

Bureau of Customs and Border Protection

General Notices

Automated Commercial Environment (ACE): National Customs Automation Program Test of Periodic Monthly Payment Statement Process

AGENCY: Bureau of Customs and Border Protection; Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces changes in the Bureau of Customs and Border Protection's (CBP) National Customs Automation Program (NCAP) test concerning periodic monthly deposit of estimated duties and fees. A change to the time period allowed for the deposit of the duties and fees is being made in order to comply with the provisions of section 2004 of the Miscellaneous Trade and Technical Corrections Act of 2004, Public Law 108-429, which extended the time of deposit of those estimated duties and fees from the 15th calendar day to the 15th working day of the month following the month in which the goods are either entered or released. Another change being made concerns whether CBP will establish a claim for liquidated damages when a participant removes an entry from a Periodic Daily Statement or a Preliminary Monthly Statement after expiration of a 10-working day period after release. This document also advises that entries containing Census errors will be eligible to be placed on a Periodic Daily Statement and designated for monthly payment. The latter two changes are being made in order to increase the efficiencies of the Automated Commercial Environment (ACE) and to encourage participation in the Periodic Monthly Statement process.

DATES: The changes announced in this notice concerning the time of payment of duties and fees and the assessment of liquidated damages will take effect on August 8, 2005. The change announced concerning the placement of Census errors on the Periodic Daily Statement will take effect on August 1, 2005.

FOR FURTHER INFORMATION CONTACT:

For questions regarding periodic monthly statement payments: Ms. Sherri Hoffman via email at Sherri.hoffman@dhs.gov, or by telephone at (202) 344-1320, and Mr. Robert Hamilton via email at Robert.b.hamilton@dhs.gov, or by telephone at (317) 298-1107.

SUPPLEMENTARY INFORMATION:**Background**

On February 4, 2004, the Bureau of Customs and Border Protection (CBP) published a General Notice in the **Federal Register** (69 FR 5362) announcing the National Customs Automation Program (NCAP) test for Periodic Monthly Payment Statement Process. The test, which is part of CBP's Automated Commercial Environment (ACE), benefits participants by giving them access to operational data through the ACE Secured Data Portal ("ACE Portal"), which provides them the capability to interact electronically with CBP, and by allowing them to deposit estimated duties and fees on a monthly basis based on a Periodic Monthly Statement issued by CBP.

When the test started, only importers were eligible to apply for the test. Eligibility was later expanded to allow brokers to apply if they were specifically designated by an ACE importer.

On September 8, 2004, CBP published a General Notice in the **Federal Register** (69 FR 54302) which invited customs brokers, regardless of whether they were designated by participating importers to make Periodic Monthly Statement payments on their behalf, to apply to participate in the test. That notice set forth eligibility requirements for both importers and brokers.

On February 1, 2005, CBP published a General Notice in the **Federal Register** (70 FR 5199) announcing that applicants seeking to establish importer or broker accounts so as to access the ACE Portal, or to participate in any ACE test (including the test for Periodic Monthly Payment Statement Process), are no longer required to provide a statement certifying participation in the Customs Trade Partnership Against Terrorism (C-TPAT).

As provided in the February 4, 2004 General Notice announcing the test, participants in the Periodic Monthly Statement test are required to schedule entries for monthly payment. A Periodic Monthly Statement will list Periodic Daily Statements that have been designated for monthly payment. The Periodic Monthly Statement can be created on a port basis by the importer or broker, as was the case with existing daily statements in the Automated Commercial System (ACS) (ACE is the successor to ACS). The Periodic Monthly Statement can be created on a national basis by an Automated Broker Interface (ABI) filer. If an importer chooses to file the Periodic Monthly Statement on a national basis he must use his filer code and schedule and pay the monthly statements. The Periodic Monthly

Statement will be routed under existing CBP procedures. Brokers will only view / receive information that they have filed on an importer's behalf. ACE will not route a Periodic Monthly Statement to a broker through ABI if that statement lists information filed by another broker.

Description of the Changes

1. Payment of Duties and Fees

Under statutory authority in place at the time of initiation of the Periodic Monthly Statement Process test, estimated duties and fees were to be paid on a monthly basis by the 15th calendar day in the month following the month in which the goods are either entered or released. Under a statutory change promulgated to section 505(a) of the Tariff Act of 1930, as amended, (19 U.S.C. 1505(a)), by Section 2004 of the Miscellaneous Trade and Technical Corrections Act of 2004, Public Law 108-429, estimated duties and fees are to be paid by the 15th working day in the month following the month in which the goods are either entered or released. For the purposes of this test, the term "working day" is synonymous with the term "business day" which is defined at sections 101.1 and 101.6(a) of the CBP Regulations (title 19 Code of Federal Regulations, sections 101.1 and 101.6(a)). This notice brings the NCAP test into compliance with the statutory change.

2. Removal of an Entry from a Periodic Daily Statement after Expiration of the 10-Working Day Period after Release of the Entry

In the February 4, 2004 General Notice, CBP provided that if participants remove an entry from a Periodic Daily Statement or a Preliminary Monthly Statement after expiration of a 10-working day period after release, that entry must be paid individually and would be automatically subject to a claim for liquidated damages for late payment of estimated duties. This notice announces that entries removed, from the Periodic Daily Statement only, **may** be subject to a claim for liquidated damages. CBP will exercise its discretion whether to establish a claim for liquidated damages and will consider the timeliness of the submission of the entry information to CBP in making its decision. The purpose of this change is to encourage filers to use Periodic Monthly Statement and to submit their entry changes as soon as possible. This change does not apply to the removal of an entry from a Periodic Monthly Statement after expiration of a 10-working day period after release, which will still be subject to an automatic claim for liquidated damages for late payment of estimated duties.

3. Entries with Census Errors

CBP will allow all entries currently eligible for placement on a daily statement to be placed on a Periodic Daily Statement, with the exception of reconciliation entries, NAFTA duty deferral entries, and entries requiring the payment of excise taxes. Entries containing Census errors, originally disallowed for inclusion on the Periodic Daily Statement, will now be eligible for placement on a Periodic Daily Statement.

Monthly Payment Procedures

Incorporating the changes regarding the extended time for payment of duties and fees, and the removal of entries from the Periodic Daily Statement after expiration of the 10-working day period after release, as announced in this notice, entries for monthly payment will be processed as follows:

a. As entries are filed with CBP, the importer or its designated broker schedules them for monthly payment;

b. Those entries scheduled for monthly payment will appear on the Preliminary Periodic Daily Statement;

c. The Importer or its designated broker processes entry summary presentation transactions for Periodic Daily Statements within 10 working days of the date of entry (this is not changed from the previous notice);

d. After summary information has been filed, the scheduled entries will appear on the Final Periodic Daily Statement;

e. Periodic Daily Statements scheduled for monthly payment will appear on the Preliminary Periodic Monthly Statement; CBP will generate the Preliminary Periodic Monthly Statement on the 11th working day of the month (changed from 11th "calendar day") following the month in which the merchandise is either entered or released, whichever comes first, unless the importer or designated broker selects an earlier date;

f. On the 15th working day of the month, for Automated Clearing House (ACH) debit participants, CBP will transmit the debit authorizations for the periodic daily statements to the financial institution and the periodic monthly statement will be marked paid. The Final Periodic Monthly Statement will be generated by CBP and be transmitted to the importer or his designated broker. ACH Debit participants must ensure that the money amount identified on the Preliminary Monthly Statement is, in fact, available in their bank account by the 15th working day of the month.

g. ACH credit participants must initiate payment no later than the 14th working day of the month. CBP must receive the settlement for the credit by the 15th working day in order to have the periodic monthly statement marked paid and treated as a timely payment. The Final Periodic Monthly Statement will be generated by CBP and be transmitted to the importer or his designated broker.

For both ACH Credit and ACH Debit participants, CBP will generate the Final Periodic Monthly Statement on the night that payment is processed.

Participants should note that if they voluntarily remove an entry from a Periodic Daily Statement **before** expiration of the 10-working-day period after release, that entry may be placed on another Periodic Daily Statement falling within the same 10-working-day period. If, however, participants remove an entry from a Periodic Daily Statement **after** expiration of the 10-working-day period after release the entry may be the subject of a claim for liquidated damages for late payment of estimated duties.

Suspension of Regulations

During the testing of the Periodic Monthly Statement process, CBP is suspending provisions in Parts 24, 141, 142, and 143 of the CBP Regulations (Title 19 Code of Federal Regulations) pertaining to financial, accounting, entry procedures, and deposit of estimated duties and fees. Absent any specified alternate procedure, the current regulations apply. All of the terms of the test and criteria for participation therein, as announced in the previous notices identified above, continue to be applicable unless changed by this notice.

DATED: August 1, 2005

TODD C. OWEN,
*Acting Assistant Commissioner,
Office of Field Operations.*

[Published in the Federal Register, August 8, 2005 (70 FR 45736)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS.

Washington, DC, August 3, 2005,

The following documents of the Bureau of Customs and Border Protection ("CBP"), Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and CBP field offices to merit publication in the CUSTOMS BULLETIN.

Myles B. Harmon for MICHAEL T. SCHMITZ,
*Assistant Commissioner,
Office of Regulations and Rulings.*

19 CFR PART 177

**MODIFICATION OF RULING LETTER AND REVOCATION
OF TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF TERTIARYBUTYLAMINE**

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security

ACTION: Notice of modification of tariff classification ruling letter and revocation of treatment relating to the classification of Tertiarybutylamine.

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 Customs and Border Protection (CBP) is modifying a ruling concerning the tariff classification of Tertiarybutylamine, 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 revocation was published on May 25, 2005, in Volume 39, Number 22, of the CUSTOMS BULLETIN. No comments were received in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after October 16, 2005.

FOR FURTHER INFORMATION CONTACT: Allyson Mattanah, Tariff Classification and Marking Branch, (202) 572-8784.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "informed compliance" and "shared responsibility." These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the trade 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 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 section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by Title VI, a notice was published in the May 25, 2005, CUSTOMS BULLETIN, Volume 39, Number 22, proposing to modify New York Ruling Letter (NY) C83908, dated March 25, 1998, and to revoke any treatment accorded to substantially identical transactions. No comments were received in response to that notice.

As stated in the notice of proposed modification, the notice covered any rulings on this merchandise which may exist but have not been specifically identified. Any party, who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should have advised CBP during the notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by Title VI, CBP is revoking any treatment it previously accorded to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during the notice 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 subsequent to the effective date of the final decision on this notice.

In NY C83908, the merchandise was classified in subheading 2921.19.60, HTSUS, the provision for "Amine-function compounds: Acyclic monoamines and their derivatives; salts thereof: Other: Other: Other." However, it is now CBP's position that TBA consists of a single butyl, in the tertiary isomeric position, attached to a single amine. Hence, it is *eo nomine* a monobutyl monoamine of subheading 2921.19.10, HTSUS, the provision for "Amine-function compounds: Acyclic monoamines and their derivatives; salts thereof: Other: Mono- and triethylamines; mono-, di-, and tri(propyl- and butyl-) monoamines; salts of any of the foregoing."

CBP, pursuant to 19 U.S.C. 1625(c)(1), is modifying NY C83908 and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in HQ 967662, which is the "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: July 28, 2005

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachment

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 967662
July 28, 2005
CLA-2 RR: CTF:TCM 967662 AM
CATEGORY: CLASSIFICATION
TARIFF NO.: 2921.19.1000

MR. JIM REYNOLDS
JOHN A. STEER CO.
28 S. Second Street
Philadelphia, PA 19106

Re: Tertiarybutylamine (CAS 75-64-9) from England; Modification of NY C83908

DEAR MR. REYNOLDS:

This is regarding New York Ruling Letter (NY) C83908, issued to you on March 25, 1998, classifying Tertiarybutylamine (CAS 75-64-9) under the Harmonized Tariff Schedule of the United States (HTSUS), in subheading 2921.19.60, the provision for "Amine-function compounds: Acyclic monoamines and their derivatives; salts thereof: Other: Other: Other." We have reviewed NY C83908 and have determined that it must be modified in

order to correct and clarify the classification of the named product. Therefore, this ruling modifies C83908.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by Title VI, a notice was published in the May 25, 2005, CUSTOMS BULLETIN, Volume 39, Number 22, proposing to modify NY C83908, dated March 25, 1998, and to revoke any treatment accorded to substantially identical transactions. No comments were received in response to this notice.

FACTS:

Tertiarybutylamine ("TBA") (CAS #75-64-9) is an acyclic monoamine consisting of one amine group with a single butyl, C4H9, in the tertiary isomeric form, bonded to it.

ISSUE:

Is TBA classified as a monobutyl monoamine under the HTSUS?

LAW AND ANALYSIS:

Merchandise imported into the United States is classified under the HTSUS. Classification under the HTSUS 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 purposes.

GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any relative section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in order. GRI 6 requires that the classification of goods in the subheadings of headings shall be determined according to the terms of those subheadings, any related subheading notes and *mutatis mutandis*, to the GRIs.

The HTSUS provisions under consideration are the following:

- 2921 Amine-function compounds:
 - Acyclic monoamines and their derivatives; salts thereof:
 - 2921.19 Other:
 - 2921.19.10 Mono- and triethylamines; mono-, di-, and tri(propyl- and butyl-) monoamines; salts of any of the foregoing
 - * * * * *
 - Other:
 - 2921.19.60 Other

TBA can only be classified in subheading 2921.19.60, HTSUS, as an other acyclic monoamine, if it is not classifiable as a monobutyl monoamine, in subheading 2921.19.10, HTSUS.

Products that consist of a single amine (NH3) group and one (mono), two (di) or three (tri) "butyl" groups are classified within subheading 2921.19.10, HTSUS. TBA consists of a single butyl, in the tertiary isomeric position, attached to a single amine. Hence, it is *eo nomine* a monobutyl monoamine.

There is no evidence that isomeric positioning excludes TBA from classification in subheading 2921.19.10, HTSUS. In fact, in subheading 2905.14, HTSUS, the direct analogue of TBA, tertiarybutyl alcohol, is specifically included as an "other butanol" in subheading 2905.14.10, HTSUS. The situation is analogous in the subheading structure of subheading 2921.19, HTSUS. The isomer of the butylamine is specifically included as a particular butylamine in subheading 2921.19.10, HTSUS.

HOLDING:

By application of GRIs 1 and 6, TBA (CAS #75-64-9) is classified under subheading 2921.19.10, HTSUS, the provision for "Amine-function compounds: Acyclic monoamines and their derivatives; salts thereof: Other: Mono- and triethylamines; mono-, di-, and tri(propyl- and butyl-) monoamines; salts of any of the foregoing."

EFFECT ON OTHER RULINGS

NY C83908, dated March 25, 1998, is hereby modified as to the classification of TBA.

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

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.