges, Gross Negligence-Minimum Penalty (Judicial Assessment).	33 U.S.C. 1321(b)(7)(D); 33 CFR 27.3.	195,047	1.06222	207,183
Marine Sanitation Devices; Operating	33 U.S.C. 1322(j); 33 CFR 27.3	8,212	1.06222	8,723
Marine Sanitation Devices; Sale or Manufacture	33 U.S.C. 1322(j); 33 CFR 27.3	21,896	1.06222	23,258
International Navigation Rules; Operator	33 U.S.C. 1608(a); 33 CFR 27.3	15,352	1.06222	16,307
International Navigation Rules; Vessel	33 U.S.C. 1608(b); 33 CFR 27.3	15,352	1.06222	16,307
Pollution from Ships; General	33 U.S.C. 1908(b)(1); 33 CFR 27.3	76,764	1.06222	81,540
Pollution from Ships; False Statement	33 U.S.C. 1908(b)(2); 33 CFR 27.3	15,352	1.06222	16,307
Inland Navigation Rules; Operator	33 U.S.C. 2072(a); 33 CFR 27.3	15,352	1.06222	16,307
Inland Navigation Rules; Vessel	33 U.S.C. 2072(b); 33 CFR 27.3	15,352	1.06222	16,307
Shore Protection; General	33 U.S.C. 2609(a); 33 CFR 27.3	54,157	1.06222	57,527
Shore Protection; Operating Without Permit	33 U.S.C. 2609(b); 33 CFR 27.3	21,663	1.06222	23,011
Oil Pollution Liability and Compensation	33 U.S.C. 2716a(a); 33 CFR 27.3	48,762	1.06222	51,796
Clean Hulls	33 U.S.C. 3852(a)(1)(A); 33 CFR 27.3.	44,646	1.06222	47,424
Clean Hulls-related to false statements	33 U.S.C. 3852(a)(1)(A); 33 CFR 27.3.	59,528	1.06222	63,232
Clean Hulls-Recreational Vessel	33 U.S.C. 3852(c); 33 CFR 27.3	5,953	1.06222	6,323

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Hazardous Substances, Releases, Liability, Compensation (Class I).	42 U.S.C. 9609(a); 33 CFR 27.3	59,017	1.06222	62,689
Hazardous Substances, Releases, Liability, Compensation (Class II).	42 U.S.C. 9609(b); 33 CFR 27.3	59,017	1.06222	62,689
Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense).	42 U.S.C. 9609(b); 33 CFR 27.3	177,053	1.06222	188,069
Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment).	42 U.S.C. 9609(c); 33 CFR 27.3	59,017	1.06222	62,689
Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense).	42 U.S.C. 9609(c); 33 CFR 27.3	177,053	1.06222	188,069
Safe Containers for International Cargo	46 U.S.C. 80509; 33 CFR 27.3	6,451	1.06222	6,852
Suspension of Passenger Service.....	46 U.S.C. 70305; 33 CFR 27.3	64,515	1.06222	68,529
Vessel Inspection or Examination Fees.	46 U.S.C. 2110(e); 33 CFR 27.3	9,753	1.06222	10,360
Alcohol and Dangerous Drug Testing.....	46 U.S.C. 2115; 33 CFR 27.3	7,939	1.06222	8,433
Negligent Operations: Recreational Vessels	46 U.S.C. 2302(a); 33 CFR 27.3	7,181	1.06222	7,628
Negligent Operations: Other Vessels.....	46 U.S.C. 2302(a); 33 CFR 27.3	35,905	1.06222	38,139
Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug.	46 U.S.C. 2302(c)(1); 33 CFR 27.3	7,939	1.06222	8,433

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent.	46 U.S.C. 2306(a)(4); 33 CFR 27.3	12,363	1.06222	13,132
Vessel Reporting Requirements: Master	46 U.S.C. 2306(b)(2); 33 CFR 27.3	2,473	1.06222	2,627
Immersion Suits	46 U.S.C. 3102(c)(1); 33 CFR 27.3	12,363	1.06222	13,132
Inspection Permit	46 U.S.C. 3302(i)(5); 33 CFR 27.3	2,579	1.06222	2,739
Vessel Inspection; General	46 U.S.C. 3318(a); 33 CFR 27.3	12,363	1.06222	13,132
Vessel Inspection; Nautical School Vessel	46 U.S.C. 3318(g); 33 CFR 27.3	12,363	1.06222	13,132
Vessel Inspection; Failure to Give Notice in accordance with (IAW) 3304(b).	46 U.S.C. 3318(h); 33 CFR 27.3	2,473	1.06222	2,627
Vessel Inspection; Failure to Give Notice IAW 3309(c).	46 U.S.C. 3318(i); 33 CFR 27.3	2,473	1.06222	2,627
Vessel Inspection; Vessel ≥1600 Gross Tons	46 U.S.C. 3318(j)(1); 33 CFR 27.3	24,730	1.06222	26,269
Vessel Inspection; Vessel <1600 Gross Tons (GT).	46 U.S.C. 3318(j)(1); 33 CFR 27.3	4,946	1.06222	5,254
Vessel Inspection; Failure to Comply with 3311(b).	46 U.S.C. 3318(k); 33 CFR 27.3	24,730	1.06222	26,269
Vessel Inspection; Violation of 3318(b)–3318(f)	46 U.S.C. 3318(l); 33 CFR 27.3	12,363	1.06222	13,132
List/count of Passengers	46 U.S.C. 3502(e); 33 CFR 27.3	257	1.06222	273
Notification to Passengers	46 U.S.C. 3504(c); 33 CFR 27.3	25,780	1.06222	27,384

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Notification to Passengers; Sale of Tickets	46 U.S.C. 3504(c); 33 CFR 27.3	1,288	1.06222	1,368
Copies of Laws on Passenger Vessels; Master	46 U.S.C. 3506; 33 CFR 27.3	516	1.06222	548
Liquid Bulk/ Dangerous Cargo	46 U.S.C. 3718(a)(1); 33 CFR 27.3	64,452	1.06222	68,462
Uninspected Vessels	46 U.S.C. 4106; 33 CFR 27.3	10,832	1.06222	11,506
Recreational Vessels (maximum for related series of violations).	46 U.S.C. 4311(b)(1); 33 CFR 27.3	341,000	1.06222	362,217
Recreational Vessels; Violation of 4307(a)	46 U.S.C. 4311(b)(1); 33 CFR 27.3	6,820	1.06222	7,244
Recreational vessels	46 U.S.C. 4311(c); 33 CFR 27.3	2,579	1.06222	2,739
Uninspected Commercial Fishing Industry Vessels.	46 U.S.C. 4507; 33 CFR 27.3	10,832	1.06222	11,506
Abandonment of Barges	46 U.S.C. 4703; 33 CFR 27.3	1,835	1.06222	1,949
Load Lines	46 U.S.C. 5116(a); 33 CFR 27.3	11,803	1.06222	12,537
Load Lines; Violation of 5112(a)	46 U.S.C. 5116(b); 33 CFR 27.3	23,607	1.06222	25,076
Load Lines; Violation of 5112(b)	46 U.S.C. 5116(c); 33 CFR 27.3	11,803	1.06222	12,537
Reporting Marine Casualties	46 U.S.C. 6103(a); 33 CFR 27.3	41,120	1.06222	43,678
Reporting Marine Casualties; Violation of 6104	46 U.S.C. 6103(b); 33 CFR 27.3	10,832	1.06222	11,506
Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement.	46 U.S.C. 8101(e); 33 CFR 27.3	1,951	1.06222	2,072
Manning of Inspected Vessels	46 U.S.C. 8101(f); 33 CFR 27.3	19,505	1.06222	20,719

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by USCG.	46 U.S.C. 8101(g); 33 CFR 27.3	19,505	1.06222	20,719
Manning of Inspected Vessels; Freight Vessel <100 GT, Small Passenger Vessel, or Sailing School Vessel.	46 U.S.C. 8101(h); 33 CFR 27.3	2,579	1.06222	2,739
Watchmen on Passenger Vessels.....	46 U.S.C. 8102(a).....	2,579	1.06222	2,739
Citizenship Requirements.....	46 U.S.C. 8103(f).	1,288	1.06222	1,368
Watches on Vessels; Violation of 8104(a) or (b)	46 U.S.C. 8104(i).	19,505	1.06222	20,719
Watches on Vessels; Violation of 8104(c), (d), (e), or (h).	46 U.S.C. 8104(j).	19,505	1.06222	20,719
Staff Department on Vessels	46 U.S.C. 8302(e).....	257	1.06222	273
Officer's Competency Certificates..	46 U.S.C. 8304(d).....	257	1.06222	273
Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	46 U.S.C. 8502(e).....	19,505	1.06222	20,719
Coastwise Pilotage; Individual.....	46 U.S.C. 8502(f).	19,505	1.06222	20,719
Federal Pilots	46 U.S.C. 8503....	61,820	1.06222	65,666
Merchant Mariners Documents	46 U.S.C. 8701(d).....	1,288	1.06222	1,368
Crew Requirements.	46 U.S.C. 8702(e).....	19,505	1.06222	20,719
Small Vessel Manning	46 U.S.C. 8906....	41,120	1.06222	43,678

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	46 U.S.C. 9308(a)	19,505	1.06222	20,719
Pilotage: Great Lakes; Individual .	46 U.S.C. 9308(b)	19,505	1.06222	20,719
Pilotage: Great Lakes; Violation of 9303	46 U.S.C. 9308(c).	19,505	1.06222	20,719
Failure to Report Sexual Offense	46 U.S.C. 10104(b)	10,366	1.06222	11,011
Pay Advances to Seamen	46 U.S.C. 10314(a)(2)	1,288	1.06222	1,368
Pay Advances to Seamen; Remuneration for Employment.	46 U.S.C. 10314(b)	1,288	1.06222	1,368
Allotment to Seamen	46 U.S.C. 10315(c)	1,288	1.06222	1,368
Seamen Protection; General	46 U.S.C. 10321	8,935	1.06222	9,491
Coastwise Voyages: Advances	46 U.S.C. 10505(a)(2)	8,935	1.06222	9,491
Coastwise Voyages: Advances; Remuneration for Employment.	46 U.S.C. 10505(b)	8,935	1.06222	9,491
Coastwise Voyages: Seamen Protection; General.	46 U.S.C. 10508(b)	8,935	1.06222	9,491
Effects of Deceased Seamen	46 U.S.C. 10711	516	1.06222	548
Complaints of Unfitness	46 U.S.C. 10902(a)(2)	1,288	1.06222	1,368
Proceedings on Examination of Vessel	46 U.S.C. 10903(d)	257	1.06222	273
Permission to Make Complaint	46 U.S.C. 10907(b)	1,288	1.06222	1,368
Accommodations for Seamen	46 U.S.C. 11101(f)	1,288	1.06222	1,368
Medicine Chests on Vessels	46 U.S.C. 11102(b)	1,288	1.06222	1,368
Destitute Seamen	46 U.S.C. 11104(b)	257	1.06222	273

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Wages on Discharge.	46 U.S.C. 11105(c).....	1,288	1.06222	1,368
Log Books; Master Failing to Maintain	46 U.S.C. 11303(a).....	516	1.06222	548
Log Books; Master Failing to Make Entry	46 U.S.C. 11303(b).....	516	1.06222	548
Log Books; Late Entry	46 U.S.C. 11303(c)	387	1.06222	411
Carrying of Sheath Knives	46 U.S.C. 11506..	129	1.06222	137
Vessel Documentation	46 U.S.C. 12151(a)(1)	16,884	1.06222	17,935
Documentation of Vessels—Related to Activities involving mobile offshore drilling units.	46 U.S.C. 12151 (a)(2)	28,142	1.06222	29,893
Vessel Documentation; Fishery Endorsement	46 U.S.C. 12151(c)	129,032	1.06222	137,060
Numbering of Undocumented Vessels—Willful violation.	46 U.S.C. 12309(a).....	12,891	1.06222	13,693
Numbering of Undocumented Vessels.....	46 U.S.C. 12309(b).....	2,579	1.06222	2,739
Vessel Identification System.....	46 U.S.C. 12507(b).....	21,663	1.06222	23,011
Measurement of Vessels.....	46 U.S.C. 14701..	47,216	1.06222	50,154
Measurement; False Statements..	46 U.S.C. 14702..	47,216	1.06222	50,154
Commercial Instruments and Maritime Liens.....	46 U.S.C. 31309..	21,663	1.06222	23,011
Commercial Instruments and Maritime Liens; Mortgagor.	46 U.S.C. 31330(a)(2)	21,663	1.06222	23,011
Commercial Instruments and Maritime Liens; Violation of 31329.	46 U.S.C. 31330(b)(2)	54,157	1.06222	57,527

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Ports and Waterway Safety Regulations.....	46 U.S.C. 70036(a); 33 CFR 27.3	97,014	1.06222	103,050
Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge.	46 U.S.C. 70041(d)(1)(B); 33 CFR 27.3.	9,753	1.06222	10,360
Vessel Navigation: Regattas or Marine Parades; Owner Onboard Vessel.	46 U.S.C. 70041(d)(1)(C); 33 CFR 27.3.	9,753	1.06222	10,360
Vessel Navigation: Regattas or Marine Parades; Other Persons.	46 U.S.C. 70041(d)(1)(D); 33 CFR 27.3.	4,876	1.06222	5,179
Port Security	46 U.S.C. 70119(a).....	35,905	1.06222	38,139
Port Security—Continuing Violations.....	46 U.S.C. 70119(b).....	64,515	1.06222	68,529
Maritime Drug Law Enforcement.....	46 U.S.C. 70506(c)	5,953	1.06222	6,323
Hazardous Materials: Related to Vessels.....	49 U.S.C. 5123(a)(1)	84,425	1.06222	89,678
Hazardous Materials: Related to Vessels-Penalty from Fatalities, Serious Injuries/Illness or substantial Damage to Property.	49 U.S.C. 5123(a)(2)	196,992	1.06222	209,249
Hazardous Materials: Related to Vessels; Training.	49 U.S.C. 5123(a)(3)	508	1.06222	540

* Office of Mgmt. and Budget, Exec. Office of the President, M–22–07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2021) (*https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22–07.pdf).*

*** Enacted under the Tariff Act; exempt from inflation adjustments.*

E. Transportation Security

The Transportation Security Administration (TSA) is updating its civil penalties regulation in accordance with the 2015 Act. Pursuant to its statutory authority in 49 U.S.C. 46301(a)(1), (4), (5), (6), 49

U.S.C. 46301(d)(2), (8), and 49 U.S.C. 114(u), TSA may impose penalties for violations of statutes that TSA administers, including penalties for violations of implementing regulations or orders. Note that pursuant to division K, title I, sec. 1904(b)(1)(I), of Public Law 115–254, 132 Stat. 3186, 3545 (Oct. 5, 2018), the TSA Modernization Act—part of the FAA Reauthorization Act of 2018—the former 49 U.S.C. 114(v), which relates to penalties, was redesignated as 49 U.S.C. 114(u).

TSA assesses these penalties for a wide variety of aviation and surface security requirements, including violations of TSA's requirements applicable to Transportation Worker Identification Credentials (TWIC),[13] as well as violations of requirements described in chapter 449 of title 49 of the U.S.C. These penalties can apply to a wide variety of situations, as described in the statutory and regulatory provisions, as well as in guidance that TSA publishes. Below is a table showing the 2022 adjustment for the penalties that TSA administers.

TABLE 5—TRANSPORTATION SECURITY ADMINISTRATION CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Violation of 49 U.S.C. ch. 449 (except secs. 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), or 49 U.S.C. 46302 or 46303, a regulation prescribed, or order issued thereunder by a person operating an aircraft for the transportation of passengers or property for compensation.	49 U.S.C. 46301(a)(1), (4), (5), (6); 49 U.S.C. 46301(d)(2), (8); 49 CFR 1503.401(c)(3).	$35,188 (up to a total of $562,996 per civil penalty action).	1.06222	$37,377 (up to a total of $598,026 per civil penalty action).

[13] *See, e.g.,* 46 U.S.C. 70105, 49 U.S.C. 46302 and 46303, and 49 U.S.C. chapter 449.

Penalty name	Citation	Penalty amount as adjusted in the 2021 FR	Multiplier *	New penalty as adjusted by this final rule
Violation of 49 U.S.C. ch. 449 (except secs. 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), or 49 U.S.C. 46302 or 46303, a regulation prescribed, or order issued thereunder by an individual (except an airman serving as an airman), any person not operating an aircraft for the transportation of passengers or property for compensation, or a small business concern.	49 U.S.C. 46301(a)(1), (4), (5); 49 U.S.C. 46301(d)(8); 49 CFR 1503.401(c)(1) and (2).	$14,074 (up to a total of $70,375 for individuals or small businesses, $562,996 for others).	1.06222	$14,950 (up to a total of $74,754 for individuals or small businesses, $598,026 for others).
Violation of any other provision of title 49 U.S.C. or of 46 U.S.C. ch. 701, a regulation prescribed, or order issued thereunder.	49 U.S.C. 114(u); 49 CFR 1503.401(b).	$12,045 (up to a total of $60,226 total for individuals or small businesses, $481,802 for others).	1.06222	$12,794 (up to a total of $63,973 total for individuals or small businesses, $511,780 for others).

* Office of Mgmt. and Budget, Exec. Office of the President, M–22–07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2021) (*https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22–07.pdf*).

IV. Administrative Procedure Act

DHS is promulgating this final rule to ensure that the amount of civil penalties that DHS assesses or enforces reflects the statutorily mandated ranges as adjusted for inflation. The 2015 Act provides a clear formula for adjustment of the civil penalties, leaving DHS and its components with little room for discretion. DHS and its compo-

nents have been charged only with performing ministerial computations to determine the amounts of adjustments for inflation to civil monetary penalties. In these annual adjustments DHS is merely updating the penalty amounts by applying the cost-of-living adjustment multiplier that OMB has provided to agencies. Furthermore, the 2015 Act specifically instructed that agencies make the required annual adjustments notwithstanding section 553 of title 5 of the U.S.C. Thus, as specified in the 2015 Act, the prior public notice-and-comment procedures and delayed effective date requirements of the Administrative Procedure Act (APA) do not apply to this rule. Further, as described above, this rule makes minor amendments to the regulations to reflect changes required by clear statutory authority, and DHS finds that prior notice and comment procedures and a delayed effective date for these amendments are unnecessary.

V. Regulatory Analyses

A. Executive Orders 12866 and 13563

Executive Orders 12866 ("Regulatory Planning and Review") and 13563 ("Improving Regulation and Regulatory Review") direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

OMB has not designated this final rule a "significant regulatory action" under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed this rule.

This final rule makes nondiscretionary adjustments to existing civil monetary penalties in accordance with the 2015 Act and OMB guidance.[14] DHS therefore did not consider alternatives and does not have the flexibility to alter the adjustments of the civil monetary penalty amounts as provided in this rule. To the extent this final rule increases civil monetary penalties, it would result in an increase in transfers from persons or entities assessed a civil monetary penalty to the government.

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[14] Office of Mgmt. and Budget, Exec. Office of the President, M–22–07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2021) (*https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22–07.pdf*).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act applies only to rules for which an agency publishes a notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). See 5 U.S.C. 601–612. The Regulatory Flexibility Act does not apply to this final rule because a notice of proposed rulemaking was not required for the reasons stated above.

C. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. This final rule will not result in such an expenditure.

D. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule, because this final rule does not trigger any new or revised recordkeeping or reporting.

VI. Signing Authorities

The amendments to 19 CFR part 4 in this document are issued in accordance with 19 CFR 0.2(a), which provides that the authority of the Secretary of the Treasury with respect to CBP regulations that are not related to customs revenue functions was transferred to the Secretary of Homeland Security pursuant to Section 403(l) of the Homeland Security Act of 2002. Accordingly, this final rule to amend such regulations may be signed by the Secretary of Homeland Security (or his or her delegate).

List of Subjects

6 CFR Part 27

Reporting and recordkeeping requirements, Security measures.

8 CFR Part 270

Administrative practice and procedure, Aliens, Employment, Fraud, Penalties.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

8 CFR Part 280

Administrative practice and procedure, Immigration, Penalties.

19 CFR Part 4

Exports, Freight, Harbors, Maritime carriers, Oil pollution, Reporting and recordkeeping requirements, Vessels.

33 CFR Part 27

Administrative practice and procedure, Penalties.

49 CFR Part 1503

Administrative practice and procedure, Investigations, Law enforcement, Penalties.

Amendments to the Regulations

Accordingly, for the reasons stated in the preamble, DHS is amending 6 CFR part 27, 8 CFR parts 270, 274a, and 280, 19 CFR part 4, 33 CFR part 27, and 49 CFR part 1503 as follows:

Title 6—Domestic Security

PART 27—CHEMICAL FACILITY ANTI–TERRORISM STANDARDS

■ 1. The authority citation for part 27 continues to read as follows:

Authority: 6 U.S.C. 624; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114–74, 129 Stat. 599; Pub. L. 113–254, 128 Stat. 2898, as amended by Pub. L. 116–150, 134 Stat. 679.

■ 2. In § 27.300, revise paragraph (b)(3) to read as follows:

§ 27.300 Orders.

* * * * *

(b) * * *

(3) Where the Assistant Secretary determines that a facility is in violation of an Order issued pursuant to paragraph (a) of this section and issues an Order Assessing Civil Penalty pursuant to paragraph (b)(1) of this section, a chemical facility is liable to the United States for a civil penalty of not more than $25,000 for each day during which the violation continues, if the violation of the Order occurred on or before November 2, 2015, or $38,139 for each day during which the violation of the Order continues, if the violation occurred after November 2, 2015.

* * * * *

Title 8—Aliens and Nationality

PART 270—PENALTIES FOR DOCUMENT FRAUD

■ 3. The authority citation for part 270 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, and 1324c; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321 and Pub. L. 114–74, 129 Stat. 599.

■ 4. In § 270.3, revise paragraphs (b)(1)(ii)(A) through (D) to read as follows:

§ 270.3 Penalties.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) *First offense under section 274C(a)(1) through (a)(4).* Not less than $275 and not exceeding $2,200 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before March 27, 2008; not less than $375 and not exceeding $3,200 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act on or after March 27, 2008, and on or before November 2, 2015; and not less than $517 and not exceeding $4,144 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act after November 2, 2015.

(B) *First offense under section 274C(a)(5) or (a)(6).* Not less than $250 and not exceeding $2,000 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act before March 27, 2008; not less than $275 and not exceeding $2,200 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act on or after March 27, 2008, and on or before November 2, 2015; and not less than $438 and not exceeding $3,494 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act after November 2, 2015.

(C) *Subsequent offenses under section 274C(a)(1) through (a)(4).* Not less than $2,200 and not more than $5,500 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before March 27, 2008; not less than $3,200 and not exceeding $6,500 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act occurring on or after March 27, 2008 and on or before November

2, 2015; and not less than $4,144 and not more than $10,360 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act after November 2, 2015.

(D) *Subsequent offenses under section 274C(a)(5) or (a)(6).* Not less than $2,000 and not more than $5,000 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act before March 27, 2008; not less than $2,200 and not exceeding $5,500 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act occurring on or after March 27, 2008, and on or before November 2, 2015; and not less than $3,494 and not more than $8,736 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act after November 2, 2015.

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

■ 5. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1105a, 1324a; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114–74, 129 Stat. 599.

■ 6. In § 274a.8, revise paragraph (b) to read as follows:

§ 274a.8 Prohibition of indemnity bonds.

* * * * *

(b) *Penalty.* Any person or other entity who requires any individual to post a bond or security as stated in this section shall, after notice and opportunity for an administrative hearing in accordance with section 274A(e)(3)(B) of the Act, be subject to a civil monetary penalty of $1,000 for each violation before September 29, 1999, of $1,100 for each violation occurring on or after September 29, 1999, but on or before November 2, 2015, and of $2,507 for each violation occurring after November 2, 2015, and to an administrative order requiring the return to the individual of any amounts received in violation of this section or, if the individual cannot be located, to the general fund of the Treasury.

■ 7. In § 274a.10, revise paragraphs (b)(1)(ii)(A) through (C) and the first sentence of paragraph (b)(2) introductory text to read as follows:

§ 274a.10 Penalties.

* * * * *

(b) * * *
(1) * * *
(ii) * * *

(A) First offense—not less than $275 and not more than $2,200 for each unauthorized alien with respect to whom the offense occurred before March 27, 2008; not less than $375 and not exceeding $3,200, for each unauthorized alien with respect to whom the offense occurred occurring on or after March 27, 2008, and on or before November 2, 2015; and not less than $627 and not more than $5,016 for each unauthorized alien with respect to whom the offense occurred occurring after November 2, 2015;

(B) Second offense—not less than $2,200 and not more than $5,500 for each unauthorized alien with respect to whom the second offense occurred before March 27, 2008; not less than $3,200 and not more than $6,500, for each unauthorized alien with respect to whom the second offense occurred on or after March 27, 2008, and on or before November 2, 2015; and not less than $5,016 and not more than $12,537 for each unauthorized alien with respect to whom the second offense occurred after November 2, 2015; or

(C) More than two offenses—not less than $3,300 and not more than $11,000 for each unauthorized alien with respect to whom the third or subsequent offense occurred before March 27, 2008; not less than $4,300 and not exceeding $16,000, for each unauthorized alien with respect to whom the third or subsequent offense occurred on or after March 27, 2008, and on or before November 2, 2015; and not less than $7,523 and not more than $25,076 for each unauthorized alien with respect to whom the third or subsequent offense occurred after November 2, 2015; and

* * * * *

(2) A respondent determined by the Service (if a respondent fails to request a hearing) or by an administrative law judge, to have failed to comply with the employment verification requirements as set forth in § 274a.2(b), shall be subject to a civil penalty in an amount of not less than $100 and not more than $1,000 for each individual with respect to whom such violation occurred before September 29, 1999; not less than $110 and not more than $1,100 for each individual with respect to whom such violation occurred on or after September 29, 1999, and on or before November 2, 2015; and not less than $252 and not more than $2,507 for each individual with respect to whom such violation occurred after November 2, 2015. * * *

* * * * *

PART 280—IMPOSITION AND COLLECTION OF FINES

■ 8. The authority citation for part 280 continues to read as follows:

Authority: 8 U.S.C. 1103, 1221, 1223, 1227, 1229, 1253, 1281, 1283, 1284, 1285, 1286, 1322, 1323, 1330; 66 Stat. 173, 195, 197, 201, 203, 212, 219, 221–223, 226, 227, 230; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114–74, 129 Stat. 599.

■ 9. In § 280.53, revise paragraphs (b)(1) through (15) to read as follows:

§ 280.53 Civil monetary penalties inflation adjustment.

* * * * *

(b) * * *

(1) Section 231(g) of the Act, penalties for non-compliance with arrival and departure manifest requirements for passengers, crewmembers, or occupants transported on commercial vessels or aircraft arriving to or departing from the United States: From $1,436 to $1,525.

(2) Section 234 of the Act, penalties for non-compliance with landing requirements at designated ports of entry for aircraft transporting aliens: From $3,901 to $4,144.

(3) Section 240B(d) of the Act, penalties for failure to depart voluntarily: From $1,644 minimum/$8,224 maximum to $1,746 minimum/$8,736 maximum.

(4) Section 243(c)(1)(A) of the Act, penalties for violations of removal orders relating to aliens transported on vessels or aircraft, under section 241(d) of the Act, or for costs associated with removal under section 241(e) of the Act: From $3,289 to $3,494.

(5) Penalties for failure to remove alien stowaways under section 241(d)(2) of the Act: From $8,224 to $8,736.

(6) Section 251(d) of the Act, penalties for failure to report an illegal landing or desertion of alien crewmen, and for each alien not reported on arrival or departure manifest or lists required in accordance with section 251 of the Act: From $390 to $414; and penalties for use of alien crewmen for longshore work in violation of section 251(d) of the Act: From $9,753 to $10,360.

(7) Section 254(a) of the Act, penalties for failure to control, detain, or remove alien crewmen: From $975 minimum/$5,851 maximum to $1,036 minimum/$6,215 maximum.

(8) Section 255 of the Act, penalties for employment on passenger vessels of aliens afflicted with certain disabilities: From $1,951 to $2,072.

(9) Section 256 of the Act, penalties for discharge of alien crewmen: From $2,925 minimum/$5,851 maximum to $3,107 minimum/$6,215 maximum.

(10) Section 257 of the Act, penalties for bringing into the United States alien crewmen with intent to evade immigration laws: From $19,505 maximum to $20,719 maximum.

(11) Section 271(a) of the Act, penalties for failure to prevent the unauthorized landing of aliens: From $5,851 to $6,215.

(12) Section 272(a) of the Act, penalties for bringing to the United States aliens subject to denial of admission on a health-related ground: From $5,851 to $6,215.

(13) Section 273(b) of the Act, penalties for bringing to the United States aliens without required documentation: From $5,851 to $6,215.

(14) Section 274D of the Act, penalties for failure to depart: From $823 maximum to $874 maximum, for each day the alien is in violation.

(15) Section 275(b) of the Act, penalties for improper entry: From $82 minimum/$412 maximum to $87 minimum/$438 maximum, for each entry or attempted entry.

Title 19—Customs Duties

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

■ 10. The authority citation for part 4 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1415, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

* * * * *

Sections 4.80, 4.80a, and 4.80b also issued under 19 U.S.C. 1706a; 28 U.S.C. 2461 note; 46 U.S.C. 12112, 12117, 12118, 50501–55106, 55107, 55108, 55110, 55114, 55115, 55116, 55117, 55119, 56101, 55121, 56101, 57109; Pub. L. 108–7, Division B, Title II, § 211;

* * * * *

Section 4.92 also issued under 28 U.S.C. 2461 note; 46 U.S.C. 55111;

* * * * *

■ 11. In § 4.80, revise paragraphs (b)(2) and (i) to read as follows:

§ 4.80 Vessels entitled to engage in coastwise trade.

* * * * *

(b) * * *

(2) The penalty imposed for the unlawful transportation of passengers between coastwise points is $300 for each passenger so transported and landed on or before November 2, 2015, and $873 for each passenger so transported and landed after November 2, 2015 (46 U.S.C. 55103, as adjusted by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015).

* * * * *

(i) Any vessel, entitled to be documented and not so documented, employed in a trade for which a Certificate of Documentation is issued under the vessel documentation laws (see § 4.0(c)), other than a trade covered by a registry, is liable to a civil penalty of $500 for each port at which it arrives without the proper Certificate of Documentation on or before November 2, 2015, and $1,453 for each port at which it arrives without the proper Certificate of Documentation after November 2, 2015 (19 U.S.C. 1706a, as adjusted by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015). If such a vessel has on board any foreign merchandise (sea stores excepted), or any domestic taxable alcoholic beverages, on which the duty and taxes have not been paid or secured to be paid, the vessel and its cargo are subject to seizure and forfeiture.

■ 12. In § 4.92, revise the third sentence to read as follows:

§ 4.92 Towing.

* * * The penalties for violation of this section occurring after November 2, 2015, are a fine of from $1,017 to $3,198 against the owner or master of the towing vessel and a further penalty against the towing vessel of $174 per ton of the towed vessel (46 U.S.C. 55111, as adjusted by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015).

Title 33—Navigation and Navigable Waters

PART 27—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

■ 13. The authority citation for part 27 continues to read as follows:

Authority: Secs. 1–6, Pub. L. 101–410, 104 Stat. 890, as amended by Sec. 31001(s)(1), Pub. L. 104–134, 110 Stat. 1321 (28 U.S.C. 2461 note); Department of Homeland Security Delegation No. 0170.1, sec. 2 (106).

■ 14. In § 27.3, revise the third sentence of the introductory text and table 1 to read as follows:

§ 27.3 Penalty adjustment table.

* * * The adjusted civil penalty amounts listed in Table 1 to this section are applicable for penalty assessments issued after January 11, 2022, with respect to violations occurring after November 2, 2015.
* * *

TABLE 1 TO § 27.3—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. code citation	Civil monetary penalty description	2022 Adjusted maximum penalty amount ($)
14 U.S.C. 521(c)	Saving Life and Property	11,649
14 U.S.C. 521(e)	Saving Life and Property; Intentional Interference with Broadcast	1,195
14 U.S.C. 936(i)	Confidentiality of Medical Quality Assurance Records (first offense)	5,851
14 U.S.C. 936(i)	Confidentiality of Medical Quality Assurance Records (subsequent offenses)	39,011
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels	8,723
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels—Minimum Penalty	2,035
19 U.S.C. 1581(d)	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge [1]	5,000
19 U.S.C. 1581(d)	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge—Minimum Penalty 1.	1,000
33 U.S.C. 471	Anchorage Ground/Harbor Regulations General	12,647
33 U.S.C. 474	Anchorage Ground/Harbor Regulations St. Mary's River	873
33 U.S.C. 495(b)	Bridges/Failure to Comply with Regulations	31,928
33 U.S.C. 499(c)	Bridges/Drawbridges	31,928
33 U.S.C. 502(c)	Bridges/Failure to Alter Bridge Obstructing Navigation	31,928
33 U.S.C. 533(b)	Bridges/Maintenance and Operation	31,928
33 U.S.C. 1208(a)	Bridge to Bridge Communication; Master, Person in Charge or Pilot.	2,326

U.S. code citation	Civil monetary penalty description	2022 Adjusted maximum penalty amount ($)
33 U.S.C. 1208(b)	Bridge to Bridge Communication; Vessel	2,326
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I per violation)	20,719
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I total under paragraph)	51,796
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II per day of violation)	20,719
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II total under paragraph)	258,978
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment	51,796
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit discharged) Judicial Assessment.	2,072
33 U.S.C. 1321(b)(7)(B)	Oil/Hazardous Substances: Failure to Carry Out Removal/Comply With Order (Judicial Assessment).	51,796
33 U.S.C. 1321(b)(7)(C)	Oil/Hazardous Substances: Failure to Comply with Regulation Issued Under 1321(j) (Judicial Assessment).	51,796
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence (per barrel of oil or unit discharged) Judicial Assessment.	6,215
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence—Minimum Penalty (Judicial Assessment).	207,183
33 U.S.C. 1322(j)	Marine Sanitation Devices; Operating	8,723
33 U.S.C. 1322(j)	Marine Sanitation Devices; Sale or Manufacture	23,258
33 U.S.C. 1608(a)	International Navigation Rules; Operator	16,307
33 U.S.C. 1608(b)	International Navigation Rules; Vessel	16,307
33 U.S.C. 1908(b)(1)	Pollution from Ships; General	81,540
33 U.S.C. 1908(b)(2)	Pollution from Ships; False Statement	16,307
33 U.S.C. 2072(a)	Inland Navigation Rules; Operator	16,307
33 U.S.C. 2072(b)	Inland Navigation Rules; Vessel	16,307

U.S. code citation	Civil monetary penalty description	2022 Adjusted maximum penalty amount ($)
33 U.S.C. 2609(a)	Shore Protection; General	57,527
33 U.S.C. 2609(b)	Shore Protection; Operating Without Permit	23,011
33 U.S.C. 2716a(a)	Oil Pollution Liability and Compensation	51,796
33 U.S.C. 3852(a)(1)(A)	Clean Hulls; Civil Enforcement	47,424
33 U.S.C. 3852(a)(1)(A)	Clean Hulls; related to false statements	63,232
33 U.S.C. 3852(c)	Clean Hulls; Recreational Vessels	6,323
42 U.S.C. 9609(a)	Hazardous Substances, Releases, Liability, Compensation (Class I)	62,689
42 U.S.C. 9609(b)	Hazardous Substances, Releases, Liability, Compensation (Class II).	62,689
42 U.S.C. 9609(b)	Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense).	188,069
42 U.S.C. 9609(c)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment)	62,689
42 U.S.C. 9609(c)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense).	188,069
46 U.S.C. 80509(a)	Safe Containers for International Cargo	6,852
46 U.S.C. 70305(c)	Suspension of Passenger Service	68,529
46 U.S.C. 2110(e)	Vessel Inspection or Examination Fees	10,360
46 U.S.C. 2115	Alcohol and Dangerous Drug Testing	8,433
46 U.S.C. 2302(a)	Negligent Operations: Recreational Vessels	7,628
46 U.S.C. 2302(a)	Negligent Operations: Other Vessels	38,139
46 U.S.C. 2302(c)(1)	Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug	8,433
46 U.S.C. 2306(a)(4)	Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent	13,132
46 U.S.C. 2306(b)(2)	Vessel Reporting Requirements: Master	2,627
46 U.S.C. 3102(c)(1)	Immersion Suits	13,132
46 U.S.C. 3302(i)(5)	Inspection Permit	2,739
46 U.S.C. 3318(a)	Vessel Inspection; General	13,132

U.S. code citation	Civil monetary penalty description	2022 Adjusted maximum penalty amount ($)
46 U.S.C. 3318(g)	Vessel Inspection; Nautical School Vessel	13,132
46 U.S.C. 3318(h)	Vessel Inspection; Failure to Give Notice in accordance with (IAW) 3304(b)	2,627
46 U.S.C. 3318(i)	Vessel Inspection; Failure to Give Notice IAW 3309(c)	2,627
46 U.S.C. 3318(j)(1)	Vessel Inspection; Vessel ≥1,600 Gross Tons	26,269
46 U.S.C. 3318(j)(1)	Vessel Inspection; Vessel <1,600 Gross Tons (GT)	5,254
46 U.S.C. 3318(k)	Vessel Inspection; Failure to Comply with 3311(b)	26,269
46 U.S.C. 3318(l)	Vessel Inspection; Violation of 3318(b)–3318(f)	13,132
46 U.S.C. 3502(e)	List/count of Passengers	273
46 U.S.C. 3504(c)	Notification to Passengers	27,384
46 U.S.C. 3504(c)	Notification to Passengers; Sale of Tickets	1,368
46 U.S.C. 3506	Copies of Laws on Passenger Vessels; Master	548
46 U.S.C. 3718(a)(1)	Liquid Bulk/Dangerous Cargo	68,462
46 U.S.C. 4106	Uninspected Vessels	11,506
46 U.S.C. 4311(b)(1)	Recreational Vessels (maximum for related series of violations)	362,217
46 U.S.C. 4311(b)(1)	Recreational Vessels; Violation of 4307(a)	7,244
46 U.S.C. 4311(c)	Recreational Vessels	2,739
46 U.S.C. 4507	Uninspected Commercial Fishing Industry Vessels	11,506
46 U.S.C. 4703	Abandonment of Barges	1,949
46 U.S.C. 5116(a)	Load Lines	12,537
46 U.S.C. 5116(b)	Load Lines; Violation of 5112(a)	25,076
46 U.S.C. 5116(c)	Load Lines; Violation of 5112(b)	12,537
46 U.S.C. 6103(a)	Reporting Marine Casualties	43,678
46 U.S.C. 6103(b)	Reporting Marine Casualties; Violation of 6104	11,506
46 U.S.C. 8101(e)	Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement	2,072
46 U.S.C. 8101(f)	Manning of Inspected Vessels	20,719

U.S. code citation	Civil monetary penalty description	2022 Adjusted maximum penalty amount ($)
46 U.S.C. 8101(g)	Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by U.S. Coast Guard (USCG).	20,719
46 U.S.C. 8101(h)	Manning of Inspected Vessels; Freight Vessel <100 GT, Small Passenger Vessel, or Sailing School Vessel.	2,739
46 U.S.C. 8102(a)	Watchmen on Passenger Vessels	2,739
46 U.S.C. 8103(f)	Citizenship Requirements	1,368
46 U.S.C. 8104(i)	Watches on Vessels; Violation of 8104(a) or (b)	20,719
46 U.S.C. 8104(j)	Watches on Vessels; Violation of 8104(c), (d), (e), or (h)	20,719
46 U.S.C. 8302(e)	Staff Department on Vessels	273
46 U.S.C. 8304(d)	Officer's Competency Certificates	273
46 U.S.C. 8502(e)	Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	20,719
46 U.S.C. 8502(f)	Coastwise Pilotage; Individual	20,719
46 U.S.C. 8503	Federal Pilots	65,666
46 U.S.C. 8701(d)	Merchant Mariners Documents	1,368
46 U.S.C. 8702(e)	Crew Requirements	20,719
46 U.S.C. 8906	Small Vessel Manning	43,678
46 U.S.C. 9308(a)	Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	20,719
46 U.S.C. 9308(b)	Pilotage: Great Lakes; Individual	20,719
46 U.S.C. 9308(c)	Pilotage: Great Lakes; Violation of 9303	20,719
46 U.S.C. 10104(b)	Failure to Report Sexual Offense	11,011
46 U.S.C. 10314(a)(2)	Pay Advances to Seamen	1,368
46 U.S.C. 10314(b)	Pay Advances to Seamen; Remuneration for Employment	1,368
46 U.S.C. 10315(c)	Allotment to Seamen	1,368
46 U.S.C. 10321	Seamen Protection; General	9,491
46 U.S.C. 10505(a)(2)	Coastwise Voyages: Advances	9,491
46 U.S.C. 10505(b)	Coastwise Voyages: Advances; Remuneration for Employment	9,491
46 U.S.C. 10508(b)	Coastwise Voyages: Seamen Protection; General	9,491
46 U.S.C. 10711	Effects of Deceased Seamen	548

U.S. code citation	Civil monetary penalty description	2022 Adjusted maximum penalty amount ($)
46 U.S.C. 10902(a)(2)	Complaints of Unfitness	1,368
46 U.S.C. 10903(d)	Proceedings on Examination of Vessel	273
46 U.S.C. 10907(b)	Permission to Make Complaint	1,368
46 U.S.C. 11101(f)	Accommodations for Seamen	1,368
46 U.S.C. 11102(b)	Medicine Chests on Vessels	1,368
46 U.S.C. 11104(b)	Destitute Seamen	273
46 U.S.C. 11105(c)	Wages on Discharge	1,368
46 U.S.C. 11303(a)	Log Books; Master Failing to Maintain	548
46 U.S.C. 11303(b)	Log Books; Master Failing to Make Entry	548
46 U.S.C. 11303(c)	Log Books; Late Entry	411
46 U.S.C. 11506	Carrying of Sheath Knives	137
46 U.S.C. 12151(a)(1)	Vessel Documentation	17,935
46 U.S.C. 12151(a)(2)	Documentation of Vessels—Related to activities involving mobile offshore drilling units ..	29,893
46 U.S.C. 12151(c)	Vessel Documentation; Fishery Endorsement	137,060
46 U.S.C. 12309(a)	Numbering of Undocumented Vessels—Willful violation	13,693
46 U.S.C. 12309(b)	Numbering of Undocumented Vessels	2,739
46 U.S.C. 12507(b)	Vessel Identification System	23,011
46 U.S.C. 14701	Measurement of Vessels	50,154
46 U.S.C. 14702	Measurement; False Statements	50,154
46 U.S.C. 31309	Commercial Instruments and Maritime Liens	23,011
46 U.S.C. 31330(a)(2)	Commercial Instruments and Maritime Liens; Mortgagor	23,011
46 U.S.C. 31330(b)(2)	Commercial Instruments and Maritime Liens; Violation of 31329	57,527
46 U.S.C. 70036(a)	Ports and Waterways Safety Regulations	103,050
46 U.S.C. 70041(d)(1)(B)	Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge	10,360
46 U.S.C. 70041(d)(1)(C)	Vessel Navigation: Regattas or Marine Parades; Owner Onboard Vessel	10,360
46 U.S.C. 70041(d)(1)(D)	Vessel Navigation: Regattas or Marine Parades; Other Persons	5,179

U.S. code citation	Civil monetary penalty description	2022 Adjusted maximum penalty amount ($)
46 U.S.C. 70119(a)	Port Security	38,139
46 U.S.C. 70119(b)	Port Security—Continuing Violations	68,529
46 U.S.C. 70506	Maritime Drug Law Enforcement; Penalties	6,323
49 U.S.C. 5123(a)(1)	Hazardous Materials: Related to Vessels—Maximum Penalty	89,678
49 U.S.C. 5123(a)(2)	Hazardous Materials: Related to Vessels—Penalty from Fatalities, Serious Injuries/Illness or Substantial Damage to Property.	209,249
49 U.S.C. 5123(a)(3)	Hazardous Materials: Related to Vessels—Training	540

[1] Enacted under the Tariff Act of 1930 exempt from inflation adjustments.

Title 49—Transportation

PART 1503—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

■ 15. The authority citation for part 1503 continues to read as follows:

Authority: 6 U.S.C. 1142; 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 114, 20109, 31105, 40113–40114, 40119, 44901–44907, 46101–46107, 46109–46110, 46301, 46305, 46311, 46313–46314; Pub. L. 104–134, as amended by Pub. L. 114–74.

■ 16. In § 1503.401, revise paragraphs (b)(1) and (2) and (c)(1), (2), and (3) to read as follows:

§ 1503.401 Maximum penalty amounts.

* * * * *

(b) * * *

(1) For violations that occurred on or before November 2, 2015, $10,000 per violation, up to a total of $50,000 per civil penalty action, in the case of an individual or small business concern ("small business concern" as defined in section 3 of the Small Business Act (15 U.S.C. 632)). For violations that occurred after November 2, 2015, $12,794 per violation, up to a total of $63,973 per civil penalty action, in the case of an individual or small business concern; and

(2) For violations that occurred on or before November 2, 2015, $10,000 per violation, up to a total of $400,000 per civil penalty

action, in the case of any other person. For violations that occurred after November 2, 2015, $12,794 per violation, up to a total of $511,780 per civil penalty action, in the case of any other person.

(c) * * *

(1) For violations that occurred on or before November 2, 2015, $10,000 per violation, up to a total of $50,000 per civil penalty action, in the case of an individual or small business concern ("small business concern" as defined in section 3 of the Small Business Act (15 U.S.C. 632)). For violations that occurred after November 2, 2015, $14,950 per violation, up to a total of $74,754 per civil penalty action, in the case of an individual (except an airman serving as an airman), or a small business concern.

(2) For violations that occurred on or before November 2, 2015, $10,000 per violation, up to a total of $400,000 per civil penalty action, in the case of any other person (except an airman serving as an airman) not operating an aircraft for the transportation of passengers or property for compensation. For violations that occurred after November 2, 2015, $14,950 per violation, up to a total of $598,026 per civil penalty action, in the case of any other person (except an airman serving as an airman) not operating an aircraft for the transportation of passengers or property for compensation.

(3) For violations that occurred on or before November 2, 2015, $25,000 per violation, up to a total of $400,000 per civil penalty action, in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman). For violations that occurred after November 2, 2015, $37,377 per violation, up to a total of $598,026 per civil penalty action, in the case of a person (except an individual serving as an airman) operating an aircraft for the transportation of passengers or property for compensation.

JONATHAN E. MEYER,
General Counsel,
U.S. Department of Homeland Security.

[Published in the Federal Register, January 11, 2022 (85 FR 01317)]

ARGENTINA BEEF IMPORTS APPROVED FOR THE ELECTRONIC CERTIFICATION SYSTEM (eCERT)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces that the export certification requirement for certain imports of beef from the Argentine Republic (Argentina) subject to a tariff-rate quota will be accomplished through the Electronic Certification System (eCERT). All imports of beef from Argentina that are subject to the tariff-rate quota must have a valid export certificate with a corresponding eCERT transmission at the time of entry, or withdrawal from warehouse, for consumption. The United States Government (USG) has approved the request from Argentina to transition, from the way the USG currently receives export certificates from Argentina, to eCERT as the method of transmission. The transition to eCERT will not change the tariff-rate quota filing process or requirements. Importers will continue to provide the export certificate numbers from Argentina in the same manner as when currently filing entry summaries with U.S. Customs and Border Protection. The format of the export certificate numbers will remain the same for the corresponding eCERT transmissions.

DATES: The use of the eCERT process for certain Argentinian beef importations subject to a tariff-rate quota will be effective for beef entered, or withdrawn from a warehouse, for consumption on or after January 18, 2022.

FOR FURTHER INFORMATION CONTACT: Julia Peterson, Chief, Quota and Agriculture Branch, Trade Policy and Programs, Office of Trade, (202) 384–8905, or *HQQUOTA@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

There is an existing tariff-rate quota on certain beef from the Argentine Republic (Argentina) pursuant to Additional U.S. Note 3 of chapter 2 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff-rate quota for beef from Argentina was established by section 6 of the Presidential Proclamation No. 6763 (December 23, 1994), as a result of the Uruguay Round Agreements, approved by Congress in section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511(a), Pub. L. 103–465, 108 stat. 4814). Tariff-rate quotas permit a specified quantity of merchandise to be entered or withdrawn for consumption at a reduced duty rate during a specified period. Furthermore, section 2012.3 of title 15 of the Code of Federal Regulations (CFR) states that beef may only be entered as a product of an eligible country for a tariff-rate quota if the importer makes a declaration to U.S. Customs and Border Protection (CBP) that a valid export certificate is in effect with respect to the beef. In addition, the CBP regulations, at 19 CFR 132.15, set forth provisions

relating to the requirement that an importer must possess a valid export certificate at the time of entry, or withdrawal from warehouse, for consumption, to claim the in-quota tariff rate of duty on entries of beef subject to the tariff-rate quota.

The Electronic Certification System (eCERT) is a system developed by CBP that uses electronic data transmissions of information normally associated with a required export document, such as a license or certificate, to facilitate the administration of quotas and ensure that the proper restraint levels are charged without being exceeded. Argentina currently submits export certificates to CBP via email, and in the administration of the quota, CBP validates these certificates with the certificate numbers provided by importers on their entry summaries. Argentina requested to participate in the eCERT process to comply with the United States' tariff-rate quota for beef exported from Argentina for importation into the United States. CBP has coordinated with Argentina to implement the eCERT process, and now Argentina is ready to participate in this process by transmitting its export certificates to CBP via eCERT.

Foreign countries participating in eCERT transmit information via a global network service provider, which allows connectivity to CBP's automated electronic system for commercial trade processing, the Automated Commercial Environment (ACE). Specific data elements are transmitted to CBP by the importer of record (or an authorized customs broker) when filing an entry summary with CBP, and those data elements must match eCERT data from the foreign country before an importer may claim any applicable in-quota tariff rate of duty. An importer may claim an in-quota tariff rate when merchandise is entered, or withdrawn from warehouse, for consumption, only if the information transmitted by the importer matches the information transmitted by the foreign government. If there is no transmission by the foreign government upon entry, an importer must claim the higher over-quota tariff rate.[1] An importer may subsequently claim the in-quota tariff rate under certain limited conditions.[2]

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[1] If there is no associated foreign government eCERT transmission available upon entry of the merchandise, an importer may enter the merchandise for consumption subject to the over-quota tariff rate or opt not to enter the merchandise for consumption at that time (*e.g.*, transfer the merchandise to a customs bonded warehouse or foreign trade zone or export or destroy the merchandise).

[2] If an importer enters the merchandise for consumption subject to the over-quota tariff rate and the associated foreign government eCERT transmission becomes available afterwards, an importer may claim the in-quota rate of duty by filing a post summary correction (before liquidation) or a protest under 19 CFR part 174 (after liquidation). In either event, the in-quota rate of duty is allowable only if there are still quota amounts available within the original quota period.

This document announces that Argentina will be implementing the eCERT process for transmitting export certificates for beef entries subject to the tariff-rate quota. Imported merchandise that is entered, or withdrawn from warehouse, for consumption on or after January 18, 2022, must match the eCERT transmission of an export certificate from Argentina in order for an importer to claim the in-quota tariff rate. The transition to eCERT will not change the tariff-rate quota filing process or requirements. Importers will continue to provide the export certificate numbers from Argentina in the same manner as when currently filing entry summaries with CBP. The format of the export certificate numbers will not change as a result of the transition to eCERT. CBP will reject entry summaries that claim an in-quota tariff rate when filed without a valid export certificate in eCERT.

Dated: January 7, 2022.

ANNMARIE R. HIGHSMITH,
Executive Assistant Commissioner,
Office of Trade.

[Published in the Federal Register, January 13, 2022 (85 FR 02172)]

NEW ZEALAND BEEF IMPORTS APPROVED FOR THE ELECTRONIC CERTIFICATION SYSTEM

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces that the export certification requirement for certain imports of beef from New Zealand subject to a tariff-rate quota will be accomplished through the Electronic Certification System (eCERT). All imports of beef from New Zealand that are subject to the tariff-rate quota must have a valid export certificate with a corresponding eCERT transmission at the time of entry, or withdrawal from warehouse, for consumption. The United States Government (USG) has approved the request from New Zealand to transition to eCERT as the method of transmission. The transition to eCERT will not change the tariff-rate quota filing process or requirements. Importers will continue to provide the export certificate numbers from New Zealand in the same manner as when currently filing entry summaries with U.S. Customs and Border Protection. The format of the export certificate numbers will remain the same for the corresponding eCERT transmissions.

DATES: The use of the eCERT process for certain New Zealand beef importations subject to a tariff-rate quota will be effective for beef entered, or withdrawn from a warehouse, for consumption on or after January 18, 2022.

FOR FURTHER INFORMATION CONTACT: Julia Peterson, Chief, Quota and Agriculture Branch, Trade Policy and Programs, Office of Trade, (202) 384–8905, or *HQQUOTA@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

There is an existing tariff-rate quota on certain beef from New Zealand pursuant to Additional U.S. Note 3 of Chapter 2 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff-rate quota for beef from New Zealand was established by section 6 of the Presidential Proclamation No. 6763 (December 23, 1994), as a result of the Uruguay Round Agreements, approved by Congress in section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511(a), Pub. L. 103–465, 108 Stat. 4814). Tariff-rate quotas permit a specified quantity of merchandise to be entered or withdrawn for consumption at a reduced duty rate during a specified period. Furthermore, section 2012.3 of title 15 of the Code of Federal Regulations (CFR) states that beef may only be entered as a product of an eligible country for a tariff-rate quota if the importer makes a declaration to U.S. Customs and Border Protection (CBP) that a valid export certificate is in effect with respect to the beef. In addition, the CBP regulations, at 19 CFR 132.15, set forth provisions relating to the requirement that an importer must possess a valid export certificate at the time of entry, or withdrawal from warehouse, for consumption, to claim the in-quota tariff rate of duty on entries of beef subject to the tariff-rate quota.

The Electronic Certification System (eCERT) is a system developed by CBP that uses electronic data transmissions of information normally associated with a required export document, such as a license or certificate, to facilitate the administration of quotas and ensure that the proper restraint levels are charged without being exceeded. New Zealand requested to participate in the eCERT process to comply with the United States' tariff-rate quota for beef exported from New Zealand for importation into the United States. CBP has coordinated with New Zealand to implement the eCERT process, and now New Zealand is ready to participate in this process by transmitting its export certificates to CBP via eCERT.

Foreign countries participating in eCERT transmit information via a global network service provider, which allows connectivity to CBP's

automated electronic system for commercial trade processing, the Automated Commercial Environment (ACE). Specific data elements are transmitted to CBP by the importer of record (or an authorized customs broker) when filing an entry summary with CBP, and those data elements must match eCERT data from the foreign country before an importer may claim any applicable in-quota tariff rate of duty. An importer may claim an in-quota tariff rate when merchandise is entered, or withdrawn from warehouse, for consumption, only if the information transmitted by the importer matches the information transmitted by the foreign government. If there is no transmission by the foreign government upon entry, an importer must claim the higher over-quota tariff rate.[1] An importer may subsequently claim the in-quota tariff rate under certain limited conditions.[2]

This document announces that New Zealand will be implementing the eCERT process for transmitting export certificates for beef entries subject to the tariff-rate quota. Imported merchandise that is entered, or withdrawn from warehouse, for consumption on or after January 18, 2022, must match the eCERT transmission of an export certificate from New Zealand in order for an importer to claim the in-quota tariff rate. The transition to eCERT will not change the tariff-rate quota filing process or requirements. Importers will continue to provide the export certificate numbers from New Zealand in the same manner as when currently filing entry summaries with CBP. The format of the export certificate numbers will not change as a result of the transition to eCERT. CBP will reject entry summaries that claim an in-quota tariff rate when filed without a valid export certificate in eCERT.

Dated: January 7, 2022.

ANNMARIE R. HIGHSMITH,
Executive Assistant Commissioner,
Office of Trade.

[Published in the Federal Register, January 12, 2022 (85 FR 01771)]

[1] If there is no associated foreign government eCERT transmission available upon entry of the merchandise, an importer may enter the merchandise for consumption subject to the over-quota tariff rate or opt not to enter the merchandise for consumption at that time (*e.g.,* transfer the merchandise to a Customs bonded warehouse or foreign trade zone or export or destroy the merchandise).

[2] If an importer enters the merchandise for consumption subject to the over-quota tariff rate and the associated foreign government eCERT transmission becomes available afterwards, an importer may claim the in-quota rate of duty by filing a post summary correction (before liquidation) or a protest under 19 CFR part 174 (after liquidation). In either event, the in-quota rate of duty is allowable only if there are still quota amounts available within the original quota period.

19 CFR PART 177

REVOCATION OF TWO RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF CERTAIN FOOTWEAR

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of revocation of two ruling letters, and of revocation of treatment relating to the tariff classification of certain footwear.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection ("CBP") is revoking two ruling letters concerning tariff classification of certain footwear under the Harmonized Tariff Schedule of the United States ("HTSUS"). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 53, No. 37, on October 16, 2019. Five comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after March 27, 2022.

FOR FURTHER INFORMATION CONTACT: Tatiana Salnik Matherne, Food, Textiles and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0351.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other

information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 53, No. 37, on October 16, 2019, proposing to revoke two ruling letters pertaining to the tariff classification of certain footwear. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this notice.

In New York Ruling Letter ("NY") N285583, dated June 6, 2017, and NY N299433, dated August 23, 2018, CBP classified certain footwear in heading 6404, HTSUS, specifically in subheading 6404.19.90, HTSUS, which provides for "Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Other: Other: Valued over $12/pair." CBP has reviewed NY N285583 and NY N299433, and has determined these ruling letters to be in error. It is now CBP's position that the footwear at issue in these rulings is properly classified in subheading 6404.11.90, HTSUS, which provides for "Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like: Other: Valued over $12/pair."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N285583 and NY N299433, and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H302976, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated:

For

CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H302976
January 11, 2022
OT:RR:CTF:FTM H302976 TSM
CATEGORY: Classification
TARIFF NO.: 6404.11.90

MR. GREGORY WATTS
SKECHERS USA, INC.
255 S. SEPULVEDA BLVD.
MANHATTAN BEACH, CA 90266

RE: Revocation of NY N285583 and NY N299433; The tariff classification of footwear from China.

DEAR MR. WATTS:

This is in reference to New York Ruling Letter ("NY") N285583, dated June 6, 2017, concerning the tariff classification of certain footwear. This is also in reference to NY N299433, dated August 23, 2018, also concerning the tariff classification of certain footwear. In those rulings, U.S. Customs and Border Protection ("CBP") classified the footwear at issue under subheading 6404.19.90, Harmonized Tariff Schedule of the United States ("HTSUS"), which provides for "Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Other: Other: Valued over $12/pair." Upon additional review, we have found this classification to be incorrect. For the reasons set forth below we hereby revoke NY N285583 and NY N299433.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), a notice was published in the *Customs Bulletin*, Volume 53, No. 37, on October 16, 2019, proposing to revoke NY N285583 and NY N299433, and to revoke any treatment accorded to substantially identical transactions. Five comments opposing the proposed action were received on or before November 15, 2019.

FACTS:

NY N285583 describes the subject merchandise as follows:

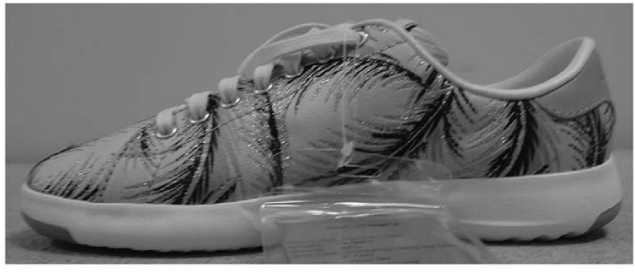
> Style 80523L is a girl's, closed-toe, closed-heel, below-the-ankle shoe. You provided the external surface area breakdown of the upper as 55.16 percent textile and 44.84 percent synthetic (rubber or plastics). The shoe has bungee type elastic laces that are threaded through four textile eyelets. It features a padded collar and a padded tongue with a sewn on textile overlay strip on the topside that extends up to form a pull-on tab containing the word Skechers. The shoe has a heel pull-on tab and a synthetic heel overlay with the word Skechers. Embroidered to the lateral side of the shoe is a butterfly and floral motif. It has a hook and loop strap closure at the top of the instep with a label that has the word Skechers. The outer sole is made from 90 percent rubber and 10 percent ethylene vinyl acetate (EVA). The shoe is lightweight with a flexible outer sole. The value is stated to be over $12/pair.

An image of footwear Style 80523L is displayed below:

NY N299433 describes the subject merchandise as follows:

> GrandPro Tennis Sneaker Stock # W14150, is a woman's closed-toe, closed-heel, and below-the-ankle casual shoe. The upper is made from textile material and leather. The textile material upper is embroidered with gold metallic thread depicting foliage. It features a lace-up closure, a leather patch on the tongue, and a leather heel overlay with the brand name Cole Haan. The shoe has a rubber or plastics outer sole. It is not "protective" and does have a foxing or foxing-like band. The shoe is lightweight with a flexible outer sole.

An image of footwear Style # W14150 is displayed below:



ISSUE:

What is the tariff classification of the footwear at issue?

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRIs"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the

goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

The HTSUS provisions under consideration are as follows:

6404	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials:
	Footwear with outer soles of rubber or plastics:
6404.11	Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like:
	Other:
6404.11.90	Valued over $12/pair
	* * *
6404.19	Other:
	Other:
6404.19.90	Valued over $12/pair
	* * *

Additional U.S. Note 2 to Chapter 64 provides as follows:

> For the purposes of this chapter, the term "tennis shoes, basketball shoes, gym shoes, training shoes and the like" covers athletic footwear other than sports footwear (as defined in subheading note 1 above), whether or not principally used for such athletic games or purposes.[1]

* * *

"Footwear Definitions" T.D. 93–88, dated October 25, 1993, provides in relevant part:

> "Athletic" footwear (sports footwear included in this context) includes:
>
> 1. Shoes usable only in the serious pursuit of a particular sport, which have or have provision for attachment of spikes, cleats, clips or the like.
> 2. Ski, wrestling & boxing boots; cycling shoes; and skating boots w/o skates attached.
> 3. Tennis shoes, basketball shoes, gym shoes (sneakers), training shoes (joggers) and the like whether or not principally used for such games or purposes.
>
> It does not include:
>
> 1. Shoes that resemble sport shoes but clearly could not be used at all in that sporting activity. Examples include sneakers with a sequined or extensively embroidered uppers.

---

[1] Subheading Note 1 to Chapter 64 provides as follows:
For the purposes of subheadings 6402.12, 6402.19, 6403.12, 6403.19 and 6404.11, the expression "sports footwear" applies only to:
(a) Footwear which is designed for a sporting activity and has, or has provision for the attachment of spikes, sprigs, cleats, stops, clips, bars or the like;
(b) Skating boots, ski-boots and cross-country ski footwear, snowboard boots, wrestling boots, boxing boots and cycling shoes.

2. A "slip-on", except gymnastic slippers.
3. Skate boots with ice or roller skates attached.

In NY N285583 and NY N299433, CBP concluded that consistent with the definition of "athletic footwear" in T.D. 93–88, " 'athletic' footwear does not include ... sneakers with a sequined or extensively embroidered upper." Upon additional review, we find that to be incorrect. Although sneakers with a sequined or extensively embroidered uppers are referenced as examples of footwear that is not covered by the T.D. 93–88 definition of "athletic" footwear, we note that the definition also requires the footwear to be such that could clearly not be used at all in a sporting activity. Accordingly, we find that embroidery alone does not preclude footwear from being classified as "Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like" of subheading 6404.11, HTSUS.

Upon further review, we find that the record does not show that the embroidered footwear at issue in NY N285583 and NY N299433 could clearly not be used at all in a sporting activity. Moreover, there is nothing in the construction of the footwear at issue in these rulings that would preclude its use as athletic. We find that the footwear at issue in NY N285583 is suitable for athletic activity based on the following features: it is lightweight and flexible, it has a traction outer sole, an underfoot cushioning, a secure form of closure (consisting of no tie elastic shoelaces and hook and loop strap closure), as well as an overall athletic appearance. With regard to the footwear at issue in NY N299433, we also find that it is suitable for athletic activity based on the following features: it is a sneaker with an overall athletic appearance, it has adequate underfoot cushioning, a secure lace closure, and a flexible rubber/plastic traction outer sole. Therefore, we conclude that although the footwear at issue is embroidered, it meets the T.D. 93–88 definition of "Athletic" footwear. Moreover, it meets the definition of "tennis shoes, basketball shoes, gym shoes, training shoes and the like" found in Additional U.S. Note 2 to Chapter 64, which provides that athletic footwear may or may not be principally used for athletic games or purposes.

Accordingly, we find that the footwear at issue in NY N285583 and NY N299433 is classified in subheading 6404.11, HTSUS, and more specifically in subheading 6404.11.90, HTSUS, which provides for "Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like: Other: Valued over $12/pair."

As noted above, we received five comments opposing the proposed revocation of NY N285583 and NY N299433. Three of the commenters argued that embroidered footwear is not "athletic footwear" pursuant to T.D. 93–88. Specifically, one of the commenters argued that embroidered footwear is excepted by T.D. 93–88 from classification as "athletic footwear." One other commenter claimed that pursuant to T.D. 93–88, extensively embroidered footwear is, by definition, incapable of athletic use. One more commenter further argued that CBP's determination that the shoes at issue "are suitable for athletic activity" because they have flexible outsoles with traction, cushioned insoles and a secure closure, is a definition of athletic footwear that does not exist in the HTSUS or T.D. 93–88.

With regard to the above arguments, we note that T.D. 93–88 provides in relevant part that athletic footwear does not include shoes that resemble sport shoes but clearly could not be used at all in a sporting activity. Ex-

amples include sneakers with a sequined or extensively embroidered uppers. Accordingly, consistent with T.D. 93–88, sneakers with sequined or extensively embroidered uppers cannot be classified as "athletic footwear" only if they are also such that could not be used at all in a sporting activity. As discussed in our decision above, embroidery alone does not preclude footwear from being classified as "Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like" of subheading 6404.11, HTSUS. With regard to the argument concerning the definition of "athletic footwear," we note that both T.D. 93–88 and Additional U.S. Note 2 to Chapter 64, HTSUS, in relevant part define "athletic footwear" as "tennis shoes, basketball shoes, gym shoes, training shoes and the like, whether or not principally used for such athletic games of purposes." As discussed above, T.D. 93–88 further provides that athletic footwear does not include shoes that resemble sport shoes but clearly could not be used at all in a sporting activity. Consistent with this definition, we find that the footwear at issue is akin to "tennis shoes, basketball shoes, gym shoes, training shoes and the like" and is "suitable for athletic activity" because it has features such as flexible outsoles with traction, underfoot cushioning, a secure lace closure, as well as an overall athletic appearance.

In addition to the above, one commenter also argued that the principle of *ejusdem generis* requires anything falling under the general term "or the like," found in the T.D. 93–88 definition of "athletic footwear," to possess the same essential characteristics as the specified enumerated articles. However, according to the commenter, the presence of embroidery suggests that embroidered footwear does not possess the characteristics of athletic footwear. The commenter referenced HQ H265479, dated March 28, 2016, in which CBP concluded that certain shoes were suitable for "fast footwork" since they did not have any external decorations, such as sequins or beads that could otherwise come loose and fall off. The commenter further stated that footwear with extensive embroidery is not suitable for "fast footwork," which is the essential characteristic of all athletic footwear, according to HQ 952228, dated June 7, 1993, and other rulings. Moreover, this commenter argued that extensive embroidery on footwear presents an injury hazard, rendering the shoes unsuitable for use during a sporting activity.

Upon review, we agree with the commenter that the principle of *ejusdem generis* requires that the items falling under the general term "or the like" need to possess the same essential characteristics as the specified enumerated articles. However, as discussed above we find that the footwear at issue falls under the term "or the like" and is "suitable for athletic activity" because it has certain features found in the athletic footwear. We do not find that embroidery negatively impacts these athletic features or presents an injury hazard. While suitability for "fast footwork" is a characteristic of athletic footwear, as CBP determined in HQ 952228, we do not find that footwear with extensive embroidery is not suitable for fast footwork. In this regard, we also note that embroidery is not similar to external decorations such as sequins or beads that could come lose and fall off, presenting an injury hazard. Even if one or more of the threads were to come loose, such threads would remain attached to the footwear and not affect its suitability for fast footwork.

One of the commenters also argued that footwear should not be defined as "athletic footwear" unless it is marketed as such. Specifically, the commenter claimed that the definition of athletic footwear should include factors other than the general appearance and several other characteristics, such as foxing

or lightweight sole. The commenter claimed that footwear marketing should also be taken into account. Similarly, another commenter also noted that embroidered footwear is not marketed as athletic footwear.

In this regard, consistent with discussion above and the definition found in T.D. 93–88 and Additional U.S. Note 2 to Chapter 64, HTSUS, we find that the relevant considerations are whether the footwear at issue has features that would qualify it as "tennis shoes, basketball shoes, gym shoes (sneakers) and the like," and whether it is such that "resemble[s] sport shoes but clearly could not be used at all in [a] sporting activity." Accordingly, we conclude that at issue in this context are footwear characteristics, not the way footwear is marketed.

In addition, several commenters argued that embroidered footwear is not athletic because there are no, or very few, examples of actual use of such footwear as athletic. Specifically, one of the commenters argued that there are almost no examples of actual shoes with athletic qualities being offered for sale in athletic specialty shops, or used in gyms, courts, etc. Further, this commenter claimed that extensively embroidered footwear has never been understood by the trade to have "general athletic appearance," because it is not sought out by or offered to consumers as athletic. Such footwear, the commenter further argued, is produced for casual use and is a type of modern casual footwear, which has some traits similar to athletic footwear, but does not have the technical aspects of modern athletic construction. Similarly, one other commenter argued that embroidered footwear belongs in the category of fashion sneakers, which share some traits with athletic footwear, but are not intended for athletic purposes. The commenter also noted that there are only a few examples of fashion sneakers being used for athletic purposes. One more commenter claimed that since the tariff term "tennis shoes, basketball shoes, gym shoes, training shoes and the like" defines footwear by use, classification as athletic requires suitability for use and some actual use of the footwear in pursuit of an athletic activity. According to this commenter, suitability for use means actually, practically and commercially fit for such use, with the mere possibility for use being insufficient.

Further, one commenter also argued that while any type of footwear could theoretically be capable of athletic use, such use would clearly be fugitive. According to this commenter, even footwear that could clearly be used for athletic purposes, if such use is out of the norm, is not "athletic footwear" for tariff classification purposes, especially if there is an overwhelming amount of purely decorative fun and fashion features. Another commenter also argued that while Additional U.S. Note 2 states that athletic footwear is classifiable as such "whether or not principally used for such athletic games or purposes," that does not mean that a fugitive use would be determinative, and just because a shoe theoretically could be used as athletic footwear because of the presence of flexible outer soles and other features, extensive embroidery precludes its classification as athletic footwear.

With regard to the above comments, we disagree. In this regard, we note that to qualify under Additional U.S. Note 2 and T.D. 93–88 as "athletic footwear," evidence of actual use is not necessary. Contrary to the above arguments, we find that the relevant considerations are whether the footwear at issue has features that would qualify it as "tennis shoes, basketball shoes, gym shoes (sneakers) and the like," and whether it could be used for athletic activity, even if such use is not principal. Only embroidered footwear that "could not be used at all in [a] sporting activity" would not qualify as

"athletic footwear" under U.S. Note 2 and T.D. 93–88. As discussed above, we also disagree that embroidery alone precludes footwear from being classified as "athletic footwear."

HOLDING:

By application of GRIs 1 and 6, we find that the footwear at issue in NY N285583 and NY N299433 is classified under heading 6404, HTSUS, and specifically under subheading 6404.11.90, HTSUS, which provides for "Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like: Other: Valued over $12/pair." The 2021 column one, general rate of duty is 20% *ad valorem.*

EFFECT ON OTHER RULINGS:

NY N285583, dated June 6, 2017, and NY N299433, dated August 23, 2018, are REVOKED, in accordance with the above analysis.

In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

Sincerely,

For

CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division

PROPOSED MODIFICATION OF A RULING LETTER AND PROPOSED MODIFICATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF A SILICONE PART

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of proposed modification of one ruling letter and proposed modification of treatment relating to the tariff classification of a silicone part.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to modify a ruling letter concerning the tariff classification of a silicone part under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment

previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before February 25, 2022.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Erin Frey, Commercial and Trade Facilitation Division, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Due to the COVID-19 pandemic, CBP is also allowing commenters to submit electronic comments to the following email address: 1625Comments@cbp.dhs.gov. All comments should reference the title of the proposed notice at issue and the *Customs Bulletin* volume, number and date of publication. Due to the relevant COVID-19-related restrictions, CBP has limited its on-site public inspection of public comments to 1625 notices. Arrangements to inspect submitted comments should be made in advance by calling Ms. Erin Frey at (202) 325–1757.

FOR FURTHER INFORMATION CONTACT: Nataline Viray-Fung, Electronics, Machinery, Automotive, and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at nataline.viray-fung@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to modify a ruling letter pertaining to the tariff classification of a certain silicone part. Although in this notice, CBP is specifically referring to Headquarters Ruling Letter ("HQ") 55809, dated November 10, 1994 (Attachment A), this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable

efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this comment period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In HQ 55809, CBP stated that all components of an Aerochamber device are classified in subheading 9019.20, HTSUS, which provides for "Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof." CBP has reviewed HQ 55809 and has determined the ruling letter to be in error. It is now CBP's position that one component of the Aerochamber, a silicone flap, is properly classified, in heading 3926, HTSUS, specifically in subheading 3926.90.99, HTSUS, which provides for "Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to modify HQ 55809 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter H314649, set forth as Attachment B to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

Before taking this action, consideration will be given to any written comments timely received.

Dated:

GREGORY CONNOR
for
CRAIG C. CLARK,
Director
Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

HQ 558009
November 10, 1994
MAR-2–05 CO:R:C:S 558009 WAS
CATEGORY: Marking

BRIAN J. O'SHEA, ESQ.
MCKENNA & CUNEO
1575 EYE STREET, N.W.
WASHINGTON, D.C. 20005

RE: NAFTA country of origin marking of Aerochamber aerosol therapy device; Article 509; Annex 311; 19 CFR 134.34; 19 CFR 134.46

DEAR MR. O'SHEA:

This is in reference to your letter dated July 14, 1994, on behalf of Monaghan Medical Corporation, concerning the country of origin marking of a certain aerosol therapy device under the North American Free Trade Agreement ("NAFTA"). You have enclosed samples of the Aerochamber with FLOWSIGnal, the Aerochamber with Mask and a container with your ruling request for our review.

FACTS:

You state that the subject merchandise consists of parts and components for an aerosol therapy device which is marketed under the trademark "Aerochamber." According to your submission, the Aerochamber is an FDA-approved medical device that is used with a metered dose inhaler ("MDI") to deliver aerosol medication. It was designed to simplify delivery of medication to patients suffering from asthma who are unable to properly coordinate an MDI (due to age or ill-health), to reduce undesirable side effects that result from use of a MDI alone in the delivery of medication, such as oral candidiasis, and to enhance the therapeutic value of the medication.

The device is described as a temporary holding chamber for MDI-dispersed medication. You state that the basic model ("Aerochamber with FLOWSIGnal") is in the shape of a tube measuring approximately 4 1/2 inches in length and 1 1/2 inches in diameter. At one end of the holding chamber is a plastic mouthpiece containing a one-way silicone inhalation "flapper" valve and exhalation ports. At the other end of the device is a rubber end cap with a port into which a standard MDI may be inserted. Imbedded in the rim of the end cap is what you refer to as a FLOWSIGnal, a plastic whistle-like device, which sounds if the patient fails to inhale at a slow and even pace. You state that, except for the silicone flapper valve, the Aerochamber is made entirely of plastic.

You submit that a second model Aerochamber, which is referred to as Aerochamber with Mask, is nearly identical to the basic model, but is fitted with a permanently-attached silicone mask. This model is particularly designed for infants and the infirm who may not have the strength or ability to hold the device and coordinate inhalation and delivery of the medication.

You state that Monaghan Medical does not import finished Aerochambers. Rather, the company imports the component parts of the device, which it then assembles, tests, and packages at its facility in Plattsburgh, New York. All of the imported components are of Canadian origin.

You submit that in Headquarters Ruling Letter (HRL) 089937 dated November 18, 1991, Customs classified the Aerochamber under subheading 9019.20.00, HTSUS, which provides for "Ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof."

The Aerochamber with FLOWSIGnal consists of the following six components: mouthpiece cap, mouthpiece, die-cut silicon diaphragm valve, aerochamber body, thermoplastic MDI-end, and polycarbonate reed whistle. All of the components of the Aerochamber with FLOWSIGnal are classified in subheading 9019.20.00, HTSUS. The Aerochamber with Mask consists of the following seven components: die-cut silicon diaphragm valve, aerochamber body, thermoplastic MDI-end, polycarbonate reed whistle, silicon mask, mask adaptor, and mask lock ring. All of the components of the Aerochamber with Mask are classified in subheading 9019.20.00, HTSUS.

You state that the assembly of the Aerochamber with FLOWSIGnal is a multi-stage process in which approximately 40 employees are directly involved, not including quality control and parts handling employees. You have described the assembly of the Aerochamber with FLOWSIGnal as follows:

1. The Aerochamber body is silk-screened with instructions for use, Monaghan Medical's name, and address, and an origin designation.
2. In a subassembly, the polycarbonate reed whistle is fitted into MDI-end cap by means of a mechanical press.
3. The Aerochamber body is inspected for physical and silk-screen defects.
4. The diaphragm valve is placed on posts extending from Aerochamber body. The valve is then visually inspected to ensure precision of fit on body; stretched valves are rejected.
5. The mouthpiece of the device is installed on the Aerochamber body, over the diaphragm valve, after ensuring that it is properly aligned with silk-screening on the body. The locking tabs of the mouthpiece are permanently snapped into place on the body with a mechanical press.
6. The mouthpiece is then inspected for proper fit, and checked for loose flash at the locking tabs. This mouthpiece/valve/body subassembly is then placed on conveyor for lot coding.
7. The mouthpiece/valve/body subassembly is printed with lot code by an ink jet printer.
8. The body is checked for loose flash at locking tabs. If any flashing is found, the body is set aside for deflashing procedure, in which flash is removed by exacto knife or equivalent tool, and then returned to the assembly line.
9. The mouthpiece/valve/body subassembly is vacuumed inside and out of both ends to remove all foreign material.
10. The MDI-end/whistle subassembly is aligned and joined to the mouthpiece/valve/body subassembly. This is done by stretching the "rubberized" end over the open end of Aerochamber body.
11. The protective mouthpiece cap is then slipped onto the MDI-end.
12. The assembled Aerochamber is visually inspected and packaged for delivery.

You state that the assembly of the Aerochamber with Mask generally follows the same above-listed steps. However, a mouthpiece is not used with this model (step 6), and certain of the smaller models of Aerochamber with Mask do not have a whistle installed in the MDI-end of the device (step 2). Instead, the Aerochamber with Mask models require attachment of a mask-subassembly and mask to the Aerochamber body. This subassembly consists of a lock ring and mask adaptor, which are permanently attached to each other by means of a mechanical press. The mask-subassembly is then permanently snapped, also by means of a mechanical press and locking tabs, to the Aerochamber body. The base of the rubberized silicon mask is then stretched to fit over the mask-adaptor end of the device.

You state that Monaghan Medical packages the finished Aerochambers for delivery to hospitals in the U.S. According to the information provided, each individual Aerochamber is packaged in a plastic pouch that is marked with Monaghan Medical's name and address, in compliance with FDA regulations. You submit that Monaghan Medical than packages the pouched Aerochambers in quantities of either 10 or 50 in a cardboard box, which is sealed for delivery to hospitals. The box is marked with the product name, Monaghan Medical's name and address and, on the same side and directly below Monaghan Medical's name and address, a country of origin statement.

You submit that Monaghan Medical's sales of the Aerochamber are made to hospitals through medical supply distributors to hospitals in the U.S. According to your submission, the distributors deliver the product to hospitals in Monaghan Medical's packaging; none of the distributors repackage the Aerochambers sold to hospitals.

You claim that the imported Aerochamber parts and their containers are excepted from country of origin marking because Monaghan Medical, the importer, is the ultimate purchaser and will "reasonably know" the origin of the imported articles. Alternatively, you argue that the Aerochamber is excepted from individual marking because it will be delivered to ultimate purchasers in the U.S. — the hospitals — in properly marked containers.

ISSUE:

What are the country of origin marking requirements applicable to the imported Aerochamber parts?

LAW AND ANALYSIS:

The marking statute, section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the country of origin of the article. Part 134, Customs Regulations (19 CFR Part 134) implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304.

The country of origin marking requirements for a "good of a NAFTA country" are also determined in accordance with Annex 311 of the North American Free Trade Agreement ("NAFTA"), as implemented by section 207 of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (December 8, 1993) and the interim amendments to the Customs Regulations published as T.D. 94–4 (59 Fed. Reg. 109, January 3, 1994) with corrections (59 Fed. Reg. 5082, February 3, 1994) and T.D. 94–1

(59 Fed. Reg. 69460, December 30, 1993). These interim amendments took effect on January 1, 1994, to coincide with the effective date of the NAFTA. The Marking Rules used for determining whether a good is a good of a NAFTA country are contained in T.D. 94–4 (adding a new Part 102, Customs Regulations). The marking requirements for these goods are set forth in T.D. 94–1 (interim amendments to various provisions of Part 134, Customs Regulations).

Section 134.45(a)(2) of the interim regulations, provides that "a good of a NAFTA country may be marked with the name of the country of origin in English, French, or Spanish. Section 134.1(g) of the interim regulations, defines a "good of a NAFTA country" as an article for which the country of origin is Canada, Mexico or the United States as determined under the NAFTA Marking Rules.

The interim NAFTA regulations provide an exception from marking for a good of a NAFTA country which is to be processed in the U.S. in a manner that would result in the good becoming a good of the U.S. under the NAFTA Marking Rules. See 19 CFR 134.35(b). The outermost container of an article which qualifies for this exception must be marked with the article's origin, unless the good is processed by the importer or on its behalf. For purposes of this ruling, we are assuming that the component parts of the Aerochambers imported from Canada are goods of Canada under the NAFTA Marking Rules.

Part 102 of the interim regulations, sets forth the "NAFTA Marking Rules" for purposes of determining whether a good is a good of a NAFTA country for marking purposes. Section 102.11 of the interim regulations, sets forth the required hierarchy for determining country of origin for marking purposes. Section 102.11(a) of the interim regulations states that "[t]he country of origin of a good is the country in which:

1. The good is wholly obtained or produced;
2. The good is produced exclusively from domestic materials; or
3. Each foreign material incorporated in that good undergoes an applicable change in tariff classification set out in section 102.20 and satisfies any other applicable requirements of that section, and all other requirements of these rules are satisfied.

Neither section 102.11(a)(1) or (2) are applicable to the facts at issue in this case. Pursuant to section 102.11(a)(3), the country of origin of a good is the country in which each foreign material incorporated in that good undergoes an applicable change in tariff classification set out in section 102.20. Section 102.20 of the interim rules, sets forth the specific tariff classification changes and/or other operations, which are specifically required in order for country of origin to be determined on the basis of operations performed on the foreign materials contained in a good. In the instant case, as the Aerochamber devices are classified in 9019.20.00, HTSUS, the change in tariff classification must be made in accordance with section 102.20(r), Section XVIII: Chapters 90 through 92, subheading 9019.20, HTSUS, of the interim regulations, which states in part that:

> A change to subheading 9019.10 through 9019.20 from any other subheading, including another subheading within that group.

Therefore, each imported Canadian material incorporated in the Aerochamber device must come from a different subheading than 9019.20, HTSUS. In the instant case, all of the imported components are classified in

subheading 9019.20, HTSUS, which is the same subheading as the finished good. Thus, a change in tariff classification does not occur.

However, section 102.16(a)(2) of the interim regulations states that "[i]f a good is produced in one country but one or more of the foreign materials incorporated into the good do not undergo an applicable change in tariff classification provided in section 102.20 because:

> (2) The heading for the good provides for both the good itself and its parts and is not further subdivided into subheadings, or the subheading for the good provides for both the good itself and its parts, the country of origin of a good is the country in which the good was produced provided that the production of the good results in a substantial transformation of those parts.

"Production" is defined in section 102.1(n) of the interim regulations as "growing, mining, harvesting, fishing, trapping, hunting, manufacturing, processing or assembling a good." "Substantial transformation" is defined in section 102.1(p) of the interim regulations as "production which results in a new and different article, with a new name, character, and use."

In determining whether the combining of parts or materials constitutes a substantial transformation, the issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. Belcrest Linen v. United States, 6 CIT 204, 573 F. Supp. 1149 (1983), aff'd, 2 Fed. Cir. 105, 741 F.2d 1368 (1984). Assembly operations which are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. See C.S.D.'s 80–111, 89–110, 89–129, 90–51; see also C.S.D. 85–25, which held that the process of incorporating a significant number of component parts onto a printed circuit board subassembly constituted a processing sufficiently complex to result in the subassembly being considered a substantially transformed constituent material of the final article for purposes of the Generalized System of Preferences (GSP). The focus of C.S.D. 85–25 was a PCBA which was produced by assembling in excess of 50 discrete fabricated components (e.g., resistors, capacitors, diodes, transistors, integrated circuits, sockets, and connectors) onto a printed circuit board. Customs determined that the assembly of the PCBA involved a large number of components and a significant number of different operations, required a relatively significant period of time as well as skill, attention to detail, and quality control, and resulted in significant economic benefit to the GSP country from the standpoint of both value added to the PCBA and the overall employment generated thereby. In addition, Customs found in this case that the PCBA represented a distinct article, different from both the components from which it was made and the matrix printer into which it was incorporated and, therefore, the assembled PCBA constituted a substantially transformed intermediate article within the meaning of 19 CFR 10.177(a).

In the present case, based on the above-referenced C.S.D.'s, we are of the opinion that joining the six components of the Aerochamber with FLOWSIGnal (mouthpiece, silicon valve, body, MDI-end, reed whistle, and mouthpiece cap) and the eight components of the Aerochamber with Mask (mouthpiece, silicon valve, body, MDI-end, reed whistle, silicon mask, mask adaptor, and mask lock ring) by means of a mechanical press or slipping or stretching a component or subassembly over another component or subassembly does not constitute a complex and meaningful operation, and therefore, does not result in a substantial transformation. The final assembly does not appear to sig-

nificantly affect the character of the Aerochamber body or any of the other components so as to cause the components to lose their separate identities.

Therefore, it is our determination that the Aerochamber devices do not become goods of the U.S. pursuant to section102.16(a)(2).

Since the country of origin is not determined by section102.11(a) (incorporating section 102.20) of the interim regulations, the next step in the country of origin interim regulations hierarchy is section 102.11(b). Section 102.11(b) of the interim regulations states as follows:

Except for a good that is specifically described in the Harmonized Tariff Schedule as a set, or is classified as a set pursuant to General Rule of Interpretation 2, where the country of origin cannot be determined under paragraph (a), the country of origin of the good:

> (1) Is the country or countries of origin of the single material that imparts the essential character of the good. . .

"Material" is defined in section 102.1(1) of the interim regulations as "a good that is incorporated into another good as a result of production with respect to that other good, and includes parts, ingredients, subassemblies, and components."

Pursuant to section 102.18(b)(2), "for purposes of applying section 102.11, only domestic and foreign materials (including self-produced materials) that are classified in a tariff provision from which a change in tariff classification is not allowed in the rule for the good set out in section 102.20 shall be taken into consideration in determining the parts or materials that determine the essential character of the good."

Therefore, taking into account only those domestic and foreign materials that are classified in a tariff provision for which a change in tariff classification is not allowed in the rule for the good under section 102.20, we are of the opinion that no single material of either the Aerochamber with Mask or the Aerochamber with FLOWSIGnal imparts the essential character of the good. Each of the components of the Aerochamber devices plays an important role in the operation of the devices. Moreover, there is no single component of the Aerochamber devices which can be said to constitute the essential character on the basis of either the bulk, quantity, weight, or value of the material in relation to the other components. Therefore, it is our opinion that, as no single component of the Aerochamber devices imparts the essential character of the good, the country of origin of these devices cannot be determined on the basis of section 102.11(b).

As the medical devices are not specifically described in the Harmonized System as a set or mixture, or classified as a set, mixture or composite good pursuant to General Rule of Interpretation 3, section 102.11(c), is not applicable.

Therefore, the next step in the country of origin interim regulations hierarchy is section 102.11(d). Pursuant to section 102.11(d):

> Where the country of origin of a good cannot be determined under paragraphs (a) through (c), the country of origin of the good is:
>
> 1. The last country in which the good underwent production, other than by simple assembly or minor processing.

"Simple assembly" is defined in section 102.1(o) as "the fitting together of five or fewer parts all of which are foreign (excluding fasteners such as screws, bolts, etc.) by bolting, gluing, soldering, sewing or by other means without more than minor processing. "Minor processing" is defined in section102.1(m)

as including, in part, the mere dilution with water or another substance, cleaning, application of preservative or decorative coatings, trimming, filing, or cutting off of small amounts of excess materials, unloading, reloading, putting up in measured doses, packing, repacking, testing, marking, sorting, or grading, ornamental or finishing operations incidental to textile good production.

The assembly of the Aerochamber with Mask and Aerochamber with FLOWSIGnal devices does not constitute a "simple assembly" operation as defined in section 102.1(o) above. The Aerochamber with Mask consists of seven foreign components and the Aerochamber with FLOWSIGnal consists of six foreign components. These devices are assembled by means of snapping components together with a mechanical press and stretching rubberized components to fit together which is more than a minor processing operation. Therefore, as the Aerochamber devices undergo a final assembly operation in the U.S., the country of origin of these devices is the U.S., pursuant to section 102.11(d). Accordingly, these products are excepted from country of origin marking pursuant to section 134.35(b), and the outermost containers of the good need not be marked with the country of origin of the parts as the good is processed by the importer in the U.S.

In the alternative, you argue that the finished medical devices that Monaghan Medical sells in the U.S. are eligible for a container-marking exception under 19 CFR 134.34. You claim that the Aerochamber parts imported by Monaghan Medical, which will be assembled and repacked after importation into sealed containers that will be delivered to hospitals in the U.S. are eligible for this exception from marking. You also state that the sealed containers into which the articles will be repacked will be clearly and conspicuously marked "Assembled in the USA of Canadian Components." As we have already determined that the medical devices as well as the outermost containers of the devices are excepted from marking, this issue will not be addressed.

HOLDING:

Based on the information and samples submitted, we are of the opinion that Aerochamber devices become goods of the U.S. pursuant to section 102.11(d), and therefore, the goods are excepted from marking pursuant to section 134.35(b), and as the good is processed by the importer, the outermost container of the good is also excepted from marking under this provision.

Sincerely,

JOHN DURANT,
Director
Commercial Rulings Division

ATTACHMENT B

HQ H312164
CLA-2 OT:RR:CTF:EMAIN H312164 NVF
CATEGORY: Classification
TARIFF NO.: 3926.90.99

BRIAN J. O'SHEA, ESQ.
MCKENNA & CUNEO
1575 EYE STREET, N.W.
WASHINGTON, D.C. 20005

RE: Modification of HQ 558009; Silicone part

DEAR MR. O'SHEA:

This ruling is in reference to Headquarters Ruling Letter ("HQ") 558009, dated November 10, 1994, regarding the country of origin marking of an Aerochamber device under the North American Free Trade Agreement ("NAFTA"). In HQ 558009, U.S. Customs and Border Protection ("CBP") classified the component parts of the Aerochamber under subheading 9019.20, HTSUS which provides for, "Mechano-therapy appliance; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof: Ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof."

We have since reviewed HQ 558009 and determined that the portion of the ruling pertaining to the classification of the silicone valve is in error. Therefore, CBP is modifying HQ 558009 according to the analysis set forth below.

FACTS:

In HQ 558009, the Aerochamber is described as:

> {A}n aerosol therapy device which is marketed under the trademark "Aerochamber. According to your submission, the Aerochamber is an FDA-approved medical device that is used with a metered dose inhaler ("MDI") to deliver aerosol medication. It was designed to simplify delivery of medication to patients suffering from asthma who are unable to properly coordinate an MDI (due to age or ill-health), to reduce undesirable side effects that result from use of a MDI alone in the delivery of medication, such as oral candidiasis, and to enhance the therapeutic value of the medication.
>
> The device is described as a temporary holding chamber for MDI-dispersed medication . . . . {T}he basic model ("Aerochamber with FLOWSIGnal") is in the shape of a tube measuring approximately 4 1/2 inches in length and 1 1/2 inches in diameter. At one end of the holding chamber is a plastic mouthpiece containing a one-way silicone inhalation "flapper" valve and exhalation ports. At the other end of the device is a rubber end cap with a port into which a standard MDI may be inserted. Imbedded in the rim of the end cap is what you refer to as a FLOWSIGnal, a plastic whistle-like device, which sounds if the patient fails to inhale at a slow and even pace . . . . {E}xcept for the silicone flapper valve, the Aerochamber is made entirely of plastic.

> {A} second model Aerochamber, which is referred to as Aerochamber with Mask, is nearly identical to the basic model, but is fitted with a permanently-attached silicone mask. This model is particularly designed for infants and the infirm who may not have the strength or ability to hold the device and coordinate inhalation and delivery of the medication.
>
> The Aerochamber with FLOWSIGnal consists of the following six components: mouthpiece cap, mouthpiece, die-cut silicon diaphragm valve, aerochamber body, thermoplastic MDI-end, and polycarbonate reed whistle . . . . The Aerochamber with Mask consists of the following seven components: die-cut silicon diaphragm valve, aerochamber body, thermoplastic MDI-end, polycarbonate reed whistle, silicon mask, mask adaptor, and mask lock ring.

In HQ 558009, CBP stated without explanation that all the component parts of the Aerochamber are classified under subheading 9019.20, HTSUS which provides for, "Mechano-therapy appliance; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof: Ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof."

CBP next determined the NAFTA country of origin marking of two models of Aerochamber and found that, pursuant to Section 102.11 of the interim NAFTA regulations, the Aerochamber devices became goods of the U.S. and were excepted from marking pursuant to Section 134.35(b) and because the goods were processed by the importer, the outermost container of the goods were also excepted from marking.

ISSUE:

Whether the silicone valve is classified as an other article of plastic of heading 3926, HTSUS, or as a part of heading 9019, HTSUS.

LAW AND ANALYSIS:

Merchandise imported into the United States is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation ("GRIs") and, in the absence of special language or context which requires otherwise, by the Additional U.S. Rules of Interpretation. The GRIs and the Additional U.S. Rules of Interpretation are part of the HTSUS and are to be considered statutory provisions of law for all classification purposes.

GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any relevant section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the heading and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

The HTSUS provisions under consideration in this case are as follows:

3926 Other articles of plastics and articles of other materials of headings 3901 to 3914.

9019 Mechano-therapy appliance; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof.

Note 2(u) to Chapter 39 states that Chapter 39 does not cover articles of chapter 90. Therefore we must first determine whether the silicone valve is classified under heading 9019, HTSUS, which provides for, "Mechano-therapy appliance; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof."[1]

The term "part" is not defined in the HTSUS. In the absence of a statutory definition, the courts have fashioned two distinct but reconcilable tests for determining whether a particular item qualifies as a part for tariff classification purposes. *See Bauerhin Technologies Limited Partnership, & John V. Carr & Son, Inc. v. United States*, 110 F.3d 774 (Fed. Cir. 1997). Under the first test, articulated in *United States v. Willoughby Camera Stores*, 21 C.C.P.A. 322 (1933), an imported item qualifies as a part only if can be described as an "integral, constituent, or component part, without which the article to which it is to be joined, could not function as such article." *Bauerhin*, 110 F.3d at 779. Pursuant to the second test, set forth in *United States v. Pompeo*, 43 C.C.P.A. 9 (1955), a good is a "part" if it is "dedicated solely for use" with a particular article and, "when applied to that use...meets the Willoughby test." *Bauerhin*, 110 F.3d at 779 (citing *Pompeo*, 43 C.C.P.A. at 14); *Ludvig Svensson, Inc. v. United States*, 63 F. Supp. 2d 1171, 1178 (Ct. Int'l Trade 1999) (holding that a purported part must satisfy both the *Willoughby* and *Pompeo* tests). An item is not a part if it is "a separate and distinct commercial entity." *Bauerhin*, 110 F.3d at. 779.

The term "accessory" is not defined in the HTSUS or in the Harmonized Commodity Description and Coding Explanatory Notes (ENs). However, this office has previously stated that the term "accessory" is generally understood to mean an article which is not necessary to enable the goods with which they are intended to function. They are of secondary importance, but must, however, contribute to the effectiveness of the principal article (*e.g.,* facilitate the use or handling of the particular article, widen the range of its uses, or improve its operation). See HQ 958710 (Apr 8, 1996); HQ 950166 (Nov. 8, 1991). We also employ the common and commercial meanings of the term "accessory," as the courts did in *Rollerblade v. United States*, wherein the Court of International Trade derived from various dictionaries that an accessory must relate directly to the thing accessorized. *See Rollerblade, Inc. v. United States*, 116 F.Supp. 2d 1247 (Ct. Int'l Trade 2000), *aff'd*, 282 F.3d 1349 (Fed. Cir. 2002) (holding that inline roller-skating protective gear is not an accessory because the protective gear does not directly act on or contact the roller skates in any way); *see also* HQ 966216 (May 27, 2003), HQ H061738 (May 5, 2010).

Before we can classify the silicone valve, we must first determine the proper classification of the Aerochamber. As stated above and in HQ 558009, the Aerochamber is used with an MDI (a portable metered dose inhaler,

[1] We note that even though we refer to the silicone part at issue as a "valve," it is not a valve of heading 8481. The silicone part is a simple flap. By virtue of its placement onto the chamber, it impacts the flow of air from the chamber, but it is itself not a valve in its condition as imported.

typically used by asthma sufferers) that delivers medication. The Aerochamber cannot be used on its own to provide any sort of aerosol therapy or relief to a patient, therefore it is not an aerosol therapy device of heading 9019, HTSUS. Rather, the MDI, which administers medication, is the aerosol therapy device because it aerosolizes and releases a set amount of medicine.

The Aerochamber is an accessory of an MDI. It is a separate commercial entity that facilitates the use of an MDI by providing a chamber that holds the dispensed medication and allows the user to inhale the medication at his or her own pace. Thus, the Aerochamber improves and enhances the use of the MDI, particularly for young users or those who otherwise may have difficulty using an MDI. The Aerochamber is not an MDI part because an MDI does not need an Aerochamber in order to aerosolize and deliver medication. An MDI can be used effectively, with the proper technique by a patient, without an Aerochamber. Because the Aerochamber is an accessory to a good of heading 9019, HTSUS, it is classified as an accessory under subheading 9019.20.00, HTSUS which provides for "Mechano-therapy appliance; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof."

We observe that heading 9019, HTSUS, does not provide for parts of accessories. Furthermore, we must consider *Mitsubishi Electronics America v. United States*, 19 CIT 378, 383 n.3 (1995), in which the Court of International Trade stated that:

> The Court notes that if the subject merchandise is not a clutch, but rather a part of a starter motor, then it cannot be classified as part of an automobile, even though it is used solely in automobiles. This is because a subpart of a particular part of an article is more specifically provided for as a part of the part than as a part of the whole. *C.F. Liebert v. United States*, 60 Cust. Ct. 677, 686–87, 287 F. Supp. 1008, 1014 (1968) (holding that parts of clutches which are parts of winches are more specifically provided for as parts of clutches than as parts of winches).

Therefore, regardless of whether the instant valve is considered a part of the Aerochamber, it cannot be classified under heading 9019, HTSUS. The legal text of the heading does not provide for parts of accessories and *Mitsubishi* bars the valve from being classified as a part of an MDI. Because no other heading provides for the silicone article (referred to as a "valve"), it therefore is classified by constituent material as an other article of plastic of heading 3926, HTSUS.

In light of the foregoing, we conclude that the silicone valve is classified under heading 3926, HTSUS as an other article of plastic. Our analysis in HQ 558009 pertaining to NAFTA country of origin marking requirements remains the same.

HOLDING:

By application of GRIs 1 and 6, the silicone valve is classified in heading 3926, HTSUS specifically subheading 3926.90.99, HTSUS, which provides for, "Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other." The general, column one rate of duty for goods of subheading 3926.90.99, HTSUS, is 5.3% *ad valorem*.

Duty rates are provided for your convenience and subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at www.usitc.gov/tata/hts/.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

Sincerely,

CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division

19 CFR PART 177

MODIFICATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF CONTROLLABLE SHADING SYSTEM

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of modification of one ruling letter and of revocation of treatment relating to the tariff classification of controllable shading system.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is modifying one ruling letter concerning tariff classification of a controllable shading system under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 54, No. 38, on September 30, 2020. One comment was received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after March 27, 2022.

FOR FURTHER INFORMATION CONTACT: Parisa J. Ghazi, Food, Textiles and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0272.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 54, No. 38, on September 30, 2020, proposing to modify one ruling letter pertaining to the tariff classification of a controllable shading system. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this notice.

In New York Ruling Letter ("NY") N010048, dated May 3, 2007, CBP classified a controllable shading system in heading 8479, HTSUS, which provides for "Machines and mechanical appliances having individual functions, not specified or included elsewhere in this chapter; parts thereof." CBP has reviewed NY N010048 and has determined the ruling letter to be in error. It is now CBP's position that the controllable shading system is properly classified, in heading 6303, HTSUS, which provides for "Curtains (including drapes) and interior blinds; curtain or bed valances."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is modifying NY N010048 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter

("HQ") H312768, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated:

For

CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H312768
January 11, 2022
OT:RR:CTF:FTM H312768 PJG
CATEGORY: Classification
TARIFF NO.: 6303

MR. MICHAEL E. MURPHY
BAKER & MCKENZIE LLP
815 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20006

RE: Modification of NY N010048; tariff classification of controllable shading system

DEAR MR. MURPHY:

This is in reference to New York Ruling Letter ("NY") N010048 that U.S. Customs and Border Protection ("CBP") issued to you on May 3, 2007, pursuant to your request for a binding ruling on behalf of Lutron Electronics Co., Inc. The ruling pertains to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated ("HTSUSA") of a controllable shading system and a controllable drapery track system used for commercial and residential applications that were both classified in heading 8479, HTSUS. We have reviewed NY N010048 and determined it to be in error only with respect to the classification of the controllable shading system. The controllable drapery track system did not include the drapes at the time of importation and remains classified under heading 8479, HTSUS. Accordingly, NY N010048 is modified.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. No. 103–182, 107 Stat. 2057, 2186 (1993), notice of the proposed action was published on September 30, 2020, in Volume 54, Number 38, of the *Customs Bulletin*. CBP received one comment on October 30, 2020, in opposition to the proposed action.

FACTS:

In NY N010048, CBP described the controllable shading system as follows:

> The controllable shading ...system[] [is] used for commercial and residential applications. The system[] aid[s] in reducing glare, protecting furnishings from U/V damage and maximizing HVAC efficiency. The settings ...are electronically programmable so that window treatments can be programmed to stop at present positions. The system[] can also be equipped to receive infrared control signals and may be controlled by hand-held remotes in addition to the keypad controls....The complete controllable shading systems consist of fabric shades, hem bars, one (or more) quiet electronic drive units ("QEDs"), roller tubes, roller bulk idlers, brackets and associated hardware.

CBP classified the merchandise under heading 8479, HTSUS, and specifically in subheading 8479.89.9897, HTSUSA, which in May 2007 provided for "Machines and mechanical appliances having individual functions, not speci-

fied or included elsewhere in this chapter; parts thereof: Other machines and mechanical appliances: Other: Other: Other."[1]

ISSUE:

What is the proper tariff classification under the HTSUS for the controllable shading system?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States ("HTSUS") is made in accordance with the General Rules of Interpretation ("GRI"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The HTSUS provisions under consideration are as follows:

8479 Machines and mechanical appliances having individual functions, not specified or included elsewhere in this chapter; parts thereof:

6303 Curtains (including drapes) and interior blinds; curtain or bed valances:

GRI 3(a) and (b) provide as follows:

> When, by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:
>
> (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.
>
> (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

The Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") constitute the "official interpretation of the Harmonized System" at the international level. *See* 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989). While neither legally binding nor dispositive, the ENs "provide a commentary on the scope of each heading" of the HTSUS and are "generally indicative of [the] proper interpretation" of these headings. *See id.*

The EN to GRI 3(b) states, in pertinent part:

> (VI) This second method relates only to :

[1] Subheading 8479.89.9897, HTSUSA, does not exist in the 2021 HTSUSA.

(i) Mixtures.

(ii) Composite goods consisting of different materials.

(iii) Composite goods consisting of different components.

(iv) Goods put up in sets for retail sales.

It applies only if Rule 3 (a) fails.

(VII) In all these cases the goods are to be classified as if they consisted of the material or component **which gives them their essential character**, insofar as this criterion is applicable.

(VIII) The factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.

(IX) For the purposes of this Rule, composite goods made up of different components shall be taken to mean not only those in which the components are attached to each other to form a practically inseparable whole but also those with separable components, **provided** these components are adapted one to the other and are mutually complementary and that together they form a whole which would not normally be offered for sale in separate parts.

Examples of the latter category of goods are :

(1) Ashtrays consisting of a stand incorporating a removable ash bowl.

(2) Household spice racks consisting of a specially designed frame (usually of wood) and an appropriate number of empty spice jars of suitable shape and size.

As a general rule, the components of these composite goods are put up in a common packing.

* * *

The subject merchandise is made up of different components, i.e., fabric shades, hem bars, one (or more) QEDs, roller tubes, roller bulk idlers, brackets and associated hardware. When by application of GRI 2, HTSUS, goods are prima facie classifiable under two or more headings, GRI 3, HTSUS, is applicable. According to EN IX for GRI 3(b), a "composite good" is a good that is "made up of different components," which may be "adapted one to the other and [be] mutually complementary and . . . together . . . form a whole which would not normally be offered for sale in separate parts." The subject merchandise is a composite good; therefore, GRI 3(b) requires that classification be based on the product that provides the composite good with its essential character.

The EN to GRI 3(b) (VIII) lists factors to help determine the essential character of such goods: "the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods." The U.S. Court of International Trade ("CIT") has indicated that the factors listed in the EN to GRI 3(b) (VIII) are "instructive" but "not exhaustive" and has indicated that the goods must be "reviewed as a whole." *Home Depot USA, Inc. v. United States*, 427 F. Supp. 2d 1278, 1293

(Ct. Intl'l Trade 2006), aff'd 491 F.3d 1334 (Fed. Cir. 2007) (citing *A.N. Deringer, Inc. v. United States*, 66 Cust. Ct. 378, 383 (1971) (citation omitted)). With regard to the good which imparts the essential character, the CIT has stated that it is "that which is indispensable to the structure, core or condition of the article, i.e., what it is." *Id*. at 1293 (citing *A.N. Deringer, Inc.*, 66 Cust. Ct. at 383).

In NY N010048, CBP determined that the essential character of the controllable shading system was imparted by the QEDs. However, consistent with prior rulings, we find that the function of the QEDs is/are ancillary to the function of the shade, which protects a space from sunlight and provides privacy. *See* New York Ruling Letter ("NY") N293716 (Feb. 21, 2018) (stating that the shade provided the essential character to the motorized window shade because "the lifting and lowering mechanisms of the window shade are ancillary to the protection the shade provides"); *see also* Headquarters Ruling Letter ("HQ") 955432 (Aug. 4, 1994) (stating that the screening material imparts the essential character to the shade and heat retention systems because it "controls the environment of the structures in which the shade and heat retention systems at issue operate"). Similarly, the function of the remaining components, specifically, the hem bars, roller tubes, roller bulk idlers, brackets and associated hardware, are also ancillary to the function of the shades. Accordingly, the shades impart the essential character to the subject merchandise. The subject merchandise, therefore, is classified under heading 6303, HTSUS, which provides for "Curtains (including drapes) and interior blinds; curtain or bed valances." Sufficient information was not provided at the time of the ruling request to determine the proper classification of the merchandise under this heading beyond the four-digit level. Beyond the four-digit level, the classification of the merchandise will depend on the fabric composition of the model of the controllable shading system that will be imported.

As noted above, CBP received one comment opposing the proposed modification of NY N010048. The commenter states that, pursuant to GRI 1, or alternatively GRI 3(b) or GRI 3(c), the subject merchandise should remain classified in heading 8479, HTSUS, which provides in relevant part for "[m]achines and mechanical appliances having individual functions, not specified or included elsewhere in [Chapter 84]." The commenter argues that the subject merchandise should be classified pursuant to GRI 1 under heading 8479, HTSUS, because in accordance with Note 1(e) to Section XVI, HTSUS, only "articles of textile material for technical uses" that are classifiable in heading 5911, HTSUS, are excluded from classification in Section XVI. The commenter concludes that articles that incorporate textile components, other than textile material for technical uses, are still classifiable in Section XVI, HTSUS. The commenter states that the subject merchandise cannot be classified pursuant to GRI 1 under heading 6303, HTSUS, because Note 1 to Chapter 63, HTSUS, which applies to heading 6303, HTSUS, indicates that "Subchapter 1 applies only to made up articles, of any textile fabric" and the subject merchandise includes electromechanical components in addition to the textile fabrics.

Alternatively, the commenter indicates that even under GRI 3(b), the subject merchandise should be classified in heading 8479, HTSUS. Specifically, the commenter argues that the essential character of the subject merchandise is imparted by the electromechanical component, specifically, the

electronic drive unit ("EDU")[2], which allows the machine, for example, to engage in two-way communication to control and monitor the shades, process positioning information, and maintain an internal log of the faults and activity of the shading system. The commenter states that the EDU is the component that accounts for the greatest value, bulk, weight, and role in relation to the use of the merchandise.

Finally, alternatively, the commenter states that even if CBP determines that the electromechanical component of the subject merchandise is just as important as the textile shade, then by application of GRI 3(c), the merchandise should still be classified under heading 8479, HTSUS, rather than heading 6303, HTSUS, because heading 8479, HTSUS, occurs last in numerical order.

CBP agrees that the subject merchandise is not classified by application of GRI 1 in heading 6303, HTSUS, therefore, CBP will not address, accept or refute, the specific arguments presented by the commenter in support of this position. However, CBP disagrees that the subject merchandise is classifiable under GRI 1 in heading 8479, HTSUS. The subject merchandise consists of two main components, the electromechanical component and the textile shade, and a number of ancillary components, specifically, the hem bars, roller tubes, roller bulk idlers, brackets and associated hardware. Heading 8479, HTSUS, provides, in relevant part, for "[m]achines and mechanical appliances having individual functions, not specified or included elsewhere in this chapter." While the electromechanical component of the merchandise may be classifiable in heading 8479, HTSUS, the textile shades are specifically provided for in heading 6303, HTSUS, which provides for "[c]urtains (including drapes) and interior blinds; curtain or bed valances." The commenter cites to Note 1(e) to Section XVI, HTSUS, in support of its argument that the subject merchandise is classifiable by application of GRI 1 in heading 8479, HTSUS. Note 1(e) to Section XVI, HTSUS, states in relevant part that Section XVI, HTSUS, does not cover "other articles of textile material for technical uses (heading 5911)." Note 1(e) is simply excluding articles of textile material for technical uses that are classified in heading 5911, HTSUS, from classification in Section XVI, HTSUS. This specific exclusion does not mean that articles of textile material that are not for technical uses are classified in Section XVI, HTSUS. Moreover, the textile shades are not machinery and mechanical appliances or parts thereof of Chapters 84, HTSUS, therefore, they do not fall within the scope of Chapter 84, or specifically, heading 8479, HTSUS, by application of GRI 1. As such, the entire controllable shading system is not specifically provided for in any one heading.

GRI 2(b) states in relevant part that "[t]he classification of goods consisting of more than one material or substance shall be according to the principles of rule 3." GRI 3(a) states that, "[w]hen, by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows: (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods."

[2] CBP previously referred to the EDU as the QEDs.

Pursuant to GRI 3(b) "[w]hen, by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows: (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable." As noted earlier, the subject merchandise is made up of two main components, the electromechanical component and the textile shade, and a number of ancillary components, specifically, the hem bars, roller tubes, roller bulk idlers, brackets and associated hardware. The electromechanical component and the textile shade are adapted one to the other and are mutually complementary in that the electromechanical component controls the position and use of the textile shade and the textile shade is responsive to the inputs of the electromechanical component. *See* EN (IX) to GRI 3(b). These two components would not normally be offered for sale in separate parts because they are sold as a controllable shading system. *See id*. As such, the controllable shading system is a composite good that must be classified using GRI 3(b).

As previously, noted, the EN to GRI 3(b) (VIII) provides that when performing an essential character analysis, the factors that should be considered are the bulk, quantity, weight or value, or the role of a constituent material in relation to the use of the goods. There have been several court decisions on "essential character" for purposes of classification under GRI 3(b). *See Conair Corp. v. United States*, 29 C.I.T. 888 (2005); *Structural Industries v. United States*, 360 F. Supp. 2d 1330, 1337–1338 (Ct. Int'l Trade 2005); and *Home Depot USA, Inc.*, 427 F. Supp. 2d at 1295–1356. "[E]ssential character is that which is indispensable to the structure, core or condition of the article, i.e., what it is." *Home Depot USA, Inc.*, 427 F. Supp. 2d at 1293 (quoting *A.N. Deringer, Inc.*, 66 Cust. Ct. at 383). In particular, in *Home Depot USA, Inc.*, the court stated "[a]n essential character inquiry requires a fact intensive analysis." *Id*. at 1284. Therefore, a case-by-case determination on essential character is warranted in this situation.

If the information provided by the commenter concerning the bulk, weight and value is correct, the differences between the shade and the "electromechanical components" are not particularly stark, especially in absolute terms. Moreover, the good's essential character as a whole is not impacted by the relative bulk, weight or value of its components. Rather, as evidenced by the fact that most of the discussion both in the ruling and the commenter's submission concerns the role of the components in relation to the use of the goods, we find this factor to be most indicative of the merchandise's essential character. In considering the role of the constituent materials in relation to the use of the controllable shading system, we find that the textile shade, which is properly classified under heading 6303, HTSUS, imparts the essential character to the merchandise because the textile shade protects a space from sunlight and provides privacy, which is the purpose of the subject merchandise. Although the other components enable the user to position, control and monitor the shades, among other functions, none of the other components directly provide the shade, protection and privacy that is accomplished by the textile shade. The textile shade makes the controllable shading system "what it is" because without the textile shade, the electromechanical components could not alone protect a space from sunlight and provide privacy. Since classification can be determined upon application of GRI 3(b), we

do not apply the principles of GRI 3(c). Classification at the subheading level by GRI 6 is dependent upon the fabric composition of the textile shade that will be imported.

HOLDING:

Under the authority of GRI 3(b) the controllable shading system is classified under heading 6303, HTSUS, which provides for "Curtains (including drapes) and interior blinds; curtain or bed valances."

The text of the most recent HTSUS and the accompanying duty rates are provided on the internet at www.usitc.gov/tata/hts/.

EFFECT ON OTHER RULINGS:

NY N010048, dated May 3, 2007, is MODIFIED.

In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

Sincerely,

For

CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division

PROPOSED REVOCATION OF A RULING LETTER AND PROPOSED REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF A MAGNETIC SLEEVE

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of proposed revocation of one ruling letter and proposed revocation of treatment relating to the tariff classification of a magnetic sleeve.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke one ruling letter concerning the tariff classification of a magnetic sleeve under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before February 25, 2022.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Erin Frey, Commercial and Trade Facilitation Division, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Due to the COVID-19 pandemic, CBP is also allowing commenters to submit electronic comments to the following email address: 1625Comments@cbp.dhs.gov. All comments should reference the title of the proposed notice at issue and the *Customs Bulletin* volume, number and date of publication. Due to the relevant COVID-19-related restrictions, CBP has limited its on-site public inspection of public comments to 1625 notices. Arrangements to inspect submitted comments should be made in advance by calling Ms. Erin Frey at (202) 325–1757.

FOR FURTHER INFORMATION CONTACT: Nataline Viray-Fung, Electronics, Machinery, Automotive, and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at nataline.viray-fung@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the tariff classification of a magnetic sleeve. Although in this notice, CBP is specifically referring to New York Ruling Letter ("NY") N304844, dated July 11, 2019 (Attachment A), this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an

interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this comment period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY N304844, CBP classified magnetic sleeve in heading 8505, HTSUS, specifically in subheading 8505.90.40, HTSUS, which provides for "Electromagnets; permanent magnets and articles intended to become permanent magnets after magnetization; electromagnetic or permanent magnet chucks, clamps and similar holding devices; electromagnetic couplings, clutches and brakes; electromagnetic lifting heads; Other, including parts; Workholders and parts thereof." CBP has reviewed NY N304844 and has determined the ruling letter to be in error. It is now CBP's position that the magnetic sleeve is classified in subheading 8505.11.00, HTSUS, which provides for "Electromagnets; permanent magnets and articles intended to become permanent magnets after magnetization; electromagnetic or permanent magnet chucks, clamps and similar holding devices; electromagnetic couplings, clutches and brakes; electromagnetic lifting heads; parts thereof: Permanent magnets and articles intended to become permanent magnets after magnetization: Of Metal."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N304844 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter ("HQ") H305588, set forth as Attachment B to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

Before taking this action, consideration will be given to any written comments timely received.

Dated:

GREGORY CONNOR
for
CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

N304844

July 11, 2019
CLA-2–85:OT:RR:NC:N1:102
CATEGORY: Classification
TARIFF NO.: 8505.90.4000, 9903.88.01

MR. DAVID SOYKA
MANAGER, TRADE COMPLIANCE
STANLEY BLACK & DECKER
400 EXECUTIVE BLVD. S
SOUTHINGTON, CT 06489

RE: The tariff classification of a magnetic sleeve from China and Vietnam

DEAR MR. SOYKA:

In your letter dated June 10, 2019 you requested a tariff classification ruling.

The products in question are referred to as magnetic sleeves. The sleeves are cylindrical in shape and consist of a a circular magnet within either a plastic or metal housing that has an outer spring band. In use, the user slides a screwdriver or a screwdriver bit into one end of the sleeve and on the other end, a metal screw is inserted into the sintered neodymium-iron-boron magnet. Each sleeve's function is to magnetically facilitate the installation of a screw.

In your submission, you suggest that the magnetic sleeves should be classified under subheading 8505.11.0070, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Permanent magnets and articles intended to become permanent magnets after magnetization: Of metal: Sintered neodymium-iron-boron. While we agree the sleeves are classified within heading 8505, we disagree at the subheading level.

The sleeves are design to magnetically hold and support a metal screw as it is being turned or worked into place by the screwdriver or screwdriver bit that is inserted into the sleeve. As such, the sleeves function as magnetic workholders. Magnetic workholders are specifically provided for by name in HTSUS subheading 8505.90.4000.

Thus, the applicable subheading for the magnetic sleeves will be 8505.90.4000, HTSUS, which provides for Electromagnets; permanent magnets and articles intended to become permanent magnets after magnetization; electromagnetic or permanent magnet chucks, clamps and similar holding devices; electromagnetic couplings, clutches and brakes; electromagnetic lifting heads; Other, including parts; Workholders and parts thereof. The rate of duty is Free.

In your letter, you mention that certain magnetic sleeves will be manufactured in China. Please note effective July 6, 2018, the Office of the United States Trade Representative (USTR) imposed an additional tariff on certain products of China classified in the subheadings enumerated in Section XXII, Chapter 99, Subchapter III U.S. Note 20(b), HTSUS. The USTR imposed additional tariffs, effective August 23, 2018, on products classified under the subheadings enumerated in Section XXII, Chapter 99, Subchapter III U.S. Note 20(d), HTSUS. Subsequently, the USTR imposed further tariffs, effective September 24, 2018, on products classified under the subheadings enumerated in Section XXII, Chapter 99, Subchapter III U.S. Note 20(f) and U.S.

Note 20(g), HTSUS. For additional information, please see the relevant Federal Register notices dated June 20, 2018 (83 F.R. 28710), August 16, 2018 (83 F.R. 40823), and September 21, 2018 (83 F.R. 47974). Products of China that are provided for in subheading 9903.88.01, 9903.88.02, 9903.88.03, or 9903.88.04 and classified in one of the subheadings enumerated in U.S. Note 20(b), U.S. Note 20(d), U.S. Note 20(f) or U.S. Note 20(g) to subchapter III shall continue to be subject to antidumping, countervailing, or other duties, fees and charges that apply to such products, as well as to those imposed by the aforementioned Chapter 99 subheadings.

Products of China classified under subheading 8505.90.4000, HTSUS, unless specifically excluded, are subject to the additional 25 percent ad valorem rate of duty. At the time of importation, you must report the Chapter 99 subheading, i.e., 9903.88.01, in addition to subheading 8505.90.4000 HTSUS, listed above.

The tariff is subject to periodic amendment so you should exercise reasonable care in monitoring the status of goods covered by the Notice cited above and the applicable Chapter 99 subheading.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at https://hts.usitc.gov/current.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Sandra Martinez at Sandra.martinez@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK
Director
National Commodity Specialist Division

ATTACHMENT B

HQ H305588
CLA-2 OT:RR:CTF:EMAIN H305588 NVF
CATEGORY: Classification
TARIFF NO.: 8505.11.00

JOHN BESSICH
FOLLICK & BESSICH
33 WALT WHITMAN RD
SUITE 310
HUNTINGTON STATION, NY 11746

RE: Revocation of NY N304844; Classification of a magnetic sleeve

DEAR MR. BESSICH:

This letter is in response to your request, dated August 6, 2019, for reconsideration of New York Ruling Letter ("NY") N304844, which was issued to your client, Stanley Black & Decker ("SBD") on July 11, 2019. In NY N304844, U.S. Customs and Border Protection ("CBP") classified a magnetic sleeve under subheading 8505.90.40 of the Harmonized Tariff Schedule of the United States ("HTSUS"), which provides for "Electromagnets; permanent magnets and articles intended to become permanent magnets after magnetization; electromagnetic or permanent magnet chucks, clamps and similar holding devices; electromagnetic couplings, clutches and brakes; electromagnetic lifting heads; parts thereof: Other, including parts: Work holders and parts thereof." We have reviewed NY N304844 and are revoking NY N304844 in accordance with the reasoning below.

FACTS:

As described in NY N304844, the magnetic sleeves or collars are cylindrically shaped articles. The body of each magnetic sleeve consists of a plastic or aluminum material that has a permanent magnet made from sintered neodymium-iron-boron fitted into one end of the sleeve and a metal spring band fastened around a recessed section of the outer surface located on the other end of the sleeve. In use, the user slides a screwdriver or a screwdriver bit into one end of the sleeve and on the other end, a metal screw is inserted into the sintered neodymium-iron-boron magnet. Each sleeve's function is to magnetically facilitate the installation of a screw by stabilizing it while the tool (e.g., a manual or electric screwdriver) drives it into the workpiece.

In our original ruling, we determined that the magnetic sleeve was classified under subheading 8505.90.40, HTSUS as work holders. In your request for reconsideration, you argue that the magnetic sleeve is classified under subheading 8505.11.00 as permanent magnets.

ISSUE:

Whether the magnetic sleeve is classified under subheading 8505.90.40, HTSUS as work holder or under subheading 8505.11.00, HTSUS as a permanent magnet.

LAW AND ANALYSIS:

The HTSUS provisions under consideration are as follows:

8505	Electromagnets; permanent magnets and articles intended to become permanent magnets after magnetization; electromagnetic or permanent magnet chucks, clamps and similar holding devices; electromagnetic couplings, clutches and brakes; electromagnetic lifting heads; parts thereof:
	Permanent magnets and articles intended to become permanent magnets after magnetization:
8505.11.00	Of metal.
~~	
8505.90	Other, including parts:
8505.90.40	Work holders and parts thereof.

Classification of goods under the HTSUS is governed by the General Rules of Interpretation (GRI). GRI 1 provides that classification shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

GRI 3(a) states that the heading that provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings refer to only part of the items in a composite good or set, those headings are to be regarded as equally specific in relation to the goods, even if one of the gives a more complete or precise description of the good. As such, they are regarded as equally specific and classification of the composite good or set is to be determined by GRI 3(b) or GRI 3(c).

GRI 3(b) states that composite goods or sets which cannot be classified by reference to GRI 3(a) are to be classified as if they consisted of the component that gives them their essential character.

In this case, we have a composite good comprised of a plastic or aluminum sleeve with a permanent magnet at one end and pursuant to GRI 3(b), we must determine which element provides the essential character. In this respect, we note that the subject magnetic sleeve is not provided for under heading 8505, HTSUS, on the basis of GRI 1 as an "electromagnetic or permanent magnet chucks, clamps and similar holding devices". While the subject sleeve steadies or guides a screw while in use, it is not itself a "holding device" due to this operation and also because its function is not similar to "chucks" or "clamps", which hold workpieces and not other items that may facilitate the work accomplished (e.g., a screw). This is supported by Explanatory Note 85.05(3)[*], which describes "electromagnetic or permanent magnet chucks, clamps and similar holding devices" as follows:

> These are mainly devices of various types in which magnets are used to hold work pieces in place while they are being worked. This group also

[*] The Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") constitute the official interpretation of the HTSUS. While not legally binding or dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings at the international level. *See* T.D. 89–80, 54 Fed. Reg. 35127 (August 23, 1989).

covers holding devices for machines other than machine-tools (for example, magnetic devices for holding printing plates in printing machinery).

After reviewing video footage of the magnetic sleeve in use that you provided with your reconsideration request, we find that the permanent magnet provides the essential character. The magnet in the sleeve holds a screw in place while it is being driven into wood or some other material. For instance, it prevents the screw from falling out of alignment or rotating when the drill is operated. The magnet also holds the screw straight while drilling at unusual angles and/or in hard-to-reach places and prevents it from falling off the bit. In essence, it obviates the need for the user of a drill or screwdriver to steady the screw with his or her hand. Therefore, the permanent magnet in the sleeve provides the essential character of the good.

Pursuant to GRI 3(b), we classify the sleeve as if it consists solely of the component that imparts the essential character of the good, *i.e.,* the permanent magnet. Consequently, the magnetic sleeve is classified under subheading 8505.11.00, HTSUS as a permanent magnet made of metal.

HOLDING:

By application of GRIs 1, 3(b), and 6, the magnetic sleeve is classified under subheading 8505.11.00, HTSUS which provides for "Electromagnets; permanent magnets and articles intended to become permanent magnets after magnetization; electromagnetic or permanent magnet chucks, clamps and similar holding devices; electromagnetic couplings, clutches and brakes; electromagnetic lifting heads; parts thereof: Permanent magnets and articles intended to become permanent magnets after magnetization: Of Metal." The column one, general rate of duty is 2.1% *ad valorem*.

Duty rates are provided for your convenience and subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at www.usitc.gov/tata/hts/.

EFFECT ON OTHER RULINGS:

NY N306102, dated October 1, 2019, is REVOKED.

Sincerely,

CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division

COPYRIGHT, TRADEMARK, AND TRADE NAME RECORDATIONS

(NO. 12 2021)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

SUMMARY: The following copyrights, trademarks, and trade names were recorded with U.S. Customs and Border Protection in December 2021. A total of 176 recordation applications were approved, consisting of 14 copyrights and 162 trademarks.

Corrections or updates may be sent to: Intellectual Property Enforcement Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, 90 K Street, NE., 10th Floor, Washington, D.C. 20229–1177, or via email at *iprrquestions@cbp.dhs.gov*.

FOR FURTHER INFORMATION CONTACT: Christopher Hawkins, Paralegal Specialist, Intellectual Property Enforcement Branch, Regulations and Rulings, Office of Trade at (202) 325–0295.

ALAINA VAN HORN
Chief,
Intellectual Property Enforcement Branch
Regulations and Rulings, Office of Trade

CBP IPR RECORDATION — DECEMBER 2021

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
COP 01–00174	12/15/2021	12/15/2041	The legend of Zelda	Nintendo of America, Inc.	No
COP 21–00079	12/03/2021	12/03/2041	EH-3A37R, & other designs for fabrics.	Trendtex Fabrics, Ltd.	No
COP 21–00080	12/03/2021	12/03/2041	Eichi Hosomi June 2002	Trendtex Fabrics, Ltd.	No
COP 21–00081	12/03/2021	12/03/2041	July 2000 collection, Figlio.	Trendtex fabrics, Ltd.	No
COP 21–00082	12/03/2021	12/03/2041	EH-20206R, & other prints on fabric.	Trendtex Fabrics, Ltd.	No
COP 21–00083	12/03/2021	12/03/2041	June 2000 collection--Figlio	Trendtex Fabrics, Ltd.	No
COP 21–00084	12/03/2021	12/03/2041	Eichi hosomi	Trendtex Fabarics, Ltd.	No
COP 21–00085	12/03/2021	12/03/2041	Nativity Angel	Teak Isle Manufacturing, Inc.	No
COP 21–00086	12/03/2021	12/03/2041	Holy Family Nativity Scene.	Teak Isle Manufacturing, Inc. Address	No
COP 21–00087	12/03/2021	12/03/2041	“Believe” Holy Family.	Teak Isle Manufacturing, Inc. Address	No
COP 21–00088	12/06/2021	12/01/2041	Dogshank.	LEGO A/S. Address	No
COP 21–00089	12/09/2021	12/09/2041	Watercolor Journal	Anonymous. Address	No
COP 21–00090	12/15/2021	12/15/2041	GAME BUILDER GARAGE.	Nintendo of America Inc., Transfer	No
COP 21–00091	12/16/2021	12/16/2041	BLUEY	Ludo Studio Pty Limited. Address	No
TMK 01–00376	12/17/2021	12/26/2031	LAST-A-FOAM	GENERAL PLASTICS MANUFACTURING CO.	No
TMK 02–00006	12/07/2021	11/28/2031	PIKACHU	Nintendo of America Inc.	No
TMK 02–00621	12/07/2021	04/30/2032	SUNKIST	SUNKIST GROWERS, INC.	No
TMK 02–00973	12/14/2021	12/11/2031	MAXXIMA	Panor Corp.	No
TMK 02–00998	12/14/2021	04/22/2032	KC (STYLIZED)	KANSAS CITY ROYALS BASEBALL CLUB, LLC	No
TMK 02–01031	12/14/2021	04/14/2032	YANKEES	New York Yankees Partnership LIMITED PARTNERSHIP	No

CBP IPR RECORDATION — DECEMBER 2021

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 03–00573	12/16/2021	12/17/2031	SCOOP AWAY	THE CLOROX PET PRODUCTS COMPANY	No
TMK 03–00652	12/14/2021	04/15/2032	GIANTS & Design	SAN FRANCISCO GIANTS BASEBALL CLUB LLC	No
TMK 04–00246	12/03/2021	12/08/2031	GUCCI	GUCCI AMERICA, INC.	No
TMK 04–00591	12/27/2021	01/31/2031	Lucky Brand Clover Design	ABG-LUCKY, LLC	No
TMK 04–00593	12/21/2021	11/26/2023	LUCKY BRAND	ABG-LUCKY, LLC	No
TMK 05–00336	12/27/2021	12/27/2031	OLD TIMER	AOB PRODUCTS COMPANY CORPORATION	No
TMK 05–00547	12/09/2021	04/07/2032	MISS ELAINE AT HOME	MISS ELAINE, INC. CORPORATION	No
TMK 05–01018	12/17/2021	12/09/2030	CROSBY (STYLIZED)	THE CROSBY GROUP LLC	No
TMK 05–01061	12/10/2021	12/04/2031	F-250	Ford Motor Company Corporation	No
TMK 05–01062	12/10/2021	12/18/2031	F-350	Ford Motor Company Corporation	No
TMK 06–00386	12/16/2021	12/17/2031	TETRIS	TETRIS HOLDING, LLC	No
TMK 06–01431	12/20/2021	12/13/2025	JUICY	ABG JUICY COUTURE, LLC	No
TMK 06–01438	12/20/2021	10/26/2025	JUICY COUTURE	ABG JUICY COUTURE, LLC	No
TMK 07–00130	12/21/2021	12/19/2026	JUICY COUTURE	ABG Juicy Couture, LLC	No
TMK 07–01281	12/27/2021	05/16/2032	PIERRE DUMAS	OLEM SHOE CORP. CORPORATION	No
TMK 08–00107	12/09/2021	09/08/2031	PERSOL (STYLIZED)	LUXOTTICA GROUP S.P.A.ITALY	No
TMK 08–00196	12/21/2021	05/18/2023	VAN HEUSEN	ABG IZOD LLC	No
TMK 08–00262	12/10/2021	10/17/2031	HALLMARK & DESIGN	HALLMARK LICENSING LLC	No
TMK 08–00373	12/21/2021	03/25/2025	IZOD	ABG IZOD LLC	No
TMK 09–00357	12/14/2021	12/11/2031	CONFIGURATION OF CHESTPIECE OF A STETHOSCOPE	3M Company CORPORATION	No

CBP IPR RECORDATION — DECEMBER 2021

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 09–00921	12/03/2021	11/19/2023	BRUGAL	BRUGAL & CO., S.A. CORPORATION DOMINICAN REP	No
TMK 10–01250	12/06/2021	09/26/2031	CORVETTE	GENERAL MOTORS LLC	No
TMK 11–00394	12/06/2021	09/19/2031	GMC	GENERAL MOTORS LLC	No
TMK 11–00889	12/06/2021	10/09/2031	S Lock DESIGN	LOUIS VUITTON FRANCE	No
TMK 11–00933	12/21/2021	12/19/2030	JUICY JEANS	ABG Juicy Couture, LLC	No
TMK 11–01198	12/07/2021	10/19/2031	DONKEY KONG COUNTRY	Nintendo of America Inc.	No
TMK 11–01255	12/14/2021	12/06/2031	MILO'S KITCHEN & DESIGN	BIG HEART PET, INC.	No
TMK 11–01296	12/14/2021	12/07/2031	9LIVES	BIG HEART PET, INC.	No
TMK 11–01348	12/06/2021	10/05/2031	HANDYCAM (STYLIZED)	Sony Corporation	No
TMK 12–00077	12/07/2021	03/04/2032	POKÉMON (STYLIZED)	Nintendo of America Inc. CORPORATION	No
TMK 12–00089	12/07/2021	01/16/2032	POKÉ BALL Design	Nintendo of America Inc.	No
TMK 12–00091	12/07/2021	03/04/2032	POKÉMON (STYLIZED)	Nintendo of America Inc. CORPORATION	No
TMK 12–00152	12/29/2021	03/04/2032	POKÉMON (STYLIZED)	Nintendo of America Inc. CORPORATION	No
TMK 12–00200	12/07/2021	03/04/2032	POKÉMON (STYLIZED)	Nintendo of America Inc.	No
TMK 12–00684	12/03/2021	04/03/2032	BULLY DOG DESIGN	DERIVE POWER, LLC	No
TMK 12–00975	12/20/2021	12/18/2031	MYFORTIC	Novartis AG CORPORATION SWITZERLAND	No
TMK 12–01157	12/10/2021	10/14/2031	MILKY WAY	Mars, Incorporated CORPORATION	No
TMK 12–01306	12/10/2021	01/11/2032	CHACO & DESIGN	WOLVERINE OUTDOORS, INC.	No
TMK 13–00525	12/06/2021	03/12/2031	FRISKIES	Societe des Produits Nestle S.A. SWITZERLAND	No
TMK 13–00573	12/06/2021	12/27/2025	3-Stripe Mark on Slides	ADIDAS AG JOINT STOCK COMPANY GERMANY	No

CBP IPR RECORDATION — DECEMBER 2021

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 13–01060	12/10/2021	07/24/2031	ACDELCO (STYLIZED) & Design	GENERAL MOTORS LLC	No
TMK 15–00176	12/10/2021	10/12/2031	BUSHNELL	Bushnell Inc.	No
TMK 16–00296	12/06/2021	10/03/2031	TED BAKER	No Ordinary Designer Label Limited DBA Ted Baker CORPORATION UNITED KINGDOM	No
TMK 16–01493	12/14/2021	01/09/2032	FLARE DESIGN	HUF WORLDWIDE LLC	No
TMK 16–01495	12/14/2021	01/09/2032	LAKAI	HUF WORLDWIDE LLC	No
TMK 17–00368	12/28/2021	04/18/2030	SILPADA	RICHLINE GROUP, INC.	No
TMK 17–00660	12/17/2021	12/20/2031	C-MAX	Ford Motor Company Corporation	No
TMK 17–00831	12/10/2021	09/14/2031	R and Design	HOOey, LLC	No
TMK 17–01324	12/21/2021	01/04/2032	Google Chrome Logo	GOOGLE LLC	No
TMK 18–00476	12/06/2021	10/16/2031	DESIGN ONLY (SLIM SWAN)	SWAROVSKI AKTIENGESELLSCHAFT JOINT STOCK COMPANYLIECHTEN-STEIN	No
TMK 18–00783	12/06/2021	08/31/2031	ARMOUR	Under Armour, Inc.	No
TMK 18–01158	12/03/2021	03/18/2032	PERFORMIX	PLASTI DIP INTERNATIONAL, INC.	No
TMK 19–00091	12/06/2021	02/01/2027	BABE LASH	ELIXIR COSMETICS OPCO, LLC	No
TMK 19–00297	12/17/2021	12/27/2031	MUSE	Torpack Limited COMPANY UNITED KINGDOM	No
TMK 19–00300	12/17/2021	01/11/2032	MUSE	Torpack Limited COMPANY UNITED KINGDOM	No
TMK 19–00320	12/03/2021	11/30/2031	JOB (STYLIZED) and DESIGN (DIAMOND AND OVAL)	Republic Technologies (NA) LLC	No
TMK 19–00321	12/03/2021	11/30/2031	JOB (STYLIZED) and Diamond Design	Republic Technologies (NA) LLC	No
TMK 19–00446	12/06/2021	10/19/2031	CIRCLE WITH BANNER LOGO	Top Tobacco, LP	No

CBP IPR RECORDATION — DECEMBER 2021

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 19–00471	12/06/2021	10/26/2031	IT'S TIME TO ROLL YOUR OWN	Top Tobacco, LP	No
TMK 19–00796	12/10/2021	03/27/2032	UNITED STATES COAST GUARD 1790 & DESIGN	United States Department of Homeland Security agency of the United States Government	No
TMK 19–00876	12/06/2021	08/29/2022	LOTTO & Design	Lotto Sport Italia S.p.A. JOINT STOCK COMPANY ITALY	No
TMK 19–00896	12/03/2021	11/07/2031	ATHLETA typed drawing	ATHLETA, INC.	No
TMK 20–00112	12/14/2021	12/20/2031	NBFAC	United States Department of Homeland Security	No
TMK 20–00113	12/14/2021	12/20/2031	NBACC	United States Department of Homeland Security	No
TMK 21–00932	12/03/2021	05/28/2032	HANDY PAINT PAIL	Bercom International, LLC	No
TMK 21–01093	12/01/2021	02/11/2025	Starbucks Design	STARBUCKS CORPORATION	No
TMK 21–01094	12/01/2021	04/11/2024	STARBUCKS COFFEE Design	STARBUCKS CORPORATION	No
TMK 21–01095	12/03/2021	02/16/2032	BLACENERGY Word Mark	Bailem, Sonya, D.	No
TMK 21–01096	12/03/2021	03/01/2026	ALIX	ALIX NICOLE, INC.	No
TMK 21–01097	12/03/2021	07/06/2031	STICKY NODES	Make Shapes LLC	No
TMK 21–01098	12/03/2021	07/06/2031	NODE	Make Shapes LLC	No
TMK 21–01099	12/03/2021	02/23/2032	AO3	Sung, Paul	No
TMK 21–01100	12/03/2021	09/01/2031	EMSCULPT NEO	BTL INDUSTRIES JOINT STOCK COMPANY BULGARIA	No
TMK 21–01101	12/03/2021	08/26/2030	EMTONE	BTL Industries, Inc. JOINT STOCK COMPANY BULGARIA	No

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TMK 21–01102	12/03/2021	06/19/2023	CARDS AGAINST HUMANITY	Cards Against Humanity, LLC LIMITED LIABILITY COMPANY DELAWARE 94B Gore St. Cambridge MASSACHUSETTS 02141	No
TMK 21–01103	12/03/2021	07/12/2031	EXILIS	BTL INDUSTRIES, INC.	No
TMK 21–01104	12/03/2021	04/14/2024	VANQUISH	BTL INDUSTRIES, INC.	No
TMK 21–01105	12/03/2021	03/22/2026	CHUCKLING GOAT	Chuckling Goat Limited Limited Company UNITED KINGDOM	No
TMK 21–01106	12/03/2021	02/28/2027	Chuckling Goat Design	Chuckling Goat Limited Limited Company UNITED KINGDOM	No
TMK 21–01107	12/03/2021	03/19/2028	YAMA.CHEN'S DESIGN	CHEN, SI LIANG INDIVIDUAL	No
TMK 21–01108	12/03/2021	09/09/2028	HEADSTOCK (NARROW STRAT) design	Fender Musical Instruments	No
TMK 21–01109	12/03/2021	10/16/2029	CIRCUIT	Focusrite Audio Engineering Limited PRIVATE LIMITED COMPANY UNITED KINGDOM	No
TMK 21–01110	12/03/2021	11/28/2028	CLARETT	Focusrite Audio Engineering Limited PRIVATE LIMITED COMPANY UNITED KINGDOM	No
TMK 21–01111	12/03/2021	03/15/2031	CLARETT	Focusrite Audio Engineering Limited PRIVATE LIMITED COMPANY UNITED KINGDOM	No
TMK 21–01112	12/03/2021	12/04/2028	FOCUSRITE	Focusrite Audio Engineering Limited Limited company UNITED KINGDOM	No
TMK 21–01113	12/03/2021	02/09/2032	GARAGE BALLET	Crouch, Dawn C	No
TMK 21–01114	12/03/2021	09/19/2028	ITRACK	Focusrite Audio Engineering UNITED KINGDOM	No

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TMK 21–01115	12/03/2021	09/12/2028	LAUNCH	Focusrite Audio Engineering UNITED KINGDOM	No
TMK 21–01116	12/03/2021	09/19/2028	LAUNCHKEY	Focusrite Audio Engineering UNITED KINGDOM	No
TMK 21–01117	12/03/2021	02/28/2028	LAUNCHPAD	Focusrite Audio Engineering UNITED KINGDOM	No
TMK 21–01118	12/03/2021	02/03/2031	stylized letter "N" DESIGN MARK	Focusrite Audio Engineering UNITED KINGDOM	No
TMK 21–01119	12/03/2021	03/26/2028	NOVA	Focusrite Audio Engineering UNITED KINGDOM	No
TMK 21–01120	12/03/2021	12/10/2026	JAGUAR	FENDER MUSICAL INSTRUMENTS CORPORATION	No
TMK 21–01121	12/03/2021	06/27/2031	JAZZMASTER	Fender Musical Instruments Corporation	No
TMK 21–01122	12/03/2021	04/08/2029	METEORA	Fender Musical Instruments Corporation	No
TMK 21–01123	12/03/2021	02/13/2025	SQUIER	Fender Musical Instruments Corporation	No
TMK 21–01124	12/06/2021	08/01/2028	REDNET	Focusrite Audio Engineering Limited Private Limited Company UNITED KINGDOM	No
TMK 21–01125	12/06/2021	10/02/2029	OCTOPRE	Focusrite Audio Engineering Limited Limited company UNITED KINGDOM	No
TMK 21–01126	12/06/2021	04/09/2028	NOVATION	Focusrite Audio Engineering Limited UNITED KINGDOM	No
TMK 21–01127	12/06/2021	05/19/2028	WHOLE EARTH FARMS	SOCIETE DES PRODUITS NESTLE	No
TMK 21–01128	12/06/2021	06/14/2027	BELLA	(REGISTRANT) Societe des Produits Nestle SA société anonyme (sa) SWITZERLAND Brand IP Case Postale 353 Vevey SWITZERLAND 1800	No

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TMK 21–01129	12/06/2021	09/21/2027	FANCY FEAST	SOCIETE DES PRODUITS NESTLE S.A. CORPORATION SWITZERLAND	No
TMK 21–01130	12/06/2021	10/11/2026	MERRICK	SOCIETE DES PRODUITS NESTLE S.A. SOCIETE ANONYME SWITZERLAND	No
TMK 21–01131	12/06/2021	04/19/2026	DEXTRONIX	DEXTRONIX, INC.	No
TMK 21–01132	12/06/2021	12/29/2030	SCARLETT	Focusrite Audio Engineering Limited private limited company UNITED KINGDOM	No
TMK 21–01133	12/06/2021	07/04/2030	PURINA	Societe des Produits Nestle S.A. Corporation SWITZERLAND	No
TMK 21–01134	12/07/2021	10/16/2023	MACALLAN	The Macallan Distillers Limited COMPANY UNITED KINGDOM	No
TMK 21–01135	12/07/2021	02/23/2032	VIRUSHIELD STETHOSCOPE BARRIER (STYLIZED) & Design	SANO CURATIO, LLC	No
TMK 21–01136	12/09/2021	02/16/2032	IF YOU SPRINKLE WHEN YOU TINKLE, PLEASE BE NEAT AND WIPE THE SEAT	OPERATION SAVE THE STREETS CORPORATION	No
TMK 21–01137	12/09/2021	08/18/2031	DEEP DREAMS	Daily Nutra LLC	No
TMK 21–01138	12/09/2021	11/03/2031	BLUEY (Stylized)	Ludo Studio AUSTRALIA	No
TMK 21–01139	12/09/2021	01/05/2032	UNSPILL-A-BOWL	Misa Design LLC	No
TMK 21–01140	12/10/2021	06/24/2031	HEADSTOCK (TELE)	FENDER MUSICAL INSTRUMENTS	No
TMK 21–01141	12/10/2021	07/04/2027	HYZEN	GOOD LIVING U.S.A. CORP. DBA SOLCO HEALTH CARE CORPORATION	No
TMK 21–01142	12/10/2021	06/24/2031	HEADSTOCK (WIDE STRAT) DESIGN	FENDER MUSICAL INSTRUMENTS CORPORATION	No

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TMK 21–01143	12/14/2021	10/16/2029	V VALYANTAI & DESIGN	Valyant AI LIMITED LIABILITY COMPANY	No
TMK 21–01144	12/14/2021	12/10/2029	SMART KID BELT & DESIGN	SMART KID SPÓLKA AKCYJNA LIMITED LIABILITY COMPANY POLAND	No
TMK 21–01145	12/14/2021	04/28/2030	INDEPENDENT TRADING COMPANY	BRAD RAMBO & ASSOCIATES, INC. DBA INDEPENDENT TRADING CO.	No
TMK 21–01146	12/14/2021	12/06/2026	LASHBOMB	LASH BOMB, LLC	No
TMK 21–01147	12/14/2021	02/16/2032	OPERATION GLOW	Clik Entertainment, LLC	No
TMK 21–01148	12/14/2021	01/05/2031	PRS	Magpul Industries Corp.	No
TMK 21–01149	12/14/2021	01/05/2032	TRIBECA CHAIR	Global Views L.P.	No
TMK 21–01150	12/15/2021	06/30/2031	THE BUTTERLAND	Pearsall, Paris INDIVIDUAL	No
TMK 21–01151	12/15/2021	08/01/2030	BOSS	HUGO BOSS TRADE MARK MANAGEMENT GMBH & CO. GERMANY	No
TMK 21–01152	12/17/2021	12/28/2031	TREASURE BAY	Theresa Nehmer Baybutt DBA Treasure Bay Jewelry	No
TMK 21–01153	12/17/2021	07/20/2031	WELRY.COM	Richline Group, Inc. CORPORATION	No
TMK 21–01154	12/17/2021	03/18/2029	VELO3D	VELO3D, INC. CORPORATION	No
TMK 21–01155	12/17/2021	03/18/2029	VELO	VELO3D, INC.	No
TMK 21–01156	12/17/2021	11/13/2029	SAPPHIRE	Velo3D, Inc.	No
TMK 21–01157	12/17/2021	05/09/2031	INTELLIGENT FUSION	Velo3D, Inc. CORPORATION	No
TMK 21–01158	12/17/2021	06/30/2030	ZEISS & DESIGN	Carl Zeiss AG CORPORATION GERMANY	No
TMK 21–01159	12/17/2021	04/12/2031	VoltAlert Trade Dress (Yellow & Gray)	Fluke Corporation	No
TMK 21–01160	12/17/2021	11/06/2029	KAPA NUI	KAPA NUI L.L.C.	No
TMK 21–01161	12/20/2021	03/07/2032	MINI WANDER	Yashchenko, Roman	No

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TMK 21–01162	12/21/2021	02/09/2032	FOREVER 21	F21 IPCO, LLC	No
TMK 21–01163	12/21/2021	12/06/2031	FOREVER 21	F21 IPCO, LLC	No
TMK 21–01164	12/21/2021	10/20/2031	FOREVER 21	F21 IPCO, LLC	No
TMK 21–01165	12/21/2021	09/21/2031	LUCKY BRAND	ABG-LUCKY, LLC	No
TMK 21–01166	12/21/2021	10/19/2031	LUCKY BRAND	ABG-LUCKY, LLC	No
TMK 21–01167	12/21/2021	07/08/2028	LUCKY BRAND	ABG-LUCKY, LLC	No
TMK 21–01168	12/21/2021	10/19/2026	Altayskaya Skazka & DESIGN	Obschestvo s ogranichennoy otvetstvennostyu "Altayskaya skazka" LIMITED LIABILITY COMPANY RUSSIA	No
TMK 21–01169	12/21/2021	11/24/2030	NAUTICA	Nautica Apparel, Inc.	No
TMK 21–01170	12/21/2021	04/10/2025	NAUTICA	Nautica Apparel, Inc.	No
TMK 21–01171	12/21/2021	12/26/2029	NAUTICA	NAUTICA APPAREL, INC.	No
TMK 21–01172	12/21/2021	10/09/2029	NAUTICA	Nautica Apparel, Inc.	No
TMK 21–01173	12/21/2021	06/16/2031	TIGER SUGAR & DESIGN	TIGERSUGAR INTERNATIONAL ENTERPRISE CO.TAIWAN	No
TMK 21–01174	12/21/2021	10/02/2029	TIGER SUGAR & DESIGN	TIGERSUGAR INTERNATIONAL ENTERPRISE CO.TAIWAN	No
TMK 21–01175	12/21/2021	09/01/2031	TIGER SUGAR & DESIGN	TIGERSUGAR INTERNATIONAL ENTERPRISE CO. TAIWAN	No
TMK 21–01176	12/21/2021	09/09/2029	EDDIE BAUER	EDDIE BAUER LICENSING SERVICES LLC	No
TMK 21–01177	12/27/2021	09/01/2031	TIGER SUGAR & DESIGN MARK	TIGERSUGAR INTERNATIONAL ENTERPRISE CO.TAIWAN	No
TMK 21–01178	12/27/2021	11/25/2028	GEOFFREY BEENE	ABG IZOD LLC	No
TMK 21–01179	12/27/2021	02/09/2032	LISTEN TO YOUR HEART	Thais Zoe Creative, LLC	No

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TMK 21–01180	12/27/2021	12/11/2022	GUAM	LACOTE S.r.l. LIMITED LIABILITY COMPANY ITALY	No
TMK 21–01181	12/29/2021	12/14/2031	KOTTAKKAL	Ayuryoga, Inc. DBA	No
TMK 21–01182	12/29/2021	12/18/2030	KINESIO (STYLIZED)	KINESIO IP LLC	No
TMK 21–01183	12/29/2021	03/07/2032	JOE PAMELIA COLLECTIONS & DESIGN	Joseph J. Pamelia DBA JoePameliaCollections	No

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