

# Bureau of Customs and Border Protection

## *General Notices*

### **PROPOSED COLLECTION; COMMENT REQUEST**

#### **Certificate of Compliance for Turbine Fuel Withdrawals**

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Certificate of Compliance for Turbine Fuel Withdrawals. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before February 22, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn. Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the

use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Certificate of Compliance for Turbine Fuel Withdrawals

**OMB Number:** 1651-0072

**Form Number:** N/A

**Abstract:** This information is collected to ensure regulatory compliance for Turbine Fuel Withdrawals to protect revenue collections.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

**Type of Review:** Extension

**Affected Public:** Businesses, Institutions

**Estimated Number of Respondents:** 30

**Estimated Time Per Respondent:** 12 hours

**Estimated Total Annual Burden Hours:** 360

**Estimated Total Annualized Cost on the Public:** \$14,916

Dated: December 16, 2004

TRACEY DENNING,  
*Agency Clearance Officer,*  
*Information Services Branch.*

[Published in the Federal Register, December 23, 2004 (69 FR 76950)]

## PROPOSED COLLECTION; COMMENT REQUEST

### Declaration for Unaccompanied Articles

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Declaration for Unaccompanied Articles. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before February 22, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Declaration for Unaccompanied Articles

**OMB Number:** 1651-0030

**Form Number:** CBP Form-255

**Abstract:** This collection is completed by each arriving passenger for each parcel or container which is being sent from an Insular Possession at a later date. This declaration allows that traveler to claim their appropriate allowable exemption.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

**Type of Review:** Extension

**Affected Public:** Businesses, Individuals, Institutions

**Estimated Number of Respondents:** 7,500

**Estimated Time Per Respondent:** 5 minutes

**Estimated Total Annual Burden Hours:** 1,250

**Estimated Total Annualized Cost on the Public:** \$18,750

Dated: December 27, 2004

TRACEY DENNING,  
*Agency Clearance Officer,  
Information Services Group.*

[Published in the Federal Register, December 23, 2004 (69 FR 75954)]

## PROPOSED COLLECTION; COMMENT REQUEST

### Entry of Articles for Exhibition

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Entry of Articles for Exhibition. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before February 22, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1426.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are

submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Entry of Articles for Exhibition

**OMB Number:** 1651-0037

**Form Number:** N/A

**Abstract:** This information is used by CBP to substantiate that the goods imported for exhibit have been approved for entry by the Department of Commerce.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

**Type of Review:** Extension

**Affected Public:** Businesses, Individuals, Institutions

**Estimated Number of Respondents:** 40

**Estimated Time Per Respondent:** 20 minutes

**Estimated Total Annual Burden Hours:** 530

**Estimated Total Annualized Cost on the Public:** \$14,792

Dated: December 20, 2004

TRACEY DENNING,  
*Agency Clearance Officer;  
Information Services Group.*

[Published in the Federal Register, December 23, 2004 (69 FR 76955)]

## **PROPOSED COLLECTION; COMMENT REQUEST**

### **Establishment of a Container Station**

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Establishment of a Container Station. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before February 22, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Establishment of a Container Station

**OMB Number:** 1651-0040

**Form Number:** N/A

**Abstract:** This collection is an application to establish a container station for the vaning and devaning of cargo.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

**Type of Review:** Extension (without change)

**Affected Public:** Businesses, Institutions

**Estimated Number of Respondents:** 205

**Estimated Time Per Respondent:** 3 hours

**Estimated Total Annual Burden Hours:** 615

**Estimated Total Annualized Cost on the Public:** \$8917.

Dated: December 27, 2004

TRACEY DENNING,  
*Agency Clearance Officer,  
Information Services Group.*

[Published in the Federal Register, December 23, 2004 (69 FR 76951)]

**PROPOSED COLLECTION; COMMENT REQUEST****Lay Order Period - General Order Merchandise**

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Lay Order Period - General Order Merchandise. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before February 22, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to the Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Lay Order Period - General Order Merchandise Cost Submissions

**OMB Number:** 1651-0079

**Form Number:** N/A

**Abstract:** This collection is required to ensure that the operator of an arriving carrier, or transfer agent shall notify a bonded warehouse proprietor of the presence of merchandise that has remained at the place of arrival or unloading without entry beyond the time period provided for by regulation.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

**Type of Review:** Extension

**Affected Public:** Businesses, Institutions

**Estimated Number of Respondents:** 390

**Estimated Time Per Respondent:** 32.5 hours

**Estimated Total Annual Burden Hours:** 12,675

**Estimated Total Annualized Cost on the Public:** \$190,125.

Dated: December 16, 2004

TRACEY DENNING,  
*Agency Clearance Officer,  
Information Services Group.*

[Published in the Federal Register, December 23, 2004 (69 FR 76953)]

## PROPOSED COLLECTION; COMMENT REQUEST

### North American Free Trade Agreement Duty Deferral

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the North American Free Trade Agreement Duty Deferral. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before February 22, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** North American Free Trade Agreement Duty Deferral

**OMB Number:** 1651-0071

**Form Number:** N/A

**Abstract:** The North American Free Trade Agreement Duty Deferral Program prescribe the documentary and other requirements that must be followed when merchandise is withdrawn from a U.S. duty-deferral program for exportation to another NAFTA country.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

**Type of Review:** Extension (without change)

**Affected Public:** Businesses, Individuals, Institutions

**Estimated Number of Respondents:** 50

**Estimated Time Per Respondent:** 5.6 hours

**Estimated Total Annual Burden Hours:** 280

**Estimated Total Annualized Cost on the Public:** \$6,160

Dated: December 27, 2004

TRACEY DENNING,  
*Agency Clearance Officer.*  
*Information Services Group.*

[Published in the Federal Register, December 23, 2004 (69 FR 76954)]

## **PROPOSED COLLECTION; COMMENT REQUEST**

### **Notice of Detention**

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Notice of Detention. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before February 22, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Notice of Detention

**OMB Number:** 1651-0073

**Form Number:** N/A

**Abstract:** This collection requires a response to the Notice of Detention of merchandise and to provide evidence of admissibility to allow entry.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

**Type of Review:** Extension

**Affected Public:** Businesses, Individuals, Institutions

**Estimated Number of Respondents:** 1350

**Estimated Time Per Respondent:** 2 hours

**Estimated Total Annual Burden Hours:** 2700

**Estimated Total Annualized Cost on the Public:** \$148,500

Dated: December 27, 2004

TRACEY DENNING,  
*Agency Clearance Officer,  
Information Services Group.*

[Published in the Federal Register, December 23, 2004 (69 FR 76952)]

## PROPOSED COLLECTION; COMMENT REQUEST

### Record of Vessel Foreign Repair or Equipment Purchase

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Record of Vessel Foreign Repair or Equipment Purchase. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before February 22, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or

continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Record of Vessel Foreign Repair or Equipment Purchase

**OMB Number:** 1651-0027

**Form Number:** Form CBP-226

**Abstract:** This collection is required to ensure the collection of revenue (duty) required on all equipment, parts, or materials purchased, and repairs made to U.S. Flag vessels outside the United States.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

**Type of Review:** Extension

**Affected Public:** Businesses, Individuals, Institutions

**Estimated Number of Respondents:** 200

**Estimated Time Per Respondent:** 45 minutes

**Estimated Total Annual Burden Hours:** 1,500

**Estimated Total Annualized Cost on the Public:** \$30,000

Dated: December 27, 2004

TRACEY DENNING,  
*Agency Clearance Officer,  
Information Services Group.*

[Published in the Federal Register, December 23, 2004 (69 FR 76953)]

## PROPOSED COLLECTION; COMMENT REQUEST

### Request for Information

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection

(CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Request for Information. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before February 22, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Request for Information

**OMB Number:** 1651-0023

**Form Number:** Form CBP-28

**Abstract:** Form CBP-28 is used by CBP personnel to request additional information from importers when the invoice or other documentation provide insufficient information for CBP to carry out its responsibilities to protect revenues.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

**Type of Review:** Extension

**Affected Public:** Businesses, Individuals, Institutions  
**Estimated Number of Respondents:** 60,000  
**Estimated Time Per Respondent:** 1 hour  
**Estimated Total Annual Burden Hours:** 60,000  
**Estimated Total Annualized Cost on the Public:** N/A

Dated: December 16, 2004

TRACEY DENNING,  
*Agency Clearance Officer,  
Information Services Group.*

[Published in the Federal Register, December 23, 2004 (69 FR 76951)]

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## PROPOSED COLLECTION; COMMENT REQUEST

### Ship's Stores Declaration

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Ship's Stores Declaration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before February 22, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Attn: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to the Bureau of Customs and Border Protection, Attn: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; ways to enhance the quality, utility, and

clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

**Title:** Ship's Stores Declaration

**OMB Number:** 1651-0018

**Form Number:** Customs Form 1303

**Abstract:** This collection is required for audit cargo purposes to ensure that goods used for Ship's Stores can be easily distinguished from other cargo and retain duty free status.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

**Type of Review:** Extension

**Affected Public:** Businesses, Institutions

**Estimated Number of Respondents:** 8,000

**Estimated Time Per Respondent:** 3.35 hours

**Estimated Total Annual Burden Hours:** 26,000

**Estimated Total Annualized Cost on the Public:** \$567,840

Dated: December 27, 2004

TRACEY DENNING,  
*Agency Clearance Officer,  
Information Services Group.*

[Published in the Federal Register, December 23, 2004 (69 FR 76952)]

DEPARTMENT OF HOMELAND SECURITY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS.  
*Washington, DC, December 22, 2004*

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.

MICHAEL T. SCHMITZ,  
*Assistant Commissioner,  
Office of Regulations and Rulings.*

PROPOSED REVOCATION AND MODIFICATION OF RULING  
LETTERS AND REVOCATION OF TREATMENT RELATING TO  
THE TARIFF CLASSIFICATION OF PUMPKIN CARVING SETS

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

ACTION: Notice of proposed revocation and modification of ruling letters and revocation of treatment relating to the tariff classification of pumpkin carving sets.

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 proposing to revoke four ruling letters and modify four ruling letters pertaining to the tariff classification of pumpkin carving sets under the Harmonized Tariff Schedule of the United States (“HTSUS”). Similarly, CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. CBP invites comments on the correctness of the proposed action.

DATE: Comments must be received on or before February 4, 2005.

ADDRESS: Written comments are to be addressed to the U.S. Bureau of Customs and Border Protection, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue N.W., Washington, D.C. 20229. Submitted comments may be inspected at the offices of U.S. Customs and Border Protection, 799 9th Street, NW, Washington, D.C., during regular business hours. Ar-

rangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Deborah Stern, General Classification Branch (202) 572-8785.

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, as amended (19 U.S.C. 1625(c)(1)), this notice advises interested parties that CBP intends to revoke four ruling letters and modify four ruling letters regarding the tariff classification of pumpkin carving sets. Although in this notice CBP is specifically referring to eight rulings (NY H80987, NY H81051, NY G81860, NY I89059, NY G87300, NY G87214, NY J81070 and NY J82021), this notice 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 eight identified. Seven additional rulings will be modified by these eight rulings to reflect the application of General Rule of Interpretation (GRI) 3(c) of the Harmonized Tariff Schedule of the United States (HTSUS). No additional rulings have been found. 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 advise CBP during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), CBP intends to revoke any treat-

ment previously accorded by CBP to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or CBP's previous interpretation of the HTSUS. Any person involved in substantially identical transactions should advise CBP during this 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 of merchandise subsequent to the effective date of the final notice of the proposed action.

In NY H80987, dated June 4, 2001; NY H81051, also dated June 4, 2001; NY G81860, dated September 27, 2000; NY I89059, dated December 16, 2002; NY G87300, dated March 14, 2001; NY G87214, dated March 15, 2001; NY J81070, dated February 20, 2003 and NY J82021, dated April 10, 2003, set forth as Attachments A through H, respectively, CBP determined that the subject pumpkin carving sets were classifiable as goods put up in sets for retail sale under GRI 3(b), HTSUS, but that the sets could not be classified according to GRI 3(b) because no component in the set imparted the essential character of the set. Therefore, the sets were classified according to GRI 3(c) by the component occurring last in numerical order among the competing headings which equally merit consideration.

It is now CBP's position that resort to GRI 3(c) was improper, as the carving knife or tool imparts the essential character of the pumpkin carving sets. Therefore, pumpkin carving sets are classified according to GRI 3(b).

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY H80987, NY H81051, NY G87300, NY J81070, and modify NY G81860, NY I89059, NY G87214 and NY J82021 and modify or revoke, as appropriate, any other ruling not specifically identified, to reflect the proper classification of the subject merchandise or substantially similar merchandise, pursuant to the analysis set forth in HQ 966981, HQ 967376, HQ 967377, HQ 967378 and HQ 967379 (Attachments I through M, respectively), each of which revoke and/or modify one or more of the aforementioned rulings. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical merchandise. Before taking this action, we will give consideration to any written comments timely received.

Dated: December 15, 2004

John Elkins for MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

Attachments

## [ATTACHMENT A]

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

**NY H80987**

June 4, 2001

CLA-2-96:RR:NC:SP:221 H80987

CATEGORY: Classification

TARIFF NO.: 9608.20.0000

MS. DONNA M. DION  
CVS PHARMACY ONE  
CVS Drive  
Woonsocket, RI 02895

RE: The tariff classification of a pumpkin carving kit from China.

DEAR MS. DION:

In your letter dated May 8, 2001, you requested a tariff classification ruling.

A sample was provided with your letter. The pumpkin carving kit (Model 895) contains a carving knife, a plastic scraper, a felt tipped pen, two glitter glue pens, and paper stencils. These items are packaged for retail sale. As you requested, the sample is being returned.

The Explanatory Notes to the Harmonized Tariff System provide guidance in the interpretation of the Harmonized Commodity Description and Coding System at the international level. Explanatory Note X to GRI 3(b) provides that the term "goods put up in sets for retail sale" means goods that: (a) consist of at least two 2 different articles which are, prima facie, classifiable in different headings; (b) consist of articles put up together to meet a particular need or carry out a specific activity; and (c) are put up in a manner suitable for sale directly to users without repacking. Goods classifiable under GRI 3(b) are classified as if they consisted of the material or component which gives them their essential character, which may 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 article. GRI 3(c) provides that when goods cannot be classified by reference to GRI 3(a) or 3(b), they are to be classified in the heading that occurs last in numerical order among those which equally merit consideration.

The pumpkin carving kit is considered to be a set for tariff classification purposes. In this kit no single component imparts the essential character, so the set will be classified in accordance with GRI 3(c). In this kit, the heading for felt tipped pens appears last in numerical order among the competing headings which equally merit consideration. The applicable subheading for the above pumpkin carving kit will be 9608.20.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for felt tipped pens and other porous-tipped pens and markers. The rate of duty will be 4 percent ad valorem.

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 im-

ported. If you have any questions regarding the ruling, contact National Import Specialist Joan Mazzola at 212-637-7034.

ROBERT B. SWIERUPSKI,  
*Director,*  
*National Commodity Specialist Division.*

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
**NY H81051**  
June 4, 2001  
CLA-2-96:RR:NC:SP:221 H81051  
CATEGORY: Classification  
TARIFF NO.: 9608.20.0000

MS. DONNA M. DION  
CVS PHARMACY ONE  
*CVS Drive*  
*Woonsocket, RI 02895*

RE: The tariff classification of a pumpkin carving kit from China.

DEAR MS. DION:

In your letter dated May 8, 2001, you requested a tariff classification ruling.

A sample was provided with your letter. The pumpkin carving kit (Model 892) contains two carving knives, a plastic scraper, a felt tipped pen, and paper stencils. These items are packaged for retail sale. As you requested, the sample is being returned.

The Explanatory Notes to the Harmonized Tariff System provide guidance in the interpretation of the Harmonized Commodity Description and Coding System at the international level. Explanatory Note X to GRI 3(b) provides that the term "goods put up in sets for retail sale" means goods that: (a) consist of at least two 2 different articles which are, prima facie, classifiable in different headings; (b) consist of articles put up together to meet a particular need or carry out a specific activity; and (c) are put up in a manner suitable for sale directly to users without repacking. Goods classifiable under GRI 3(b) are classified as if they consisted of the material or component which gives them their essential character, which may 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 article. GRI 3(c) provides that when goods cannot be classified by reference to GRI 3(a) or 3(b), they are to be classified in the heading that occurs last in numerical order among those which equally merit consideration.

The pumpkin carving kit is considered to be a set for tariff classification purposes. In this kit no single component imparts the essential character, so the set will be classified in accordance with GRI 3(c). In this kit, the heading for felt tipped pens appears last in numerical order among the competing headings which equally merit consideration. The applicable subheading for

the above pumpkin carving kit will be 9608.20.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for felt tipped pens and other porous-tipped pens and markers. The rate of duty will be 4 percent ad valorem.

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 Joan Mazzola at 212-637-7034.

ROBERT B. SWIERUPSKI,  
*Director,*  
*National Commodity Specialist Division.*

[ATTACHMENT C]

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

**NY G81860**

September 27, 2000

CLA-2-82:RR:NC:1:118 G81860

CATEGORY: Classification

TARIFF NO.: 8211.92.4060; 8205.51.30.60;  
8205.51.3030; 9609.90.8000

MS. JENNIFER SCOTT  
EXPEDITORS INTERNATIONAL OF WASHINGTON, INC.  
21318 64th Ave.  
South Kent, WA 98032

RE: The tariff classification of Pumpkin carving kits for Halloween from China.

DEAR MS. SCOTT:

In your letter dated August 30, 2000, on behalf of your client, Pumpkin LTD, dba Pumpkin Masters, Denver CO, you requested a tariff classification ruling.

You have described your submitted samples as follows:

Item #1 is called "Easy Carve". This pumpkin carving kit consists of: 5 different stick on patterns, 1 tea candle, 1 small plastic scoop, used to scoop the insides of the pumpkin out, or to skin the pumpkin, 1 small cutting implement (durasaw) to carve the pumpkin, and 1 small plastic poker to push the pattered pieces out of the pumpkin. It will be used for sculpting rather than carving pumpkins for celebrating the Halloween Holiday.

Item #2 is called a Sculpting Kit. The kit consists of 8 paper patterns, 1 plastic poker, 1 plastic handled steel tie skinner, 1 plastic handled steel v cutter, and 1 plastic handled steel raker. It will be used for sculpting rather than carving pumpkins for celebrating the Halloween Holiday.

Item #3 is called a Punch Out Kit. The kit consists of 1 plastic scoop, 1 wooden mallet, and 2 tin plated steel pumpkin cutters (deep cookie cutters).

It will be used to create and design a Halloween Holiday decoration, using a pumpkin, rather than carving. Plus when an inside light is used the design will decorate the walls.

Item #4 is called a Kid's Carving Kit. The kit consists of 1 durasaw, 1 plastic poker, 1 crayon, 1 plastic scoop and 4 color-on patterns for design. It will be used for carving and for decorating pumpkins during the Halloween Holidays.

Item #5 is called the Family Fun Pak. It consists of 4 patterns for pumpkin design, 2 sets of stickers, 2 crayons, 2 durasaws, 2 small paint brushes, 1 set of paints consisting of 6 different colors, 1 plastic scoop, and 1 plastic poker. It will be used for designing pumpkins during the Halloween Holidays.

The durasaws in kits 1, 4 and 5 are approximately 5" in overall length with a 2 1/2" plastic handle and a 2 1/2" serrated steel blade.

All five items are sets. When two or more goods are put up for retail sale and meet the criteria for sets, the goods are classified according to the component which gives them their essential character. In all five instances, we have concluded that there is no essential character for the sets. Therefore, they shall be classified under the heading, which occurs last in numerical order among those which equally merit consideration. In these instances, the durasaw (item #1), steel raker (item #2), pumpkin cutter (item #3), crayon (item #4 and item #5) classifications are the classifications which occur last.

The applicable subheading for the Easy Carve (item #1) will be 8211.92.4060, Harmonized Tariff Schedule of the United States (HTS), which provides for knives with cutting blades, serrated or not, other than knives of heading 8208, and blades thereof: other knives having fixed blades: with rubber or plastic handles: other: other. The duty rate will be 1 cent each + 4.6% ad valorem.

One of the items in the Easy Carve kit is a candle. The Department of Commerce (DOC) has determined that petroleum wax candles in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers and tea light candles are within the scope of the antidumping duty order on petroleum wax candles from China. The applicable subheading for the Sculpting Kit (item #2) will be 8205.51.3060, HTS, which provides for household tools and parts thereof: of iron or steel: other: other (including parts). The duty rate will be 3.7% ad valorem.

The applicable subheading for the Punch Out Kit (item #3) will be 8205.51.3030, HTS, which provides for household tools and parts thereof: of iron or steel: other: kitchen and table implements. The duty rate will be 3.7% ad valorem.

The applicable subheading for the Kid's Carving Kit and the Family Fun Pak (items #4 and #5) will be 9609.90.8000, HTS, which provides for pencils (other than those pencils of heading 9608), crayons, pencil leads, pastels, drawing charcoals, writing or drawing chalks and tailors' chalks: other: other. The duty rate will be free.

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

A copy of this ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is im-

ported. If you have any questions regarding the ruling, contact National Import Specialist Kathy Campanelli at 212-637-7025.

ROBERT B. SWIERUPSKI,  
*Director,*  
*National Commodity Specialist Division.*

[ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
**NY I89059**  
December 16, 2002  
CLA-2-95:RR:NC:SP:225 I89059  
CATEGORY: Classification  
TARIFF NO.: 8205.51.3030;  
9505.90.6000; 9603.30.2000

MR. BOB BRESNAHAN  
PUMPKIN LTD dba  
PUMPKIN MASTERS  
P.O. Box 44068  
Denver, CO 80201

RE: The tariff classification of a Decorator Punches, Flashing Pumpkin Light, Sculpt & Dye Kit from China.

DEAR MR. BRESNAHAN:

In your letter dated December 10, 2002, you requested a tariff classification ruling.

As indicated by the submitted samples, there are three items in question, identified as Decorator Punches, Flashing Pumpkin Light, and Sculpt & Dye Kit. The Decorator Punches consists of two stainless steel punch tubes (that measure approximately 3 inches in height and 1/2 inch and 1 inch in diameter, respectively) and a wooden doll that measures approximately 6 inches in height and 1/2 inch in diameter packaged together on a cardboard hang card. The are intended to work together to create designs on a pumpkin, with the punch tubes pushed into the pumpkin and the wooden dowel used to push the excess pumpkin out of the punch tubes. The Flashing Pumpkin Light is a plastic battery powered flashing jack-o-lantern decoration that measures approximately 4-1/2 inches in height and 3-1/2 inches in diameter. It has 3 flashing light bulbs that flash randomly in the eyes and nose. The item is packaged on a cardboard hang card and is intended as a decoration to create a scary environment for the Halloween holiday. The Sculpt & Dye Kit consists of a pumpkin decorating set comprised of 2 plastic handle sculpting tools with metal tips, 1 plastic poker, 1 plastic paint brush, and 2 dye tablets (red and green). The articles are used together to sculpt the pumpkin and use the dye tablets to dye the carved designs. The item is packaged on a cardboard hang card, and considered a set for Customs' purposes.

The Explanatory Notes to the Harmonized Tariff System provide guidance in the interpretation of the Harmonized Commodity Description and Coding System at the international level. Explanatory Note X to GRI 3(b) provides that the term “goods put up in sets for retail sale” means goods that: (a) consist of at least two 2 different articles which are, prima facie, classifiable in different headings; (b) consist of articles put up together to meet a particular need or carry out a specific activity; and (c) are put up in a manner suitable for sale directly to users without repacking. Goods classifiable under GRI 3(b) are classified as if they consisted of the material or component which gives them their essential character, which may 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 article. GRI 3(c) provides that when goods cannot be classified by reference to GRI 3(a) or 3(b), they are to be classified in the heading that occurs last in numerical order among those which equally merit consideration.

The Sculpt & Dye Kit is considered to be a set for tariff classification purposes. No single component imparts the essential character, so the set will be classified in accordance with GRI 3(c). In this set, the heading for 9603 appears last in numerical order among the competing headings which equally merit consideration.

The applicable subheading for the Decorator Punches will be 8205.51.3030, Harmonized Tariff Schedule of the United States (HTS), which provides for “Handtools (including glass cutters) not elsewhere specified or included . . . : Other handtools (including glass cutters) and parts thereof: Household tools, and parts thereof: Of iron or steel: Other (including parts) . . . Kitchen and table implements.” The rate of duty will be 3.7 percent ad valorem, and remain the same in 2003.

The applicable subheading for the Flashing Pumpkin Light will be 9505.90.6000, HTS, which provides for “Festive, carnival or other entertainment articles, including magic tricks and practical joke articles; parts and accessories thereof: Other: Other.” The rate of duty will be free.

The applicable subheading for the Sculpt & Dye Kit will be 9603.30.2000, HTS, which provides for “Artists’ brushes, writing brushes and similar brushes for the application of cosmetics: Valued not over 5¢ each.” The rate of duty will be 2.6 percent ad valorem, and remain the same in 2003.

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 Alice Wong at 646-733-3026.

ROBERT B. SWIERUPSKI,  
*Director,*  
*National Commodity Specialist Division.*

## [ATTACHMENT E]

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

**NY G87300**

March 14, 2001

CLA-2-96:RR:NC:SP:221 G87300

CATEGORY: Classification

TARIFF NO.: 9608.20.0000

MR. ERIC KENDALL  
HMS MFG. CO.  
*1230 East Big Beaver Road*  
*Troy, Michigan 48083*

RE: The tariff classification of pumpkin carving kits from China.

DEAR MR. KENDALL:

In your letter dated February 1, 2001, you requested a tariff classification ruling.

Four sample pumpkin carving kits were provided with your letter. The four sets - the "Pumpkin Deluxe" (#890), "Carving Book and Tools" (#892), "Carving Kit" (#893) and "Kid's Carving Book and Tools" (#895) - all contain one or two carving knives, a plastic scraper, a felt tip pen and paper stencils. Kit #895 also includes two glitter glue pens.

The Explanatory Notes to the Harmonized Tariff System provide guidance in the interpretation of the Harmonized Commodity Description and Coding System at the international level. Explanatory Note X to GRI 3(b) provides that the term "goods put up in sets for retail sale" means goods that: (a) consist of at least two 2 different articles which are, prima facie, classifiable in different headings; (b) consist of articles put up together to meet a particular need or carry out a specific activity; and (c) are put up in a manner suitable for sale directly to users without repacking. Goods classifiable under GRI 3(b) are classified as if they consisted of the material or component which gives them their essential character, which may 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 article. GRI 3(c) provides that when goods cannot be classified by reference to GRI 3(a) or 3(b), they are to be classified in the heading that occurs last in numerical order among those which equally merit consideration.

The pumpkin carving kits are considered to be sets for tariff classification purposes. In each of these carving kits, no single component imparts the essential character, so the sets will be classified in accordance with GRI 3(c). In these kits, the heading for felt tip pens appears last in numerical order among the competing headings which equally merit consideration. The applicable subheading for the above pumpkin carving kits will be 9608.20.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for felt tipped pens and other porous-tipped pens and markers. The rate of duty will be 4 percent ad valorem.

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 im-

ported. If you have any questions regarding the ruling, contact National Import Specialist Joan Mazzola at 212-637-7034.

ROBERT B. SWIERUPSKI,  
*Director,*  
*National Commodity Specialist Division.*

[ATTACHMENT F]

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

**NY G87214**  
March 15, 2001  
CLA-2-96:RR:NC:SP:221 G87214  
CATEGORY: Classification  
TARIFF NO.: 9608.20.0000;  
3924.10.5000; 8211.92.4060

MR. ERIC KENDALL  
HMS MFG. CO.  
*1230 East Big Beaver Road*  
*Troy, Michigan 48083*

RE: The tariff classification of pumpkin carving kits from China.

DEAR MR. KENDALL:

In your letter dated February 1, 2001, you requested a tariff classification ruling.

Five sample pumpkin carving kits were provided with your letter. The "Pumpkin Carving Kit" (#881) consists of a pumpkin carving knife, a plastic scoop, a felt tip pen and paper stencils. The "Pumpkin Carving Party Kit" (#898) consists of 4 carving knives, 2 felt tip pens, 1 plastic scraper, 2 glitter glue pens and paper stencils. "The Pumpkin Carving Party Kit" (#888) is identical to #898, except that #888 will contain four candles in addition to the articles contained in #898. Kit #882 contains only a plastic scraper. Kit #883 contains only a pumpkin carving knife.

The Explanatory Notes to the Harmonized Tariff System provide guidance in the interpretation of the Harmonized Commodity Description and Coding System at the international level. Explanatory Note X to GRI 3(b) provides that the term "goods put up in sets for retail sale" means goods that: (a) consist of at least two 2 different articles which are, prima facie, classifiable in different headings; (b) consist of articles put up together to meet a particular need or carry out a specific activity; and (c) are put up in a manner suitable for sale directly to users without repacking. Goods classifiable under GRI 3(b) are classified as if they consisted of the material or component which gives them their essential character, which may 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 article. GRI 3(c) provides that when goods cannot be classified by reference to GRI 3(a) or 3(b), they are to be classified in the heading that occurs last in numerical order among those which equally merit consideration. The pumpkin carving

kits labeled #881, #888 and #898 are considered to be sets for tariff classification purposes. In each of these carving kits, no single component imparts the essential character, so the sets will be classified in accordance with GRI 3(c). In these kits, the heading for felt tip pens appears last in numerical order among the competing headings which equally merit consideration.

The applicable subheading for the above pumpkin carving kits #881, #888 and #898 will be 9608.20.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for felt tipped pens and other porous-tipped pens and markers. The rate of duty will be 4 percent ad valorem.

The applicable subheading for the plastic scraper (#882) will be 3924.10.5000, HTS, which provides for tableware and kitchenware, of plastics, other. The rate of duty will be 3.4 percent ad valorem.

The applicable subheading for the pumpkin carving knife (#883) will be 8211.92.4060, HTS, which provides for knives with cutting blades, serrated or not (including pruning knives), other than the knives of heading 8208...other knives having fixed blades, other. The rate of duty will be 1 cent each plus 4.6 percent ad valorem.

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 Joan Mazzola at 212-637-7034.

ROBERT B. SWIERUPSKI,  
*Director,*  
*National Commodity Specialist Division.*



[ATTACHMENT G]

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

**NY J81070**  
February 20, 2003  
CLA-2-96:RR:NC:2:224 J81070  
CATEGORY: Classification  
TARIFF NO.: 9608.20.0000

MR. JOSEPH STINSON  
LISS GLOBAL INC.  
7746 Dungan Road  
Philadelphia, PA 19111

RE: The tariff classification of a pumpkin carving kit from China.

DEAR MR. STINSON:

In your letter dated February 3, 2003, you requested a tariff classification ruling.

A sample was provided with your letter. The pumpkin carving kit (item 931861) includes 5 paper stencils, 2 utility candles, 1 plastic pumpkin scoop,

1 felt tipped marker, 1 carving tool, 1 etching tool, and 1 designer tool. These items are packaged for retail sale in a plastic box. As you requested, the sample is being returned.

The Explanatory Notes to the Harmonized Tariff System provide guidance in the interpretation of the Harmonized Commodity Description and Coding System at the international level. Explanatory Note X to GRI 3 (b) provides that the term "goods put up in sets for retail sale" means goods that: (a) consist of at least two different articles which are classifiable in different headings; (b) consist of articles put up together to meet a particular need or carry out a specific activity; and (c) are put up in a manner suitable for sale directly to users without re-packing. Goods classifiable under GRI 3 (b) are classified as if they consisted of the material or component which gives them their essential character, which may be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of the constituent material in relation to the use of the article. GRI 3 (c) provides that when goods cannot be classified by reference to GRI 3 (a) or 3 (b), they are classified in the heading that occurs last in numerical order among those which equally merit consideration.

The pumpkin carving kit is considered a set for tariff classification purposes. In this kit no single component imparts the essential character, so the set will be classified in accordance with GRI 3 (c). In this kit, the heading for felt tipped pens and markers appears last in numerical order among the competing headings which equally merit consideration.

The applicable subheading for the pumpkin carving kit, item # 931861, will be 9608.20.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for felt tipped and other porous-tipped pens and markers. The rate of duty will be 4% ad valorem.

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 Tom McKenna at 646-733-3025.

ROBERT B. SWIERUPSKI,  
*Director,*  
*National Commodity Specialist Division.*

## [ATTACHMENT H]

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

**NY J82021**

April 10, 2003

CLA-2-39:RR:NC:SP:221 J82021

CATEGORY: Classification

TARIFF NO.: 3926.90.9880; 8513.10.4000

MS. CARI GREGO  
DOLLAR TREE STORES, INC.  
500 Volvo Parkway  
Chesapeake, VA 23320

RE: The tariff classification of pumpkin carving kits from China.

DEAR MS. GREGO:

In your letter dated March 12, 2003, you requested a tariff classification ruling.

Three sample kits were provided with your letter. All three are identified by the same two model numbers: Item No. H1124 and 813659. The first kit consists of a manual drilling tool with a plastic drill tip, a wood hammer and 50 plastic pegs. The second kit consists of a manual drilling tool with a plastic drill tip, 20 plastic pegs, a crayon and a wood scoop. The third set consists of a manual drilling tool with a plastic drill tip, 50 plastic pegs and a battery operated light to be placed inside the pumpkin to illuminate the pegs. The items of the three kits are packaged for retail sale. The kits are classified as sets according to the heading of the article or articles that provide the essential character of the set.

The Explanatory Notes to the Harmonized Tariff System provide guidance in the interpretation of the Harmonized Commodity Description and Coding System at the international level. Explanatory Note X to GRI 3(b) provides that the term "goods put up in sets for retail sale" means goods that: (a) consist of at least two 2 different articles which are, prima facie, classifiable in different headings; (b) consist of articles put up together to meet a particular need or carry out a specific activity; and (c) are put up in a manner suitable for sale directly to users without repacking. Goods classifiable under GRI 3(b) are classified as if they consisted of the material or component which gives them their essential character, which may 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 article. GRI 3(c) provides that when goods cannot be classified by reference to GRI 3(a) or 3(b), they are to be classified in the heading that occurs last in numerical order among those which equally merit consideration. The essential character of the first two kits (the kits without the light) is imparted by the plastic pegs and the drilling tools, all of which are classified in heading 3926. The kit with the light does not contain any one article or articles that impart the essential character, and we have resorted to GRI 3(c) in classifying the entire kit in heading 8513, the heading applicable to the light, since heading 8513 appears last.

You suggest classification as a festive article in heading 9506. The instant kits are not used to decorate the home for Halloween. The kits are used to

make something (such as a jack-o-lantern) which may be used as a decoration. However, the instant kits themselves are not decorative items.

The applicable subheading for the first two pumpkin carving kits will be 3926.90.9880, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of plastics, other. The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the third pumpkin carving kit (the kit with the battery operated light) will be 8513.10.4000, HTS, which provides for other portable electric lamps designed to function by their own source of energy. The rate of duty will be 3.5 percent ad valorem.

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 Joan Mazzola at 646-733-3023.

ROBERT B. SWIERUPSKI,  
*Director;*  
*National Commodity Specialist Division.*

[ATTACHMENT I]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
**HQ 966981**  
**CLA-2 RR: CR: GC 966981 DBS**  
**CATEGORY:** Classification  
**TARIFF NO.:** 8211.92.4060

MS. DONNA M. DION  
CVS PHARMACY  
*One CVS Drive*  
*Woonsocket, RI 02895*

**RE:** Revocation of NY H80987 and H81051; Pumpkin Carving Sets

DEAR MS. DION:

On June 4, 2001, the Director, National Commodity Specialist Division, issued to you New York Ruling Letters (NY) H80987 and H81051, classifying pumpkin carving kits in subheading 9608.20.0000, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), according to General Rule of Interpretation (GRI) 3(c). We have reviewed these rulings and found them to be incorrect. This ruling sets forth the correct classification.

**FACTS:**

NY H80987 classified the Model 895 pumpkin carving kit. It contains a carving knife, a plastic scraper, a felt tipped pen, two glitter glue pens, and paper stencils. NY H81051 classified the Model 892 pumpkin carving kit. It contains two carving knives, a plastic scraper, a felt tipped pen, and paper stencils. Both items are packaged for retail sale. In both rulings, it was determined no component in the sets imparted the essential character. There-

fore, they were classified according to GRI 3(c) by the component occurring last in numerical order among the competing headings which equally merit consideration.

**ISSUE:**

Whether the pumpkin carving kits have an essential character for purposes of classification according to GRI 3(b).

**LAW AND ANALYSIS:**

Classification under the HTSUS is made in accordance with the General Rules of Interpretation. 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.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be utilized. The ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. CBP believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

NY H80987 and NY H81051 correctly concluded that the kits at issue constituted “goods put up in sets for retail sale” according to GRI 3(b). GRI 3(b) provides, in relevant part, that such sets are classified by the component that imparts the essential character of the set. If the essential character cannot be determined, GRI 3(c) provides that the set will fall to be classified in the heading that occurs last in numerical order among those which equally merit consideration. GRI 3(c) applies only where GRI 3(a) and GRI 3(b) fail. See EN to GRI 3. Both rulings stated that no single component in the kits imparted the essential character, and classified the sets by GRI 3(c) under heading 9608, HTSUSA, which was the last heading among the various items in each set. The application of GRI 3(c) was consistent with several rulings on pumpkin carving kits. However, we now believe the essential character can be determined, and resort to GRI 3(c) is not necessary.

EN VIII to GRI 3(b) explains that “[t]he 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 the constituent material in relation to the use of the goods.” Recent court decisions on the essential character for GRI 3(b) purposes have looked primarily to the role of the constituent material in relation to the use of the goods. See, e.g., *Better Home Plastics Corp. v. U.S.*, 916 F. Supp. 1265 (CIT 1996), *aff’d* 119 F. 3d 969 (Fed. Cir. 1997) *Mita Copystar America, Inc. v. U.S.*, 966 F. Supp. 1245 (CIT 1997), *rehear’g denied*, 994 F. Supp. 393 (CIT 1998), *rev’d on other grounds* 160 F. 3d 710 (Fed. Cir. 1998); see also *Pillowtex Corp. v. United States*, 983 F. Supp. 188 (CIT 1997), *aff’d* 171 F.3d 1370 (Fed. Cir. 1999).

*Better Home Plastics* involved the classification of shower curtain sets. In holding that the set was classified in heading 3924, HTSUS, which provided for the plastic liner, the Court of International Trade relied largely on previous decisions in which the essential character was the component that was indispensable to the function of the good. See *United States v. Canadian Vinyl Industries, Inc.*, 64 C.C.P.A. 97, C.A.D. 1189, 555 F.2d 806 (1977); see

also *United China & Glass v. United States*, 61 Cust. Ct. 386, 389, 293 F. Supp. 734, 737, Cust. Dec. 3637 (1968) (noting essential character is that attribute “which is indispensable to the structure, core or condition of the article, i.e., what it is.”). It reasoned that the utilitarian role of a shower liner, that is, preventing the escape of water, protecting the curtain from mildew and soap scum, and providing privacy, is more important than the decorative value of the inexpensive and partially transparent textile curtain sold with it.

The primary purpose of a pumpkin carving kit is to carve designs, such as a jack o’ lantern face, into a pumpkin. Although it may not predominate in bulk, weight or value, the carving knife fulfills this purpose. A pumpkin cannot be carved into a jack o’ lantern by a pen or stencils or glue or a scoop. Moreover, the other components contribute to the use of the carving knife or accent the carved designs. However, without the other articles, the knife can still be used to carry out the kit’s purpose of carving a design into a pumpkin. It is the knife that is indispensable to the set. Therefore, the utility of the knife in relation to the use of the set predominates over the remaining goods just as the plastic liner predominated over the curtain in *Better Home Plastics*.

As the essential character of the instant sets is imparted by the carving knife, the instant pumpkin carving sets are classified according to GRI 3(b) in subheading 8211.92.4060, HTSUSA, which provides for other knives having fixed blades with rubber or plastic handles.

In addition to the rulings at issue above, we reviewed other rulings issued to other importers or their representatives on pumpkin carving kits. Many of them held the kits were classified by the carving instrument, whether it was a knife of heading 8211, HTSUSA, or other hand tools of heading 8205, HTSUSA, but employed GRI 3(c) to resolve the classification. As the holding is correct but the analysis is not, the rulings need not be modified pursuant to 19 U.S.C. §1625(c). However, the analysis in the following rulings needs to be corrected: NY I89205, dated November 19, 2002; NY G87082, dated February 26, 2001; NY 818260, dated February 9, 1996; NY 807079, dated March 2, 1995; NY 817821, dated January 22, 1996; NY 899065, dated June 22, 1994 and NY 815629, dated October 19, 1995. The analysis set forth to classify several models of pumpkin carving kits in NY G81860, dated September 27, 2000, also require modification, but as other models in the ruling require new classifications, the analysis will be modified in a separate ruling pursuant to 19 U.S.C. §1625(c).

We note that certain exceptions to the analysis set forth above apply on a case-by-case basis. NY B85472, dated June 5, 1997, classified a pumpkin carving kit consisting of an “Erie Eyeball Maker,” scoop and saw, in subheading 8211.92.4060, HTSUSA, by GRI 3(c). In that case, making eyeballs and carving the pumpkin are equally essential to that particular set. NY F83018, dated February 22, 2000, classified Pumpkin Party Deluxe Carve and Stencil Kit by GRI 3(c) in subheading 8524.39.8000, HTSUS, which provided for the included CD-ROM that generated stencils on a computer. Stencil making and pumpkin carving are equally important in relation to the use of that set. Application of GRI 3(c) was proper for these sets.

**HOLDING:**

At GRI 3(b), the Model 895 and Model 892 pumpkin carving kits are classified in subheading 8211.92.4060, HTSUSA, which provides for “Knives with cutting blades, serrated or not (including pruning knives), other than

knives of heading 8208, and blades and other base metal parts thereof: Other: Other knives having fixed blades: With rubber or plastic handles: Other: Other.” The 2004 rate of duty is 1¢ each + 4.6% *ad valorem*.

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 [www.usitc.gov](http://www.usitc.gov).

**EFFECT ON OTHER RULINGS:**

NY H80987 and NY H81051, dated June 4, 2001, are hereby REVOKED.

Though the classification remains unchanged, the analysis of the following rulings is hereby modified in accordance with the LAW AND ANALYSIS above as follows with respect to the specifically enumerated products:

Ruling Number  
Issue Date  
To Whom Addressed  
Product identification

**NY I89205**

November 19, 2002  
Paper Magic Group, Inc  
Item # 6520210 “Be Neat and Carve” pumpkin carving kit

**NY G87082**

February 26, 2001  
Expeditors International of Washington, Inc. on behalf of Pumpkin LTD,  
d/b/a Pumpkin Masters  
Sparkling Pumpkin Jewels pumpkin carving kit

**NY 818260**

February 9, 1996  
Silvey Shipping Co., Inc. on behalf of The Paper Magic Group, Inc.  
“Carve & Candle Kit” and “Tools for Ghouls- Pumpkin Carving Kit”

**NY 807079**

March 2, 1995  
Silvey Shipping Co., Inc. on behalf of The Paper Magic Group, Inc  
“Creative Pumpkin Carver,” “Carve & Candle Kit” and “Tools for Ghouls-  
Pumpkin Carving Kit”

**NY 817821**

January 22, 1996  
Four Star International Trading Company  
“4-piece pumpkin carving kit”

**NY 899065**

June 22, 1994  
Sunstar Industries, Inc.  
“7-piece Halloween Pumpkin Carving Kit”

**NY 815629**

October 19, 1995  
Circle International, Inc. on behalf of Sunhill Industries, Inc.  
“Pumpkin carving kit”

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

[ATTACHMENT J]

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

**HQ 967376**

**CLA-2 RR: CR: GC 967376 DBS**

**CATEGORY: Classification**

**TARIFF NO.:** 8211.92.4060; 8205.51.3030; 8205.51.3060

MR. BOB BRESNAHAN  
PUMPKIN LTD d.b.a.  
PUMPKIN MASTERS  
P.O. Box 44068  
Denver, CO 80201

**RE:** Modification of NY G81860 and NY I89059; Pumpkin Carving Sets

DEAR MR. BRESNAHAN:

On September 27, 2000, the Director, National Commodity Specialist Division (NCSD), issued to your agent, Expeditors International of Washington, New York Ruling Letter (NY) G81860, classifying five pumpkin carving kits under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) according to General Rule of Interpretation (GRI) 3(c). On December 16, 2002, NY I89059, classifying, among other goods, the pumpkin "Sculpt & Dye Kit" under the HTSUSA according to GRI 3(c), was issued to you. We have reviewed these rulings and found each of them to be incorrect, in part. This ruling sets forth the correct classification. In addition, please note that the analysis of NY G87082, dated February 26, 2001, also issued on your behalf, is modified herein.

**FACTS:**

The merchandise classified in NY G81860 is described as follows, all five having been determined to be classifiable as goods put up in sets for retail sale, according to GRI 3(b):

Item #1 is called "Easy Carve." This pumpkin carving kit consists of: 5 different stick on patterns, 1 tea candle, 1 small plastic scoop, used to scoop the insides of the pumpkin out, or to skin the pumpkin, 1 small cutting implement (durasaw) to carve the pumpkin, and 1 small plastic poker to push the pattered pieces out of the pumpkin. It will be used for sculpting rather than carving pumpkins for celebrating the Halloween Holiday. Easy Carve was classified in subheading 8211.92.4060, HTSUSA, the provision for the durasaw.

Item #2 is called a Sculpting Kit. The kit consists of 8 paper patterns, 1 plastic poker, 1 plastic handled steel tie skinner, 1 plastic handled steel v cutter, and 1 plastic handled steel raker. It will be used for sculpting rather than carving pumpkins for celebrating the Halloween Holiday. This set was classified in subheading 8205.51.3060, HTSUSA, a provision for hand tools.

Item #3 is called a Punch Out Kit. The kit consists of 1 plastic scoop, 1 wooden mallet, and 2 tin plated steel pumpkin cutters (deep cookie cutters). It will be used to create and design a Halloween Holiday decoration, using a pumpkin, rather than carving. Plus when an inside light is used the design will decorate the walls. It was classified in subheading 8205.51.3030, HTSUSA, a provision for hand tools.

Item #4 is called a Kid's Carving Kit. The kit consists of 1 durosaw, 1 plastic poker, 1 crayon, 1 plastic scoop and 4 color-on patterns for design. It will be used for carving and for decorating pumpkins during the Halloween Holidays. Item #5 is called the Family Fun Pak. It consists of 4 patterns for pumpkin design, 2 sets of stickers, 2 crayons, 2 durosaws, 2 small paint brushes, 1 set of paints consisting of 6 different colors, 1 plastic scoop, and 1 plastic poker. It will be used for designing pumpkins during the Halloween Holidays. Both of these sets were classified in subheading 9609.90.8000, HTSUSA, which provides for pencils.

NY I89059, among other items, described the Sculpt & Dye Kit as consisting of a pumpkin decorating set comprised of 2 plastic handle sculpting tools with metal tips, 1 plastic poker, 1 plastic paint brush, and 2 dye tablets (red and green). The articles are used together to sculpt the pumpkin and the dye tablets are used to dye the carved designs. The item is packaged on a cardboard hang card, and considered a set for Customs' purposes. The set was classified in subheading 9603.30.2000, HTSUSA, which provides for brushes.

In both rulings, it was determined no component in the set imparted the essential character. Therefore, they were classified according to GRI 3(c) by the component occurring last in numerical order among the competing headings which equally merit consideration.

**ISSUE:**

Whether the pumpkin carving kits have an essential character for purposes of classification according to GRI 3(b).

**LAW AND ANALYSIS:**

Classification under the HTSUS is made in accordance with the General Rules of Interpretation. 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.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be utilized. The ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. CBP believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

NY G81860 and NY I89059 correctly concluded that the kits at issue constituted "goods put up in sets for retail sale" according to GRI 3(b). GRI 3(b) provides, in relevant part, that such sets are classified by the component that imparts the essential character of the set. If the essential character cannot be determined, GRI 3(c) provides that the set will fall to be classified in the heading that occurs last in numerical order among those which equally merit consideration. GRI 3(c) applies only where GRI 3(a) and GRI 3(b) fail. See EN to GRI 3. Both rulings stated that no single component in the kits imparted the essential character, and classified the sets by GRI 3(c) under the various subheadings identified in the FACTS section of this ruling, which, for each set, was the last subheading among the various items in each set. The application of GRI 3(c) was consistent with several rulings on

pumpkin carving kits. However, we now believe the essential character can be determined, and resort to GRI 3(c) is not necessary.

EN VIII to GRI 3(b) explains that “[t]he 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 the constituent material in relation to the use of the goods.” Recent court decisions on the essential character for GRI 3(b) purposes have looked primarily to the role of the constituent material in relation to the use of the goods. *See, e.g., Better Home Plastics Corp. v. U.S.*, 916 F. Supp. 1265 (CIT 1996), *aff’d* 119 F. 3d 969 (Fed. Cir. 1997) *Mita Copystar America, Inc. v. U.S.*, 966 F. Supp. 1245 (CIT 1997), *rehear’g denied*, 994 F. Supp. 393 (CIT 1998), *rev’d on other grounds* 160 F. 3d 710 (Fed. Cir. 1998); *see also Pillowtex Corp. v. United States*, 983 F. Supp. 188 (CIT 1997), *aff’d* 171 F.3d 1370 (Fed. Cir. 1999).

*Better Home Plastics* involved the classification of shower curtain sets. In holding that the set was classified in heading 3924, HTSUS, which provided for the plastic liner, the Court of International Trade relied largely on previous decisions in which the essential character was the component that was indispensable to the function of the good. *See United States v. Canadian Vinyl Industries, Inc.*, 64 C.C.P.A. 97, C.A.D. 1189, 555 F.2d 806 (1977); *see also United China & Glass v. United States*, 61 Cust. Ct. 386, 389, 293 F. Supp. 734, 737, Cust. Dec. 3637 (1968) (noting essential character is that attribute “which is indispensable to the structure, core or condition of the article, i.e., what it is.”). It reasoned that the utilitarian role of a shower liner, that is, preventing the escape of water, protecting the curtain from mildew and soap scum, and providing privacy, is more important than the decorative value of the inexpensive and partially transparent textile curtain sold with it.

The primary purpose of a pumpkin carving kit is to carve designs, such as a jack o’ lantern face, into a pumpkin. Although it may not predominate in bulk, weight or value, the carving knife (durasaw) fulfills this purpose. A pumpkin cannot be carved into a jack o’ lantern by a pen or paint brushes or a scoop. Moreover, the other components contribute to the use of the carving knife/carving tool or accent the carved designs. However, without the other articles, the knife/carving tool can still be used to carry out the kits’ purpose of carving a design into a pumpkin. It is the knife or carving tool that is indispensable to a pumpkin carving set. Therefore, the utility of the knife/carving tool in relation to the use of the set predominates over the remaining goods just as the plastic liner predominated over the curtain in *Better Home Plastics*.

As the essential character of the instant sets is imparted by the carving knife, the instant pumpkin carving sets are classified according to GRI 3(b) in subheading 8211.92.4060, HTSUSA, which provides for other knives having fixed blades with rubber or plastic handles, or, for the sets which contain another type of cutting tool, subheading 8205.51.30, HTSUSA, is appropriate.

In addition to the rulings at issue above, we reviewed other rulings issued to other importers or their representatives on pumpkin carving kits. Many of them held the kits were classified by the carving instrument, whether it was a knife of heading 8211, HTSUSA, or other hand tools of heading 8205, HTSUSA, but employed GRI 3(c) to resolve the classification. As the holding is correct but the analysis is not, the rulings need not be modified pursuant

to 19 U.S.C. §1625(c). However, the analysis in the following rulings needs to be corrected: NY I89205, dated November 19, 2002; NY G87082, dated February 26, 2001; NY 818260, dated February 9, 1996; NY 807079, dated March 2, 1995; NY 817821, dated January 22, 1996; NY 899065, dated June 22, 1994 and NY 815629, dated October 19, 1995. The analysis set forth to classify several models of pumpkin carving kits in NY G81860, dated September 27, 2000, also require modification, but as other models in the ruling require new classifications, the analysis will be modified in a separate ruling pursuant to 19 U.S.C. §1625(c).

We note that certain exceptions to the analysis set forth above apply on a case-by-case basis. NY B85472, dated June 5, 1997, classified a pumpkin carving kit consisting of an "Erie Eyeball Maker," scoop and saw, in subheading 8211.92.4060, HTSUSA, by GRI 3(c). In that case, making eyeballs and carving the pumpkin are equally essential to that particular set. NY F83018, dated February 22, 2000, classified Pumpkin Party Deluxe Carve and Stencil Kit by GRI 3(c) in subheading 8524.39.8000, HTSUS, which provided for the included CD-ROM that generated stencils on a computer. Stencil making and pumpkin carving are equally important in relation to the use of that set. Application of GRI 3(c) was proper for these sets.

**HOLDING:**

At GRI 3(b), the "Easy Carve" set, "Kid's Carving Kit" and "Family Fun Pak" pumpkin carving kits are classified in subheading 8211.92.4060, HTSUSA, which provides for "Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading 8208, and blades and other base metal parts thereof: Other: Other knives having fixed blades: With rubber or plastic handles: Other: Other." The 2004 rate of duty is 1¢ each + 4.6% *ad valorem*. *As stated in NY G81860, the candle in the Easy Carve kit is subject to the determination by the U.S. Department of Commerce that petroleum wax candles in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers and tea light candles are within the scope of the antidumping duty order on petroleum wax candles from China.*

At GRI 3(b), the "Punch Out Kit" is classified in subheading 8205.51.3030, HTSUSA, which provides for "Handtools (including glass cutters) not elsewhere specified or included . . . : Other handtools . . . : Household tools, and parts thereof: Of iron or steel: Other (including parts): Kitchen and table implements." The 2004 rate of duty is 3.7% *ad valorem*.

At GRI 3(b), the "Sculpting Kit," "Sculpt & Dye Kit" are classified in subheading 8205.51.3060, HTSUSA, which provides for "Handtools (including glass cutters) not elsewhere specified or included . . . : Other handtools . . . : Household tools, and parts thereof: Of iron or steel: Other (including parts): Other." The 2004 rate of duty is 3.7% *ad valorem*.

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 [www.usitc.gov](http://www.usitc.gov).

**EFFECT ON OTHER RULINGS:**

NY G81860, dated September 27, 2000, and NY I89059, dated December 16, 2002, are hereby MODIFIED.

Though the classification remains unchanged, the analysis of the following rulings is hereby modified in accordance with the LAW AND ANALYSIS above as follows with respect to the specifically enumerated products:

Ruling Number  
Issue Date  
To Whom Addressed  
Product identification

**NY I89205**

November 19, 2002  
Paper Magic Group, Inc  
Item # 6520210 "Be Neat and Carve" pumpkin carving kit

**NY G87082**

February 26, 2001  
Expeditors International of Washington, Inc. on behalf of Pumpkin LTD,  
d/b/a  
Pumpkin Masters  
Sparkling Pumpkin Jewels pumpkin carving kit

**NY 818260**

February 9, 1996  
Silvey Shipping Co., Inc. on behalf of The Paper Magic Group, Inc.  
"Carve & Candle Kit" and "Tools for Ghouls- Pumpkin Carving Kit"

**NY 807079**

March 2, 1995  
Silvey Shipping Co., Inc. on behalf of The Paper Magic Group, Inc "Creative  
Pumpkin Carver," "Carve & Candle Kit" and "Tools for Ghouls-Pumpkin  
Carving Kit"

**NY 817821**

January 22, 1996  
Four Star International Trading Company  
"4-piece pumpkin carving kit"

**NY 899065**

June 22, 1994  
Sunstar Industries, Inc.  
"7-piece Halloween Pumpkin Carving Kit"

**NY 815629**

October 19, 1995  
Circle International, Inc. on behalf of Sunhill Industries, Inc.  
"Pumpkin carving kit"

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

## [ATTACHMENT K]

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

**HQ 967377**

**CLA-2 RR: CR: GC 967377 DBS**

**CATEGORY:** Classification

**TARIFF NO.:** 8211.92.4060

MR. ERIC KENDALL  
HMS MFG. CO.  
*1230 East Big Beaver Road*  
*Troy, MI 48083*

**RE:** Revocation of NY G87300 and Modification of NY G87214; Pumpkin Carving Sets

DEAR MR. KENDALL:

On March 14, 2001, the Director, National Commodity Specialist Division (NCSA), issued to you New York Ruling Letter (NY) G87300, classifying four pumpkin carving kits under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) according to General Rule of Interpretation (GRI) 3(c). On March 15, 2001, NY G87214, classifying five pumpkin carving kits under the HTSUSA according to GRI 3(c), was also issued to you. We have reviewed these rulings and found NY G87300 to be wholly incorrect and NY G87214 to be incorrect in part. This ruling sets forth the correct classifications.

**FACTS:**

The merchandise classified in NY G87300 is described as follows, all four having been determined to be classifiable as goods put up in sets for retail sale, according to GRI 3(b): the "Pumpkin Deluxe" (#890), "Carving Book and Tools" (#892), "Carving Kit" (#893) and "Kid's Carving Book and Tools" (#895) - all contain one or two carving knives, a plastic scraper, a felt tip pen and paper stencils. Kit #895 also includes two glitter glue pens.

The merchandise classified in NY G87214 is described as follows, all five also having been determined to be classifiable as goods put up in sets for retail sale, according to GRI 3(b): "Pumpkin Carving Kit" (#881) consists of a pumpkin carving knife, a plastic scoop, a felt tip pen and paper stencils. The "Pumpkin Carving Party Kit" (#898) consists of 4 carving knives, 2 felt tip pens, 1 plastic scraper, 2 glitter glue pens and paper stencils. "The Pumpkin Carving Party Kit" (#888) is identical to #898, except that #888 will contain four candles in addition to the articles contained in #898. Kit #882 contains only a plastic scraper. Kit #883 contains only a pumpkin carving knife. They are imported from China.

In both rulings, it was determined no component in the set imparted the essential character. Therefore, they were classified according to GRI 3(c) by the component occurring last in numerical order among the competing headings which equally merit consideration.

**ISSUE:**

Whether the pumpkin carving kits have an essential character for purposes of classification according to GRI 3(b).

**LAW AND ANALYSIS:**

Classification under the HTSUS is made in accordance with the General Rules of Interpretation. 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.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be utilized. The ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. CBP believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

NY G87300 and NY G87214 correctly concluded that the kits at issue constituted "goods put up in sets for retail sale" according to GRI 3(b). GRI 3(b) provides, in relevant part, that such sets are classified by the component that imparts the essential character of the set. If the essential character cannot be determined, GRI 3(c) provides that the set will fall to be classified in the heading that occurs last in numerical order among those which equally merit consideration. GRI 3(c) applies only where GRI 3(a) and GRI 3(b) fail. See EN to GRI 3. Both rulings stated that no single component in the kits imparted the essential character, and classified the sets by GRI 3(c) under heading 9608, HTSUS, which was the last heading among the various items in each set. The application of GRI 3(c) was consistent with several rulings on pumpkin carving kits. However, we now believe the essential character can be determined, and resort to GRI 3(c) is not necessary.

EN VIII to GRI 3(b) explains that "[t]he 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 the constituent material in relation to the use of the goods." Recent court decisions on the essential character for GRI 3(b) purposes have looked primarily to the role of the constituent material in relation to the use of the goods. See, e.g., *Better Home Plastics Corp. v. U.S.*, 916 F. Supp. 1265 (CIT 1996), *aff'd* 119 F. 3d 969 (Fed. Cir. 1997) *Mita Copystar America, Inc. v. U.S.*, 966 F. Supp. 1245 (CIT 1997), *rehear'g denied*, 994 F. Supp. 393 (CIT 1998) ), *rev'd on other grounds* 160 F. 3d 710 (Fed. Cir. 1998); see also *Pillowtex Corp. v. United States*, 983 F. Supp. 188 (CIT 1997), *aff'd* 171 F.3d 1370 (Fed. Cir. 1999).

*Better Home Plastics* involved the classification of shower curtain sets. In holding that the set was classified in heading 3924, HTSUS, which provided for the plastic liner, the Court of International Trade relied largely on previous decisions in which the essential character was the component that was indispensable to the function of the good. See *United States v. Canadian Vinyl Industries, Inc.*, 64 C.C.P.A. 97, C.A.D. 1189, 555 F.2d 806 (1977); see also *United China & Glass v. United States*, 61 Cust. Ct. 386, 389, 293 F. Supp. 734, 737, Cust. Dec. 3637 (1968) (noting essential character is that attribute "which is indispensable to the structure, core or condition of the article, i.e., what it is."). It reasoned that the utilitarian role of a shower liner,

that is, preventing the escape of water, protecting the curtain from mildew and soap scum, and providing privacy, is more important than the decorative value of the inexpensive and partially transparent textile curtain sold with it.

The primary purpose of a pumpkin carving kit is to carve designs, such as a jack o' lantern face, into a pumpkin. Although it may not predominate in bulk, weight or value, the carving knife fulfills this purpose. A pumpkin cannot be carved into a jack o' lantern by a pen or stencils or a scoop. Moreover, the other components contribute to the use of the carving knife or accent the carved designs. However, without the other articles, the knife can still be used to carry out the kits' purpose of carving a design into a pumpkin. It is the knife that is indispensable to the set. Therefore, the utility of the knife in relation to the use of the set predominates over the remaining goods just as the plastic liner predominated over the curtain in *Better Home Plastics*.

As the essential character of the instant sets is imparted by the carving knife, the instant pumpkin carving sets are classified according to GRI 3(b) in subheading 8211.92.4060, HTSUSA, which provides for other knives having fixed blades with rubber or plastic handles.

In addition to the rulings at issue above, we reviewed other rulings issued to other importers or their representatives on pumpkin carving kits. Many of them held the kits were classified by the carving instrument, whether it was a knife of heading 8211, HTSUSA, or other hand tools of heading 8205, HTSUSA, but employed GRI 3(c) to resolve the classification. As the holding is correct but the analysis is not, the rulings need not be modified pursuant to 19 U.S.C. §1625(c). However, the analysis in the following rulings needs to be corrected: NY I89205, dated November 19, 2002; NY G87082, dated February 26, 2001; NY 818260, dated February 9, 1996; NY 807079, dated March 2, 1995; NY 817821, dated January 22, 1996; NY 899065, dated June 22, 1994 and NY 815629, dated October 19, 1995. The analysis set forth to classify several models of pumpkin carving kits in NY G81860, dated September 27, 2000, also require modification, but as other models in the ruling require new classifications, the analysis will be modified in a separate ruling pursuant to 19 U.S.C. §1625(c).

We note that certain exceptions to the analysis set forth above apply on a case-by-case basis. NY B85472, dated June 5, 1997, classified a pumpkin carving kit consisting of an "Erie Eyeball Maker," scoop and saw, in subheading 8211.92.4060, HTSUSA, by GRI 3(c). In that case, making eyeballs and carving the pumpkin are equally essential to that particular set. NY F83018, dated February 22, 2000, classified Pumpkin Party Deluxe Carve and Stencil Kit by GRI 3(c) in subheading 8524.39.8000, HTSUS, which provided for the included CD-ROM that generated stencils on a computer. Stencil making and pumpkin carving are equally important in relation to the use of that set. Application of GRI 3(c) was proper for these sets.

**HOLDING:**

At GRI 3(b), pumpkin carving kits are classified in subheading 8211.92.4060, HTSUSA, which provides for "Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading 8208, and blades and other base metal parts thereof: Other: Other knives having fixed blades: With rubber or plastic handles: Other: Other." The 2004 rate

of duty is 1¢ each + 4.6% *ad valorem*. Note that the candles in “Pumpkin Carving Kit #882” may be subject to the determination by the U.S. Department of Commerce that petroleum wax candles in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers and tea light candles are within the scope of the antidumping duty order on petroleum wax candles from China.

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 [www.usitc.gov](http://www.usitc.gov).

**EFFECT ON OTHER RULINGS:**

NY G87300, dated March 14, 2001 is REVOKED and NY G87214, dated March 15, 2001, is hereby MODIFIED.

Though the classification remains unchanged, the analysis of the following rulings is hereby modified in accordance with the LAW AND ANALYSIS above as follows with respect to the specifically enumerated products:

Ruling Number  
Issue Date  
To Whom Addressed  
Product identification

**NY 189205**

November 19, 2002  
Paper Magic Group, Inc  
Item # 6520210 “Be Neat and Carve” pumpkin carving kit

**NY G87082**

February 26, 2001  
Expeditors International of Washington, Inc. on behalf of Pumpkin LTD,  
d/b/a  
Pumpkin Masters  
Sparkling Pumpkin Jewels pumpkin carving kit

**NY 818260**

February 9, 1996  
Silvey Shipping Co., Inc. on behalf of The Paper Magic Group, Inc.  
“Carve & Candle Kit” and “Tools for Ghouls- Pumpkin Carving Kit”

**NY 807079**

March 2, 1995  
Silvey Shipping Co., Inc. on behalf of The Paper Magic Group, Inc  
“Creative Pumpkin Carver,” “Carve & Candle Kit” and “Tools for Ghouls-  
Pumpkin Carving Kit”

**NY 817821**

January 22, 1996  
Four Star International Trading Company  
“4-piece pumpkin carving kit”

**NY 899065**

June 22, 1994  
Sunstar Industries, Inc.  
“7-piece Halloween Pumpkin Carving Kit”

**NY 815629**

October 19, 1995

Circle International, Inc. on behalf of Sunhill Industries, Inc.  
"Pumpkin carving kit"MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

[ATTACHMENT L]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,**HQ 967378**  
**CLA-2 RR: CR: GC 967378 DBS**  
**CATEGORY:** Classification  
**TARIFF NO.:** 8205.51.3060MR. JOSEPH STINSON  
LISS GLOBAL INC.  
7746 Dungan Road  
Philadelphia, PA 19111**RE:** Revocation of NY J81070; Pumpkin Carving Set

DEAR MR. STINSON:

On February 20, 2003, the Director, National Commodity Specialist Division, issued to you New York Ruling Letter (NY) J81070, classifying a pumpkin carving kit under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) according to General Rule of Interpretation (GRI) 3(c). We have reviewed the ruling and found NY J81070 to be incorrect. This ruling sets forth the correct classification.

**FACTS:**

The merchandise classified in NY J81070 is described as a pumpkin carving kit, item 93186. It includes 5 paper stencils, 2 utility candles, 1 plastic pumpkin scoop, 1 felt tipped marker, 1 carving tool, 1 etching tool, and 1 designer tool. These items are packaged for retail sale in a plastic box. They are imported from China.

It was determined no component in the set imparted the essential character. Therefore, they were classified according to GRI 3(c) by the component occurring last in numerical order among the competing headings which equally merit consideration.

**ISSUE:**

Whether the pumpkin carving kit has an essential character for purposes of classification according to GRI 3(b).

**LAW AND ANALYSIS:**

Classification under the HTSUS is made in accordance with the General Rules of Interpretation. 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.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be utilized. The ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. CBP believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

NY J81070 correctly concluded that the kits at issue constituted "goods put up in sets for retail sale" according to GRI 3(b). GRI 3(b) provides, in relevant part, that such sets are classified by the component that imparts the essential character of the set. If the essential character cannot be determined, GRI 3(c) provides that the set will fall to be classified in the heading that occurs last in numerical order among those which equally merit consideration. GRI 3(c) applies only where GRI 3(a) and GRI 3(b) fail. See EN to GRI 3. The ruling stated that no single component in the kits imparted the essential character, and classified the sets by GRI 3(c) under heading 9608, HTSUS, which was the last heading among the various items in each set. The application of GRI 3(c) was consistent with several rulings on pumpkin carving kits. However, we now believe the essential character can be determined, and resort to GRI 3(c) is not necessary.

EN VIII to GRI 3(b) explains that "[t]he 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 the constituent material in relation to the use of the goods." Recent court decisions on the essential character for GRI 3(b) purposes have looked primarily to the role of the constituent material in relation to the use of the goods. See, e.g., *Better Home Plastics Corp. v. U.S.*, 916 F. Supp. 1265 (CIT 1996), *aff'd* 119 F. 3d 969 (Fed. Cir. 1997) *Mita Copystar America, Inc. v. U.S.*, 966 F. Supp. 1245 (CIT 1997), *rehear'g denied*, 994 F. Supp. 393 (1998), *rev'd on other grounds* 160 F. 3d 710 (Fed. Cir. 1998); see also *Pillowtex Corp. v. United States*, 983 F. Supp. 188 (CIT 1997), *aff'd* 171 F.3d 1370 (Fed. Cir. 1999).

*Better Home Plastics* involved the classification of shower curtain sets. In holding that the set was classified in heading 3924, HTSUS, which provided for the plastic liner, the Court of International Trade relied largely on previous decisions in which the essential character was the component that was indispensable to the function of the good. See *United States v. Canadian Vinyl Industries, Inc.*, 64 C.C.P.A. 97, C.A.D. 1189, 555 F.2d 806 (1977); see also *United China & Glass v. United States*, 61 Cust. Ct. 386, 389, 293 F. Supp. 734, 737, Cust. Dec. 3637 (1968) (noting essential character is that attribute "which is indispensable to the structure, core or condition of the article, i.e., what it is."). It reasoned that the utilitarian role of a shower liner, that is, preventing the escape of water, protecting the curtain from mildew and soap scum, and providing privacy, is more important than the decorative value of the inexpensive and partially transparent textile curtain sold with it.

The primary purpose of a pumpkin carving kit is to carve designs, such as a jack o' lantern face, into a pumpkin. Although it may not predominate in bulk, weight or value, the carving tool fulfills this purpose. A pumpkin can-

not be carved into a jack o' lantern by a pen or stencils or a scoop. Moreover, the other components contribute to the use of the carving tool or accent the carved designs. However, without the other articles, the carving tool can still be used to carry out the kits' purpose of carving a design into a pumpkin. It is the carving tool that is indispensable to the set. Therefore, the utility of the carving tool in relation to the use of the set predominates over the remaining goods just as the plastic liner predominated over the curtain in *Better Home Plastics*.

As the essential character of the instant sets is imparted by the carving tool, the instant pumpkin carving sets are classified according to GRI 3(b) in subheading 8205.51.3060, HTSUSA, which provides for other handtools.

In addition to the rulings at issue above, we reviewed other rulings issued to other importers or their representatives on pumpkin carving kits. Many of them held the kits were classified by the carving instrument, whether it was a knife of heading 8211, HTSUSA, or other hand tools of heading 8205, HTSUSA, but employed GRI 3(c) to resolve the classification. As the holding is correct but the analysis is not, the rulings need not be modified pursuant to 19 U.S.C. §1625(c). However, the analysis in the following rulings needs to be corrected: NY I89205, dated November 19, 2002; NY G87082, dated February 26, 2001; NY 818260, dated February 9, 1996; NY 807079, dated March 2, 1995; NY 817821, dated January 22, 1996; NY 899065, dated June 22, 1994 and NY 815629, dated October 19, 1995. The analysis set forth to classify several models of pumpkin carving kits in NY G81860, dated September 27, 2000, also require modification, but as other models in the ruling require new classifications, the analysis will be modified in a separate ruling pursuant to 19 U.S.C. §1625(c).

We note that certain exceptions to the analysis set forth above apply on a case-by-case basis. NY B85472, dated June 5, 1997, classified a pumpkin carving kit consisting of an "Erie Eyeball Maker," scoop and saw, in subheading 8211.92.4060, HTSUSA, by GRI 3(c). In that case, making eyeballs and carving the pumpkin are equally essential to that particular set. NY F83018, dated February 22, 2000, classified Pumpkin Party Deluxe Carve and Stencil Kit by GRI 3(c) in subheading 8524.39.8000, HTSUS, which provided for the included CD-ROM that generated stencils on a computer. Stencil making and pumpkin carving are equally important in relation to the use of that set. Application of GRI 3(c) was proper for these sets.

**HOLDING:**

At GRI 3(b), pumpkin carving kit item # 931861 is classified in subheading 8205.51.3060, HTSUSA, which provides for "Handtools (including glass cutters) not elsewhere specified or included . . . : Other handtools . . . : Household tools, and parts thereof: Of iron or steel: Other (including parts): Other." The 2004 rate of duty is 3.7% *ad valorem*. Note that the candles in this kit may be subject to the determination by the U.S. Department of Commerce that petroleum wax candles in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers and tea light candles are within the scope of the antidumping duty order on petroleum wax candles from China.

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 [www.usitc.gov](http://www.usitc.gov).

**EFFECT ON OTHER RULINGS:**

NY J81070, dated February 20, 2003, is hereby REVOKED.

Though the classification remains unchanged, the analysis of the following rulings is hereby modified in accordance with the LAW AND ANALYSIS above as follows with respect to the specifically enumerated products:

Ruling Number  
Issue Date  
To Whom Addressed  
Product identification

**NY I89205**

November 19, 2002  
Paper Magic Group, Inc  
Item # 6520210 "Be Neat and Carve" pumpkin carving kit

**NY G87082**

February 26, 2001  
Expeditors International of Washington, Inc. on behalf of Pumpkin LTD,  
d/b/a  
Pumpkin Masters  
Sparkling Pumpkin Jewels pumpkin carving kit

**NY 818260**

February 9, 1996  
Silvey Shipping Co., Inc. on behalf of The Paper Magic Group, Inc.  
"Carve & Candle Kit" and "Tools for Ghouls- Pumpkin Carving Kit"

**NY 807079** March 2, 1995

Silvey Shipping Co., Inc. on behalf of The Paper Magic Group, Inc  
"Creative Pumpkin Carver," "Carve & Candle Kit" and "Tools for Ghouls-  
Pumpkin Carving Kit"

**NY 817821**

January 22, 1996  
Four Star International Trading Company  
"4-piece pumpkin carving kit"

**NY 899065**

June 22, 1994  
Sunstar Industries, Inc.  
"7-piece Halloween Pumpkin Carving Kit"

**NY 815629**

October 19, 1995  
Circle International, Inc. on behalf of Sunhill Industries, Inc.  
"Pumpkin carving kit"

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

## [ATTACHMENT M]

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

**HQ 967379**

**CLA-2 RR: CR: GC 967379 DBS**

**CATEGORY:** Classification

**TARIFF NO.:** 3926.90.9880

MS. CARI GREGO  
DOLLAR TREE STORES, INC.  
*500 Volvo Parkway*  
*Chesapeake, VA 23320*

**RE:** Modification of NY J82021; Pumpkin Carving Set

DEAR MS. GREGO:

On April 10, 2003, the Director, National Commodity Specialist Division, issued to you New York Ruling Letter (NY) J82021, classifying a pumpkin carving kit under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) according to General Rule of Interpretation (GRI) 3(c). We have reviewed the ruling and found the classification of the kit with the battery operated light to be incorrect. This ruling sets forth the correct classification. In addition, please note that the analysis used to classify all three sets in NY J82021 is modified herein.

**FACTS:**

The merchandise classified in NY J82021 is described as pumpkin carving kits. All three are identified by the same two model numbers: Item No. H1124 and 813659. The first kit consists of a manual drilling tool with a plastic drill tip, a wood hammer and 50 plastic pegs. The second kit consists of a manual drilling tool with a plastic drill tip, 20 plastic pegs, a crayon and a wood scoop. The third set consists of a manual drilling tool with a plastic drill tip, 50 plastic pegs and a battery operated light to be placed inside the pumpkin to illuminate the pegs. The items of the three kits are packaged for retail sale. The kits are classified as sets according to the heading of the article or articles that provide the essential character of the set.

It was determined no component in the sets imparted the essential character. Therefore, they were classified according to GRI 3(c) by the component occurring last in numerical order among the competing headings which equally merit consideration.

**ISSUE:**

Whether the pumpkin carving kits have an essential character for purposes of classification according to GRI 3(b).

**LAW AND ANALYSIS:**

Classification under the HTSUS is made in accordance with the General Rules of Interpretation. 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.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be uti-

lized. The ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. CBP believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

NY J82021 correctly concluded that the kits at issue constituted “goods put up in sets for retail sale” according to GRI 3(b). GRI 3(b) provides, in relevant part, that such sets are classified by the component that imparts the essential character of the set. If the essential character cannot be determined, GRI 3(c) provides that the set will fall to be classified in the heading that occurs last in numerical order among those which equally merit consideration. GRI 3(c) applies only where GRI 3(a) and GRI 3(b) fail. See EN to GRI 3. The ruling stated that no single component in the kits imparted the essential character, and classified the sets by GRI 3(c) under heading 9608, HTSUS, which was the last heading among the various items in each set. The application of GRI 3(c) was consistent with several rulings on pumpkin carving kits. However, we now believe the essential character can be determined, and resort to GRI 3(c) is not necessary.

EN VIII to GRI 3(b) explains that “[t]he 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 the constituent material in relation to the use of the goods.” Recent court decisions on the essential character for GRI 3(b) purposes have looked primarily to the role of the constituent material in relation to the use of the goods. See, e.g., *Better Home Plastics Corp. v. U.S.*, 916 F. Supp. 1265 (CIT 1996), *aff’d* 119 F. 3d 969 (Fed. Cir. 1997) *Mita Copystar America, Inc. v. U.S.*, 966 F. Supp. 1245 (CIT 1997), *rehear’g denied*, 994 F. Supp. 393 (CIT 1998) ), *rev’d on other grounds* 160 F. 3d 710 (Fed. Cir. 1998); see also *Pillowtex Corp. v. United States*, 983 F. Supp. 188 (CIT 1997), *aff’d* 171 F.3d 1370 (Fed. Cir. 1999).

*Better Home Plastics* involved the classification of shower curtain sets. In holding that the set was classified in heading 3924, HTSUS, which provided for the plastic liner, the Court of International Trade relied largely on previous decisions in which the essential character was the component that was indispensable to the function of the good. See *United States v. Canadian Vinyl Industries, Inc.*, 64 C.C.P.A. 97, C.A.D. 1189, 555 F.2d 806 (1977); see also *United China & Glass v. United States*, 61 Cust. Ct. 386, 389, 293 F. Supp. 734, 737, Cust. Dec. 3637 (1968) (noting essential character is that attribute “which is indispensable to the structure, core or condition of the article, i.e., what it is.”). It reasoned that the utilitarian role of a shower liner, that is, preventing the escape of water, protecting the curtain from mildew and soap scum, and providing privacy, is more important than the decorative value of the inexpensive and partially transparent textile curtain sold with it.

The primary purpose of a pumpkin carving kit is to carve designs, such as a jack o’ lantern face, into a pumpkin. Although it may not predominate in bulk, weight or value, the carving tool, or in this case, drilling tool, fulfills this purpose. A pumpkin cannot be carved into a jack o’ lantern by a pegs or crayons or a scoop. Moreover, the other components contribute to the use of the carving tool or accent the carved designs. However, without the other articles, the carving/drilling tool can still be used to carry out the kits’ purpose of carving a design into a pumpkin. It is the carving tool that is indispens-

able to the set. Therefore, the utility of the carving/drilling tool in relation to the use of the set predominates over the remaining goods just as the plastic liner predominated over the curtain in *Better Home Plastics*.

As the essential character of the instant sets is imparted by the plastic drilling tool, the instant pumpkin carving sets are classified according to GRI 3(b) in subheading 3926.90.9880, HTSUSA, which provides for other articles of plastic.

In addition to the rulings at issue above, we reviewed other rulings issued to other importers or their representatives on pumpkin carving kits. Many of them held the kits were classified by the carving instrument, whether it was a knife of heading 8211, HTSUSA, or other hand tools of heading 8205, HTSUSA, but employed GRI 3(c) to resolve the classification. As the holding is correct but the analysis is not, the rulings need not be modified pursuant to 19 U.S.C. §1625(c). However, the analysis in the following rulings needs to be corrected: NY I89205, dated November 19, 2002; NY G87082, dated February 26, 2001; NY 818260, dated February 9, 1996; NY 807079, dated March 2, 1995; NY 817821, dated January 22, 1996; NY 899065, dated June 22, 1994 and NY 815629, dated October 19, 1995. The analysis set forth to classify several models of pumpkin carving kits in NY G81860, dated September 27, 2000, also require modification, but as other models in the ruling require new classifications, the analysis will be modified in a separate ruling pursuant to 19 U.S.C. §1625(c).

We note that certain exceptions to the analysis set forth above apply on a case-by-case basis. NY B85472, dated June 5, 1997, classified a pumpkin carving kit consisting of an "Erie Eyeball Maker," scoop and saw, in subheading 8211.92.4060, HTSUSA, by GRI 3(c). In that case, making eyeballs and carving the pumpkin are equally essential to that particular set. NY F83018, dated February 22, 2000, classified Pumpkin Party Deluxe Carve and Stencil Kit by GRI 3(c) in subheading 8524.39.8000, HTSUS, which provided for the included CD-ROM that generated stencils on a computer. Stencil making and pumpkin carving are equally important in relation to the use of that set. Application of GRI 3(c) was proper for these sets.

**HOLDING:**

At GRI 3(b), the instant pumpkin carving kits are classified in subheading 3926.90.9880, HTSUSA, which provides for, "Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other: Other." The 2004 rate of duty is 5.3% *ad valorem*.

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 [www.usitc.gov](http://www.usitc.gov).

**EFFECT ON OTHER RULINGS:**

NY J82021, dated April 10, 2003, is hereby MODIFIED.

Though the classification remains unchanged, the analysis of the following rulings is hereby modified in accordance with the LAW AND ANALYSIS above as follows with respect to the specifically enumerated products:

Ruling Number  
Issue Date  
To Whom Addressed  
Product identification

**NY 189205**

November 19, 2002  
Paper Magic Group, Inc  
Item # 6520210 "Be Neat and Carve" pumpkin carving kit

**NY G87082**

February 26, 2001  
Expeditors International of Washington, Inc. on behalf of Pumpkin LTD,  
d/b/a  
Pumpkin Masters  
Sparkling Pumpkin Jewels pumpkin carving kit

**NY 818260**

February 9, 1996  
Silvey Shipping Co., Inc. on behalf of The Paper Magic Group, Inc.  
"Carve & Candle Kit" and "Tools for Ghouls- Pumpkin Carving Kit"

**NY 807079**

March 2, 1995  
Silvey Shipping Co., Inc. on behalf of The Paper Magic Group, Inc  
"Creative Pumpkin Carver," "Carve & Candle Kit" and "Tools for Ghouls-  
Pumpkin Carving Kit"

**NY 817821**

January 22, 1996  
Four Star International Trading Company  
"4-piece pumpkin carving kit"

**NY 899065**

June 22, 1994 Sunstar Industries, Inc.  
"7-piece Halloween Pumpkin Carving Kit"

**NY 815629**

October 19, 1995  
Circle International, Inc. on behalf of Sunhill Industries, Inc.  
"Pumpkin carving kit"

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

**19 CFR PART 177**

**REVOCATION OF RULING LETTER AND REVOCATION OF  
TREATMENT RELATING TO TARIFF CLASSIFICATION  
OF PLASTIC LIGHT CLIPS AND HOOKS**

**AGENCY:** U.S. Customs and Border Protection (CBP), Department  
of Homeland Security.

**ACTION:** Notice of revocation of ruling letter, and revocation of  
treatment relating to tariff classification of plastic light clips and  
hooks.

**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 CBP is revoking a ruling letter pertaining to the tariff classification of plastic light clips and hooks under the Harmonized Tariff Schedule of the United States (“HTSUS”). CBP also is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the Customs Bulletin on October 13, 2004.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after March 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Neil S. Helfand, General Classification Branch, (202) 572-8791.

**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, as amended (19 U.S.C. 1625(c)(1)), a notice was published in the Customs Bulletin on October 13, 2004, proposing to revoke a ruling letter pertaining to the classification of plastic light clips and hooks. No comments were received in response to this notice.

As stated in the proposed notice, this revocation will cover any rulings on the subject merchandise which may exist but which 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 this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or CBP's previous interpretation of the Harmonized Tariff Schedule of the United States. Any person involved in substantially identical transactions should advise CBP during this 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 of merchandise subsequent to the effective date of the final notice of this proposed action.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY F81404 and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in HQ 967292. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. HQ 967292 is set forth as an Attachment to this document.

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

**DATED:** December 15, 2004

John Elkins for MYLES B. HARMON,  
*Director;*  
*Commercial Rulings Division.*

Attachments

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,**HQ 967292**

December 15, 2004

**CLA-2 RR:CR:GC 967292 NSH****CATEGORY:** Classification**TARIFF NO.:** 3924.90.5500

MR. R. KEVIN WILLIAMS  
O'DONNELL & WILLIAMS  
20 North Wacker Drive  
Suite 1416  
Chicago, IL 60606

**RE:** Plastic light clips and hooks

DEAR MR. WILLIAMS:

This is in response to an internal request for reconsideration of NY F81404, dated January 21, 2000, on the classification of plastic light clips and hooks under the Harmonized Tariff Schedule of the United States (HTSUS). The merchandise, three varieties of plastic clips and hooks, was classified under subheading 3926.90.98, HTSUS. However, in researching a related issue, Customs and Border Protection (CBP) determined that NY F81404 should be revoked. This ruling letter sets forth the correct classification of the subject merchandise.

**FACTS:**

In NY F81404, CBP described the merchandise as follow:

The merchandise consists of three types of plastic clips and hooks: EZ Light Gutter Hooks, EZ Light Universal Icicle Light Clips and EZ Light Universal Multi-Position Light Clips. These hooks and clips are used to attach Christmas lights to the gutters and shingles of a house. The fasteners either slide under the shingles or clip onto the gutters. The [sic] are not permanently attached to the building. The light strings either slide or snap into the fasteners for temporary installation. They are not permanently attached to the hooks or clips.

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, 2186 (1993), notice of the proposed revocation of NY F81404, as described below, was published in the Customs Bulletin on October 13, 2004. No comments were received in response to the notice.

**ISSUE:**

Whether the subject plastic light clips are classified under subheading 3924.90.55, HTSUS, as "Tableware, kitchenware, other household articles and toilet articles, of plastics: Other: Other," or under subheading 3926.90.98, HTSUS, as "Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other."

**LAW AND ANALYSIS:**

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative sec-

tion or chapter notes and, provided such headings or notes do not otherwise require, according to the remaining GRIs.

The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System represent the official interpretation of the tariff at the international level. The ENs, although neither dispositive nor legally binding, facilitate classification by providing a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. See T.D. 89–80.

The HTSUS provisions under consideration are as follows:

3924	Tableware, kitchenware, other household articles and toilet articles, of plastics:
3924.90	Other:
3924.90.55	Other
*	* * * * *
3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.90	Other:
3926.90.98	Other.

Heading 3926, HTSUS, is a basket provision, providing as it does for “Other articles of plastics and articles of other materials of headings 3901 to 3914.”

EN 39.26 additionally states, in pertinent part:

This heading covers articles, not elsewhere specified or included, of plastics (as defined in Note 1 to the Chapter) or of other materials of headings 39.01 to 39.14.

Therefore, before heading 3926, HTSUS, is considered, it must first be determined if heading 3924, HTSUS, provides for the instant merchandise.

Customs and Border Protection (CBP) notes that several recent rulings classified merchandise substantially similar to the instant products under subheading 3924.90.55, HTSUS. *See* HQ 967223, dated August 31, 2004 (plastic clips designed to secure C7, C9, icicle style lights, and other miniature electrical lights onto exterior parts of the home, such as roofs and gutters), NY J86568, dated July 28, 2003 (gutter hooks and sliding hooks used to secure festive lights to a house and not designed for permanent installation), NY I84534, dated July 29, 2002 (plastic light clips used to temporarily hang C7, C9, or miniature electric bulbs, onto the gutters and shingles of a home, particularly during Christmas time; plastic icicle light clips designed to temporarily secure icicle light strands onto gutters and shingles), NY I87756, dated November 7, 2002 (plastic gutter grip clips and eaves grip clips used to hang lights and decorations in and around the home on gutters, eaves or trees), NY I83980, dated July 29, 2002 (plastic light clips with suction cups, used to temporarily mount miniature lights by securing the light to the clip and attaching the suction cup onto a smooth plastic or glass surface), NY F89828, dated August 2, 2000 (plastic clips used to attach miniature electric lights to shingles and gutters; icicle light clips used to attach miniature light sets to shingles and gutters; plastic garland ties used to tie garlands in and around the home during the Christmas season) and NY

F86823, dated June 7, 2000 (icicle light clips used to affix festive light sets to shingles and gutters; plastic gutter hooks used to affix festive light sets to a spouting gutter).

The cited rulings classified their respective merchandise within heading 3924, HTSUS, because they were considered plastic household articles as a result of their use for securing various types of electric lights to a house or other residential structure. These types of plastic clips are provided for in the text to heading 3924, HTSUS, which specifically mentions "household articles" composed of plastics.

An examination of the plastic clips and hooks at issue reveals their primary use for temporarily securing various types of miniature electric lights on roofs and gutters of a house or other residential dwelling during the Christmas season. More specifically, the description provided for the light clips and hooks in NY F81404 appears substantially similar to several other products mentioned in the cited rulings. Because of the substantial similarities between these products, and the numerous rulings recently issued which determined them to be household articles under subheading 3924.90.55, HTSUS, CBP believes that the subject merchandise is also classified under subheading 3924.90.55, HTSUS, the more specific provision.

**HOLDING:**

The plastic clips and hooks for electric lights are classified under subheading 3924.90.5500, Harmonized Tariff Schedule of the United States Annotated, as "Tableware, kitchenware, other household articles and toilet articles, of plastics: Other: Other." The column one, general rate of duty is 3.4 percent *ad valorem*.

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 [www.usitc.gov](http://www.usitc.gov).

**EFFECT ON OTHER RULINGS:**

NY F81404 is REVOKED.

John Elkins for MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

