

Bureau of Customs and Border Protection

CBP Decisions

19 CFR PARTS 101 AND 122

USCBP-2005-0007

[CBP Dec. 06-14]

ESTABLISHMENT OF A NEW PORT OF ENTRY IN THE TRI-CITIES AREA OF TENNESSEE AND VIRGINIA AND TERMINATION OF THE USER-FEE STATUS OF TRI-CITIES REGIONAL AIRPORT

AGENCY: Customs and Border Protection; DHS.

ACTION: Final rule.

SUMMARY: This document amends Department of Homeland Security regulations pertaining to the Bureau of Customs and Border Protection's field organization by establishing a new port of entry in the Tri-Cities area of the States of Tennessee and Virginia, including the Tri-Cities Regional Airport. The new port of entry includes the same geographical boundaries of the current Customs and Border Protection User Fee Port No. 2082, which encompasses Sullivan County, Tennessee; Washington County, Tennessee; and Washington County, Virginia. The user-fee status of Tri-Cities Regional Airport, located in Blountville, Tennessee, is terminated. These changes will assist the Bureau of Customs and Border Protection in its continuing efforts to provide better service to carriers, importers and the general public.

EFFECTIVE DATE: June 15, 2006.

FOR FURTHER INFORMATION CONTACT: Dennis Dore, Office of Field Operations, 202-344-2776.

SUPPLEMENTARY INFORMATION:**BACKGROUND**

In a Notice of Proposed Rulemaking published in the **Federal Register** (70 FR 43808) on July 29, 2005, the Department of Homeland Security (DHS), Bureau of Customs and Border Protection (CBP), proposed to amend 19 CFR 101.3(b)(1) by establishing a new port of entry at Tri-Cities Regional Airport and the area which it services in the states of Tennessee and Virginia. The new port of entry was proposed to include the same geographical boundaries of the current CBP User Fee Port No. 2082, which encompasses Sullivan County, Tennessee; Washington County, Tennessee; and Washington County, Virginia. The boundaries were also to include Tri-Cities Regional Airport, located in Blountville, Tennessee, which currently operates, and is listed, as a user-fee airport at 19 CFR 122.15(b).

CBP proposed the establishment of the new port of entry because the Tri-Cities area satisfies the current criteria for port of entry designations as set forth in Treasury Decision (T.D.) 82-37 (Revision of Customs Criteria for Establishing Ports of Entry and Stations, 47 FR 10137), as revised by T.D. 86-14 (51 FR 4559) and T.D. 87-65 (52 FR 16328). Under these criteria, CBP evaluates whether there is a sufficient volume of import business (actual or potential) to justify the expense of maintaining a new office or expanding service at an existing location. The proposed rule set forth how the Tri-Cities area meets the criteria.

ANALYSIS OF COMMENTS AND CONCLUSION

CBP did not receive any comments in response to the Notice of Proposed Rulemaking. As CBP continues to believe that the establishment of a new port of entry at Tri-Cities Regional Airport, and the area which it services in the states of Tennessee and Virginia, will assist CBP in its continuing efforts to provide better service to carriers, importers and the general public, CBP is establishing the new port of entry as proposed and Tri-Cities Regional Airport will lose its status as a user-fee airport. The change of status for Tri-Cities Regional Airport from a user-fee airport to inclusion within the boundaries of a port of entry will subject the airport to the passenger processing fee provided for at 19 U.S.C. 58c(a)(5)(B).

DESCRIPTION OF THE NEW PORT OF ENTRY LIMITS

The geographical limits of the Tri-Cities, TNNA, port of entry are as follows:

The contiguous outer boundaries of Sullivan County, Tennessee; Washington County, Tennessee; and Washington County, Virginia.

AUTHORITY

This change is made under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624, and the Homeland Security Act of 2002, Pub. L. 107–296 (November 25, 2002).

THE REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866

With DHS approval, CBP establishes, expands and consolidates CBP ports of entry throughout the United States to accommodate the volume of CBP-related activity in various parts of the country. This final rule is not a significant regulatory action within the meaning of Executive Order 12866. This action also will not have a significant economic impact on a substantial number of small entities. Accordingly, DHS certifies that this document is not subject to the additional requirements of the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

SIGNING AUTHORITY

The signing authority for this document falls under 19 CFR 0.2(a) because the establishment of a new port of entry and the termination of the user-fee status of an airport are not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, this final rule may be signed by the Secretary of Homeland Security (or his or her delegate).

LIST OF SUBJECTS

19 CFR PART 101

Customs duties and inspection, Customs ports of entry, Exports, Imports, Organization and functions (Government agencies).

19 CFR PART 122

Customs duties and inspection, Airports, Imports, Organization and functions (Government agencies).

AMENDMENTS TO CBP REGULATIONS

For the reasons set forth above, part 101, CBP Regulations (19 CFR part 101), and part 122, CBP Regulations (19 CFR part 122), are amended as set forth below.

PART 101—GENERAL PROVISIONS

1. The general authority citation for part 101 and the specific authority citation for section 101.3 continue to read as follows:

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

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2. The list of ports in section 101.3(b)(1) is amended by adding, in alphabetical order under the state of Tennessee, "Tri-Cities, TN/VA" in the "Ports of entry" column and "CBP Dec. 06-14" in the "Limits of Port" column.

PART 122—AIR COMMERCE REGULATIONS

1. The general authority for part 122 continues to read as follows:

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

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2. The list of user fee airports at 19 CFR 122.15(b) is amended by removing "Blountville, Tennessee" from the "Location" column and, on the same line, "Tri-City Regional Airport" from the "Name" column.

Date: May 5, 2006

MICHAEL CHERTOFF,
Secretary.

[Published in the Federal Register, May 16, 2006 (71 FR 28261)]

General Notices

AGENCY INFORMATION COLLECTION ACTIVITIES: APPLICATION AND APPROVAL TO MANIPULATE, EXAMINE, SAMPLE OR TRANSFER GOODS

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and

Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Application and Approval to Manipulate, Examine, Sample or Transfer Goods. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (71 FR 12382–12383) on March 10, 2006, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 19, 2006.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget Desk Officer at Nathan.Lesser@omb.eop.gov.

SUPPLEMENTARY INFORMATION:

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104–13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the Proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other
- (5) forms of information technology, e.g., permitting electronic submission of responses.

Title: Application & Approval to Manipulate, Examine, Sample, or Transfer Goods

OMB Number: 1651–0006

Form Number: Form–3499

Abstract: CBP Form-3499 is prepared by importers or consignees as an application to request examination, sampling, or transfer of merchandise under CBP supervision. This form is also an application for the manipulation of merchandise in a bonded warehouse and abandonment or destruction of merchandise.

Current Actions: This submission is being submitted to extend the expiration date, with a change to the expiration date.

Type of Review: Extension (without change)

Estimated Number of Respondents: 151,140

Estimated Time Per Respondent: 6 minutes

Estimated Total Annual Burden Hours: 15,114

Estimated Total Annualized Cost on the Public: N/A

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: May 11, 2006

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

[Published in the Federal Register, May 18, 2006 (71 FR 28875)]

Certificate of Registration

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Certificate of Registration. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (71 FR 12389) on March 10, 2006, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 19, 2006.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget Desk Officer at Nathan.Lesser@omb.eop.gov.

SUPPLEMENTARY INFORMATION:

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the Proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Certificate of Registration

OMB Number: 1651-0010

Form Number: Forms 4455 and 4457

Abstract: The Certificate of Registration is used to expedite free entry or entry at a reduced rate on foreign made personal articles that are taken abroad. The articles are dutiable each time they are brought into the United States unless there is acceptable proof of prior possession.

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change)

Affected Public: Individuals, travelers.

Estimated Number of Respondents: 200,000

Estimated Time Per Respondent: 3 minutes

Estimated Total Annual Burden Hours: 10,000

Estimated Total Annualized Cost on the Public: N/A

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: May 11, 2006

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

[Published in the Federal Register, May 18, 2006 (71 FR 28878)]

Conditionally Free Under Conditions of Emergency

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Conditionally Free Under Conditions of Emergency. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (71 FR 12381) on March 10, 2006, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 19, 2006.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Office of Management and Budget Desk Officer at Nathan.Lesser@omb.eop.gov.

SUPPLEMENTARY INFORMATION:

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of

1995 (Pub. L.104–13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the Proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Free Admittance Under Conditions of Emergency

OMB Number: 1651–0044

Form Number: N/A

Abstract: This collection of information will be used in the event of emergency or catastrophic event to monitor goods temporarily admitted for the purpose of rescue or relief.

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1

Estimated Time Per Respondent: 1 minute

Estimated Total Annual Burden Hours: 1

Estimated Total Annualized Cost on the Public: N/A

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202–344–1429.

Dated: May 11, 2006

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

Declaration for Free Entry of Returned American Products

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Declaration for Free Entry of Returned American Products. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (71 FR 12388) on March 10, 2006, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 19, 2006.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget Desk Officer at Nathan.Lesser@omb.eop.gov.

SUPPLEMENTARY INFORMATION:

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the Proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection

techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Declaration of Free entry of Returned American Products

OMB Number: 1651-0011

Form Number: Form-3311

Abstract: This collection of information is used as a supporting documents which substantiates the claim for duty free status for returning

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change)

Affected Public: Businesses

Estimated Number of Respondents: 12,000

Estimated Time Per Respondent: 210 minutes

Estimated Total Annual Burden Hours: 51,000

Estimated Total Annualized Cost on the Public: N/A

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: May 11, 2006

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

[Published in the Federal Register, May 18, 2006 (71 FR 28878)]

Exportation of Used Self-Propelled Vehicles

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Exportation of Used Self-Propelled Vehicles. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (71 FR 12390) on March 10, 2006, allowing for a 60-day comment period. This notice allows for

an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 19, 2006.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget Desk Officer at Nathan.Lesser@omb.eop.gov.

SUPPLEMENTARY INFORMATION:

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the Proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic,
- (5) mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Exportation of Used-Propelled Vehicles

OMB Number: 1651-0054

Form Number: None

Abstract: The Exportation of Used-Propelled Vehicles requires the submission of documents verifying vehicle ownership of exporters for exportation of vehicles in the United States.

Current Actions: This submission is being submitted to extend the expiration date with a change to the burden hours.

Type of Review: Extension (without change)

Estimated Number of Respondents: 750,000

Estimated Time Per Respondent: 10 minutes

Estimated Total Annual Burden Hours: 125,000

Estimated Total Annualized Cost on the Public: N/A

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: May 11, 2006

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

[Published in the Federal Register, May 18, 2006 (71 FR 28879)]

Foreign Assembler's Declaration

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Foreign Assembler's Declaration. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (71 FR 12382) on March 10, 2006, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 19, 2006.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget Desk Officer at Nathan.Lesser@omb.eop.gov.

SUPPLEMENTARY INFORMATION:

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995

(Pub. L.104–13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the Proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other
- (5) forms of information technology, e.g., permitting electronic submission of responses.

Title: Foreign Assembler's Declaration (with Endorsement by Importer)

OMB Number: 1651–0031

Form Number: N/A

Abstract: The Foreign Assembler's Declaration with Importer's Endorsement is used by CBP to substantiate a claim for duty free treatment of U.S. fabricated components sent abroad for assembly and subsequently returned to the United States.

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 2,730

Estimated Time Per Respondent: 50 minutes

Estimated Total Annual Burden Hours: 302,402

Estimated Total Annualized Cost on the Public: N/A

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202–344–1429.

Dated: May 11, 2006

TRACEY DENNING,
Agency Clearance Officer,
Information Services Branch.

GENERAL DECLARATION

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: General Declaration. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (71 FR 12383) on March 10, 2006, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 19, 2006.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time should be directed to the Office of Management and Budget Desk Officer at Nathan.Lesser@omb.eop.gov.

SUPPLEMENTARY INFORMATION:

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the Proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection

techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: General Declaration (Outward/Inward)

OMB Number: 1651-0002

Form Number: CBP Form 7507

Abstract: CBP Form 7507 allows the agent or pilot to make entry or exit of the aircraft, as required by statute. The form is used to document clearance by the arriving aircraft at the required inspectional facilities and inspections by appropriate regulatory agency staffs.

Current Actions: This submission is being submitted to extend the expiration date with a change in the burden hours.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 500

Estimated Time Per Respondent: 166 minutes

Estimated Total Annual Burden Hours: 83,333

Estimated Total Annualized Cost on the Public: N/A

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: May 11, 2006

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

[Published in the Federal Register, May 18, 2006 (71 FR 28875)]

LIEN NOTICE

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Lien Notice. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (71 FR 12388) on March 10, 2006, allowing for a 60-day comment

period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 19, 2006.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget Desk Officer at Nathan.Lesser@omb.eop.gov.

SUPPLEMENTARY INFORMATION:

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the Proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Lien Notice

OMB Number: 1651-0012

Form Number: Form 3485

Abstract: The Lien Notice, CBP Form-3485, enable the carriers, cartmen, and similar businesses to notify CBP that a lien exists against an individual/business for non-payment of freight charges, etc., so that CBP will not permit delivery of the merchandise from public stores or a bonded warehouse until the lien is satisfied or discharged.

Current Actions: This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Institutions

Estimated Number of Respondents: 112,000

Estimated Time Per Respondent: 5 minutes

Estimated Total Annual Burden Hours: 9,296

Estimated Total Annualized Cost on the Public: N/A

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: May 11, 2006

TRACEY DENNING,
Agency Clearance Officer;
Information Services Branch.

[Published in the Federal Register, May 18, 2006 (71 FR 28874)]

PROPOSED COLLECTION; COMMENT REQUEST
Application to Use the Automated Commercial Environment
(ACE)

AGENCY: Customs and Border Protection (CBP), Department of Homeland Security

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application to Use the Automated Commercial Environment (ACE). This proposed information collection was previously published in the **Federal Register** (71 FR 12380) on March 10, 2006, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. 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 June 19, 2006, to be assured of consideration.

ADDRESS: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget Desk Officer at Nathan.Lesser@omb.eop.gov.

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: Application to Use ACE

OMB Number: 1651-0105

Form Number: None

Abstract: CBP collects basic information from companies participating in ACE pilots in order to establish account structures for each company.

Current Actions: This document is being submitted to extend the expiration date.

Type of Review: Extension (with change)

Affected Public: Businesses

Estimated Number of Respondents: 21,000

Estimated Time Per Response: 20 minutes

Estimated Total Annual Burden Hours: 6,930

Estimated Total Annualized Cost on the Public: N/A

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: May 11, 2006

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

[Published in the Federal Register, May 18, 2006 (71 FR 28876)]

Application for Exemption From Special Landing Requirements (Overflight)

AGENCY: Customs and Border Protection (CBP), Department of Homeland Security

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other

Federal agencies to comment on an information collection requirement concerning the Application for Exemption from Special Landing Requirements (Overflight). This proposed information collection was previously published in the **Federal Register** (71 FR 12386–12387) on March 10, 2006, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. 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 June 19, 2006, to be assured of consideration.

ADDRESS: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget Desk Officer at Nathan.Lesser@omb.eop.gov.

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: Application for Exemption from Special Landing Requirements (Overflight)

OMB Number: 1651–0087

Form Number: CBP Forms 442 and 442A

Abstract: CBP Forms 442 and 442A are used by private flyers to obtain a waiver for landing requirements and normal CBP processing at designated airports along the southern border.

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

Type of Review: Extension (without change)

Affected Public: Individuals**Estimated Number of Respondents:** 760, 655**Estimated Time Per Response:** 3 minutes**Estimated Total Annual Burden Hours:** 13,266**Estimated Total Annualized Cost on the Public:** N/A

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: May 11, 2006

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

[Published in the Federal Register, May 18, 2006 (71 FR 28877)]

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Cargo Container and Road Vehicle Certification for Transport under Customs Seal

AGENCY: Customs and Border Protection (CBP), Department of Homeland Security

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Cargo Container and Road Vehicle Certification For Transport Under Customs Seal. This proposed information collection was previously published in the **Federal Register** (71 FR 12387) on March 10, 2006, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before June 19, 2006, to be assured of consideration.

ADDRESS: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget Desk Officer at Nathan.Lesser@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to 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: Cargo Container and Road Vehicle Certification for Transport Under Customs Seal

OMB Number: 1651-0124

Form Number: N/A

Abstract: This information collection is used in a voluntary program to receive internationally-recognized CBP certification that intermodal container/road vehicles meet construction requirements of international Customs conventions. Such certification facilitates International trade by reducing intermediate international controls.

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: Business or other for-profit institutions

Estimated Number of Respondents: 3,000

Estimated Time Per Respondent: 3.5 hours

Estimated Total Annual Burden Hours: 10,600

Estimated Annualized Cost to the Public: N/A

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: May 10, 2006

TRACEY DENNING,
Agency Clearance Officer,
Information Services Branch.

[Published in the Federal Register, May 18, 2006 (71 FR 28876)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, May 17, 2006,

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.

SANDRA L. BELL,
*Acting Assistant Commissioner,
Office of Regulations and Rulings.*

19 CFR PART 177

REVOCATION OF RULING LETTERS AND TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF HYPERD® CHROMOTOGRAPHY SORBENTS

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

ACTION: Notice of revocation of a tariff classification ruling letter and treatment relating to the classification of HyperD® chromatography sorbents.

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 revoking two rulings concerning the tariff classification of HyperD® chromatography sorbents, under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed revocation was published on March 15, 2005, in Volume 40, Number 12, of the CUSTOMS BULLETIN. No comments were received in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after July 30, 2006.

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

SUPPLEMENTARY INFORMATION:**Background**

On December 8, 1993, Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "informed compliance" and "shared responsibility." These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by Title VI, a notice was published in the March 15, 2006, CUSTOMS BULLETIN, Volume 40, Number 12, proposing to revoke Headquarters Ruling Letter (HQ) 962429, dated October 13, 1999, and New York Ruling Letter (NY) D84807, dated December 9, 1998, and to revoke any treatment accorded to substantially identical transactions. No comments were received in response to that notice.

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

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by Title VI, CBP is revoking any treatment it previously accorded to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during the notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations subsequent to the effective date of the final decision on this notice.

In HQ 962429 and in NY D84807, we presumed the products were reagents of heading 3822, HTSUS, and only discussed classification at the eight digit level. We now believe that the instant products are not reagents at all. A reagent is a chemical agent for use in a chemical reaction. Typically, a reagent is mixed with another chemical, reacts with it, and is consumed in that reaction, creating a different set of chemicals. Separation media are not involved in such a reaction. Although separation media may contribute to the analysis of other substances by separating them into their constituent parts, there is no chemical reaction that consumes the reagent. Rather, the separation media simply attract certain ions through adsorption, separating them from the original molecule without chemically reacting with them. While the ENs specifically include a seemingly broad spectrum of reagents, including "other analytical reagents used for purposes other than detection or diagnosis," separation media cannot be considered a reagent, analytical or otherwise as explained above.

CBP, pursuant to 19 U.S.C. 1625(c)(1), is revoking HQ 962429 and NY D84807, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in HQ 967094 and HQ 967095, which are "Attachments A and B" to this notice. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: May 11, 2006

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

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 967094
May 11, 2006
CLA-2 RR:CTF:TCM 967094AM
CATEGORY: CLASSIFICATION
TARIFF NO.: 3906.90.50

MR. ARNAUD SCHMUTZ
BIOSEPPA INC.
*111 Locke Drive
Marlborough, MA 01752*

RE: HQ 962429; Protein A HyperD, Protein A HyperD 20 µm and Protein A Ceramic HyperD F chromatography media

DEAR MR. SCHMUTZ:

This is in reference to Headquarters Ruling Letter (HQ) 962429, dated October 13, 1999, regarding the classification of Protein A HyperD, Protein A HyperD 20 µm and Protein A Ceramic HyperD F chromatography media, pursuant to the Harmonized Tariff Schedule of the United States (HTSUS). In HQ 962429, we revoked New York ruling Letter (NY) 890709, dated October 13, 1999, which classified the merchandise in subheading 3822.00.10, as a reagent containing antigens, and classified the merchandise in subheading 3822.00.5090, HTSUS as a reagent not containing antigens. We have reviewed the ruling and find it to be incorrect in that the merchandise is not a reagent.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by Title VI, a notice was published in the March 15, 2006, CUSTOMS BULLETIN, Volume 40, Number 12, proposing to revoke Headquarters Ruling Letter (HQ) 962429, dated October 13, 1999, and New York Ruling Letter (NY) D84807, dated December 9, 1998, and to revoke any treatment accorded to substantially identical transactions. No comments were received in response to that notice.

FACTS:

In HQ 962429, we described the products thus:

'Protein A HyperD' chromatography medium consists of polystyrene beads bound to a number of Protein A ligands. 'ProteinA Ceramic HyperD F' and 'ProteinA Ceramic HyperD 20 µm' differ from 'Protein A HyperD' in that the bead substrate is a composite material of mineral ceramic and copolymer rather than polystyrene. Protein A ligands bind selectively to immunoglobulin G such that protein A based chromatography media are useful in column separation processes.

The importer's technical information states:

Ceramic HyperD affinity media are composite materials in bead form constituted of a co-polymeric crosslinked network distributed inside the pores of mineral ceramic composite particles. . . .

Mineral ceramic composite material acts as a solid skeleton, while polymer moiety governs the exchange mechanism for macromolecule or particle adsorption. Mineral moiety is a mixture of sintered zirconium and calcium silicates obtained at very high temperature. The mineral surface is totally covered by a layer of organic polymer to prevent any non-specific adsorption.

The hydrogel copolymer-carrying adsorption sites-is constructed by an *in situ* radical co-polymerization in association with cross-linking agents. The role of a crosslinker is to provide a tridimensional network insoluble in any solvent thus preventing any possible leakage of polymeric chains when in use. Affinity ligands are chemically attached onto the hydrogel.

ISSUE:

Are chromatography sorbents “analytical reagents” of heading 3822, HTSUS, or are they classified as to their essential character as “acrylic polymers” in heading 3906, HTSUS?

LAW AND ANALYSIS:

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

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

In understanding the language of the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. *See* T.D. 89-80, 54 Fed. Reg. 35127 (August 23, 1989).

The HTSUS provisions under consideration are as follows:

3822 Diagnostic or laboratory reagents on a backing and prepared diagnostic or laboratory reagents, whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials:

Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents, whether or not on a backing, other than those of heading 3002 or 3006:

3822.00.50 Other

* * * * *

3906 Acrylic polymers in primary forms:

3906.90 Other

Other

3906.90.5000 Other

EN 38.22 states, in pertinent part, the following:

This heading covers diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents, other than diagnostic reagents of heading 30.02 or diagnostic reagents designed to be administered to the patient and blood grouping reagents of heading 30.06. . . . Prepared laboratory reagents include not only diagnostic reagents, but also other analytical reagents used for purposes other than detection or diagnosis. Prepared diagnostic and laboratory reagents may be used in medical, veterinary, scientific or industrial laboratories, in hospitals, in industry, in the field or, in some cases, in the home.

In HQ 962429, we classified these substances as analytical reagents under GRI 1. We now believe this is incorrect. A reagent is “a substance employed as a test to determine the presence of some other substance by means of the *reaction* which is produced. Now, any substance employed in chemical reactions.” *The Compact Oxford English Dictionary*, Second Edition (p. 271, 1991). Such substances are also called reactants. A reactant is defined as “a substance that is consumed in the course of a chemical reaction. It is sometimes known, especially in the older literature, as a reagent, but this term is better used in a more specialized sense as a test substance that is added to a system in order to bring about a reaction or to see whether a reaction occurs (e.g. an analytical reagent).” *Compendium of Chemical Terminology, IUPAC Recommendations*, Second Edition. (p. 342, 1997).

Typically, a reagent is mixed with another chemical, reacts with it, and is consumed in that reaction, creating a different set of chemicals. For instance, silver nitrate is a reagent used for the detection of certain halide ions (chloride, iodide, bromide), particularly for chloride. When clear silver nitrate and sodium chloride solutions are combined, the silver and chloride ions react with one another to form a silver chloride solid precipitate and a solution of sodium nitrate. Hence, the addition of silver nitrate to a clear sodium chloride solution allows one to detect the presence of chloride in the solution, because the white silver chloride precipitate could not have formed without its presence.

Separation media are not involved in such a reaction. Although separation media may contribute to the analysis of mixtures by separating them into their constituent parts, there is no chemical reaction that consumes the “reagent.” Rather, the instant sorbents are used in “adsorption chromatography,” the “separation of a chemical mixture (gas or liquid) by passing it over an adsorbent bed which adsorbs different compounds at different rates.” “Adsorption” is defined as “the surface retention of solid, liquid, or gas molecules, atoms, or ions by a solid or liquid. . . .” *McGraw-Hill Dictionary of Scientific and Technical Terms, Fifth Ed.*, Parker, Sybil P., ed. (1994, p. 38). While the ENs specifically include a seemingly broad spectrum of reagents, including “other analytical reagents used for purposes other than detection or diagnosis,” separation media cannot be considered a reagent, analytical or otherwise, as explained above.

The HQ ruling recognizes that the substances are composite goods, yet fails to proceed to GRI 3 in classifying the substances. Cross-linked polymeric hydrogel is classifiable in heading 3906, HTSUS, as an “acrylic polymer,” and the porous ceramic substrate of zirconia and calcium silicates is classifiable elsewhere.

The hydrogel completely encloses the substrate. Therefore, the nature of each sorbent product only depends upon the composition of the hydrogel and is not affected by any potential chromatographic activity of the substrate. The hydrogel contains the ligand that captures the intended molecule whereas the porous mineral ceramic particles act as a rigid skeleton that improves the functioning of these products as chromatography media. Hence, under GRI 3(b), the essential character of the separation media is imparted by the hydrogel. This means that for Protein A HyperD, Protein A HyperD 20 µm and Protein A Ceramic HyperD F chromatography media, only heading 3906, HTSUS, the provision for “acrylic polymer” describes the material that gives the product its essential character.

HOLDING:

By application of GRI 3(b), Protein A HyperD, Protein A HyperD 20 µm and Protein A Ceramic HyperD F chromatography media, in bulk form, are classified in subheading 3906.90.50, HTSUS, the provision for “Acrylic polymers in primary forms: Other: Other: Other.” The duty rate is 4.2% *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.

EFFECT ON OTHER RULINGS:

HQ 962429 is revoked.

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

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

cc: Frank Cantone, Harvey Kuperstein
NCSA

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 967095
May 11, 2006
CLA-2 RR: CTF:TCM 967095AM
CATEGORY: CLASSIFICATION
TARIFF NO.: 3906.90.50

MR. ARNAUD SCHMUTZ
BIOSEPPRA INC.
111 Locke Drive
Marlborough, MA 01752

RE: New York Ruling Letter D84807; Heparin HyperD® 20µm, Heparin HyperD® M, Blue Ceramic HyperD®, Lysine Ceramic HyperD® and Methyl Ceramic HyperD® chromatographic media, in bulk form, from France.

DEAR PORT DIRECTOR:

This is in reference to New York Ruling Letter (NY) D84807, dated December 9, 1998, regarding the classification of Heparin HyperD® 20µm, Heparin HyperD® M, Blue Ceramic HyperD®, Lysine Ceramic HyperD® and Methyl Ceramic HyperD® chromatographic media, in bulk form, from France, pursuant to the Harmonized Tariff Schedule of the United States (HTSUS). We have reviewed the ruling and find it to be incorrect.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by Title VI, a notice was published in the March 15, 2006, CUSTOMS BULLETIN, Volume 40, Number 12, proposing to revoke Headquarters Ruling Letter (HQ) 962429, dated October 13, 1999, and New York Ruling Letter (NY) D84807, dated December 9, 1998, and to revoke any treatment accorded to substantially identical transactions. No comments were received in response to that notice.

FACTS:

In NY D84807, we described the products thus:

Heparin HyperD 20 m (Part #200750), Heparin HyperD M (Part #200290), Blue Ceramic HyperD (Part #200310), and Lysine Ceramic HyperD (Part #200590) are characterized as affinity chromatographic media, while Methyl Ceramic HyperD (Part #200510) is a hydrophobic interaction chromatographic (HIC) medium. All are in bulk form.

According to the technical information you submitted, Ceramic HyperD media are a range of chromatographic sorbents used for the purification and preparation of protein substances in the laboratory or in industry, the final destination being related to the particle size and particle size distribution (small particles are used at laboratory scale, large particles for high productivity at industrial scale). They are designed for separation in aqueous solutions.

In general, Ceramic HyperD media are composite materials in bead form consisting of a co-polymeric crosslinked network (hydrogel) distributed inside the pores of a rigid, mineral (mixture of sintered zirconium and calcium silicates) "ceramic" support (substrate). The substrate acts as a solid skeleton, while the hydrogel polymer governs the exchange

mechanism for macromolecule or particle adsorption. The polymer provides a tridimensional network for the capture of separated molecules. It is insoluble in any solvent, thus preventing the loss of any captured molecules. Affinity ligands are chemically attached to the hydrogel polymers at one end, leaving the other end free to react with the targeted substance to form a complex or coordination compound with that substance. The presence of specific ligands induces, at given pH and ionic strength conditions, a selective adsorption, through the bead-hydrogel structure carrying the ligand, of molecules such as proteins. The adsorbed proteins can then be selectively eluted at precise conditions designed for affinity separation.

Heparin HyperD 20 m and Heparin HyperD M utilize a heparin ligand which specifically interacts with biological products that bind to heparin, such as coagulating factors, growth factors, lipoproteins, etc. These products appear to be particularly efficacious in the purification and production of Antithrombin III. Blue Ceramic HyperD utilizes a Basilen Blue dye as the ligand. This dye bears a specific site that mimics bilirubin and, therefore, binds to albumin. Lysine Ceramic HyperD has an amino acid ligand (lysine). Generally, amino acid chemistry media are utilized in production of serum proteins, peptides, enzymes, etc.

The Methyl Ceramic HyperD is a medium filled with hydrophobic (-CH₃) functionalized hydrogel. This product has broad application in the purification of proteins.

We classified the merchandise in subheading 3822.00.5090, HTSUS, which provides for “[d]iagnostic or laboratory reagents on a backing and prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006: [o]ther: [o]ther.”

ISSUE:

Are chromatography sorbents “analytical reagents” of heading 3822, HTSUS, or are they classified as to their essential character as “acrylic polymers” in heading 3906, HTSUS.

LAW AND ANALYSIS:

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

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

In understanding the language of the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a

commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. *See* T.D. 89-80, 54 Fed. Reg. 35127 (August 23, 1989).

The HTSUS provisions under consideration are as follows:

3822	Diagnostic or laboratory reagents on a backing and prepared diagnostic or laboratory reagents, whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials:
	Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents, whether or not on a backing, other than those of heading 3002 or 3006:
3822.00.50	Other
*	*
*	*
*	*
3906	Acrylic polymers in primary forms:
3906.90	Other
	Other
3906.90.5000	Other

EN 38.22 states, in pertinent part, the following:

This heading covers diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents, other than diagnostic reagents of heading 30.02 or diagnostic reagents designed to be administered to the patient and blood grouping reagents of heading 30.06. . . . Prepared laboratory reagents include not only diagnostic reagents, but also other analytical reagents used for purposes other than detection or diagnosis. Prepared diagnostic and laboratory reagents may be used in medical, veterinary, scientific or industrial laboratories, in hospitals, in industry, in the field or, in some cases, in the home.

In NY D84807, we classified the subject merchandise as analytical reagents under GRI 1. We now believe this is incorrect. A reagent is "a substance employed as a test to determine the presence of some other substance by means of the *reaction* which is produced. Now, any substance employed in chemical reactions." *The Compact Oxford English Dictionary*, Second Edition (p. 271, 1991). Such substances are also called reactants. A reactant is defined as "a substance that is consumed in the course of a chemical reaction. It is sometimes known, especially in the older literature, as a reagent, but this term is better used in a more specialized sense as a test substance that is added to a system in order to bring about a reaction or to see whether a reaction occurs (e.g. an analytical reagent)." *Compendium of Chemical Terminology, IUPAC Recommendations*, Second Edition. (p. 342, 1997).

Typically, a reagent is mixed with another chemical, reacts with it, and is consumed in that reaction, creating a different set of chemicals. For instance, silver nitrate is a reagent used for the detection of certain halide ions (chloride, iodide, bromide), particularly for chloride. When clear silver nitrate and sodium chloride solutions are combined, the silver and chloride

ions react with one another to form a silver chloride solid precipitate and a solution of sodium nitrate. Hence, the addition of silver nitrate to a clear sodium chloride solution allows one to detect the presence of chloride in the solution, because the white silver chloride precipitate could not have formed without its presence.

Separation media are not involved in such a reaction. Although separation media may contribute to the analysis of mixtures by separating them into their constituent parts, there is no chemical reaction that consumes the “reagent.” Rather, the instant sorbents are used in “adsorption chromatography,” the “separation of a chemical mixture (gas or liquid) by passing it over an adsorbent bed which adsorbs different compounds at different rates.” “Adsorption” is defined as “the surface retention of solid, liquid, or gas molecules, atoms, or ions by a solid or liquid. . . .” *McGraw-Hill Dictionary of Scientific and Technical Terms, Fifth Ed.*, Parker, Sybil P., ed. (1994, p. 38). While the ENs specifically include a seemingly broad spectrum of reagents, including “other analytical reagents used for purposes other than detection or diagnosis,” separation media cannot be considered a reagent, analytical or otherwise, as explained above.

The NY ruling recognizes that the substances are composite goods, yet fails to proceed to GRI 3 in classifying the substances. Cross-linked polymeric hydrogel is classifiable in heading 3906, HTSUS, as an “acrylic polymer,” and the porous ceramic substrate of zirconia and calcium silicates is classifiable elsewhere.

The hydrogel completely encloses the substrate. Therefore, the nature of each sorbent product only depends upon the composition of the hydrogel and is not affected by any potential chromatographic activity of the substrate. The hydrogel contains the ligand that captures the intended molecule whereas the porous mineral ceramic particles act as a rigid skeleton that improves the functioning of these products as chromatography media. Hence, under GRI 3(b), the essential character of the separation media is imparted by the hydrogel. This means that for the non-ion exchangers, Methyl Ceramic HyperD®, Heparin HyperD® 20µm, Heparin HyperD® M, Blue Ceramic HyperD®, Lysine Ceramic HyperD® chromatographic media, only heading 3906, HTSUS, the provision for “acrylic polymer” describes the material that gives the product its essential character.

Hence, Methyl Ceramic HyperD®, Heparin HyperD® 20µm, Heparin HyperD® M, Blue Ceramic HyperD®, and Lysine Ceramic HyperD® chromatographic media are all classified in subheading 3906.90.50, HTSUS, the provision for “Acrylic polymers in primary forms: Other: Other: Other.”

HOLDING:

By application of GRI 3(b), Methyl Ceramic HyperD®, Heparin HyperD® 20µm, Heparin HyperD® M, Blue Ceramic HyperD®, and Lysine Ceramic HyperD® chromatographic media are all classified in subheading 3906.90.50, HTSUS, the provision for “Acrylic polymers in primary forms: Other: Other: Other.” The duty rate is 4.2% *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.

EFFECT ON OTHER RULINGS:

NY D84807 is revoked.

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

Gail A. Hamill for MYLES B. HARMON,

Director;

Commercial and Trade Facilitation Division.

cc: Frank Cantone, Harvey Kuperstein
NCSA