

U.S. Customs and Border Protection

CBP Decisions

EXTENSION OF PORT LIMITS OF ST. LOUIS, MISSOURI

19 CFR PART 101

USCBP-2005-0035

CBP Dec. 09-16

AGENCY: Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This document amends the Department of Homeland Security (DHS) regulations pertaining to Customs and Border Protection's (CBP's) field organization by extending the geographical limits of the port of St. Louis, Missouri to include the entire expanded Lambert-St. Louis International Airport. The change is part of CBP's continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

EFFECTIVE DATE: June 17, 2009.

FOR FURTHER INFORMATION CONTACT: Wendy M. Cooper, Office of Field Operations, 202-344-2057.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

In a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** (71 FR 47156) on August 16, 2006, CBP proposed to amend the list of CBP ports of entry at 19 CFR 101.3(b)(1) to extend the geographical limits of the St. Louis, Missouri port of entry.

The current port limits of the St. Louis, Missouri, port of entry are described in Treasury Decision (T.D.) 69-224, effective September 27, 1969. In the NPRM, CBP explained that the Lambert-St. Louis International Airport was located within the boundaries of these port limits. However, at the time the NPRM was published, the air-

port had initiated an expansion project, which, when completed, would place part of the airport outside of the port's current boundaries. Accordingly, so that the entire airport would be within the port's boundaries and to make the boundaries more easily identifiable to the public, CBP proposed to extend the port limits of the port of St. Louis, Missouri in such a way that would align the port boundaries with the Federal Interstate Highways that encircle the St. Louis metropolitan area. CBP determined that this proposed change in the boundaries of the port of St. Louis, Missouri, would not result in a change in the service that is provided to the public by the port, nor would it require a change in the staffing or workload at the port.

II. ANALYSIS OF COMMENTS AND CONCLUSION

CBP did not receive any comments in response to the NPRM. With the expansion of the airport being completed as scheduled, CBP is extending the geographical limits of the port of St. Louis, Missouri, as proposed in the NPRM. CBP believes that the inclusion of the entire airport within the port limits and alignment of the port boundaries with the Federal Interstate highways that encircle the St. Louis area will enable CBP to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public. The port of entry description of St. Louis, Missouri, will be revised as proposed in the NPRM.

III. PORT DESCRIPTION OF ST. LOUIS, MISSOURI

The port limits of St. Louis, Missouri, are as follows: Beginning at the point where Federal Interstate Highway 270 crosses the Mississippi River; thence west, southwest, south and southeast, along Federal Interstate Highway 270 to the point where it becomes Federal Interstate Highway 255; thence southeast on Federal Interstate Highway 255 across the Mississippi River; thence north and east to the point where Federal Interstate Highway 255 intersects with Federal Interstate Highway 270; thence west along Federal Interstate Highway 270 to the Mississippi River, the point of beginning.

IV. AUTHORITY

This change is made under the authority of 5 U.S.C. 301; 19 U.S.C. 2, 66, and 1624; and 6 U.S.C. 203.

V. STATUTORY AND REGULATORY REVIEWS.

A. Executive Order 12866: Regulatory Planning and Review

This rule is not considered to be an economically significant regulatory action under Executive Order 12866, because it will not result in the expenditure of over \$100 million in any one year. The change is intended to expand the geographical boundaries of the Port of St.

Louis, Missouri, and make it more easily identifiable to the public. There are no new costs to the public associated with this rule. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires federal agencies to examine the impact a rule would have on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act), a small not-for-profit organization, or a small governmental jurisdiction (locality with fewer than 50,000 people).

This rule does not directly regulate small entities. The change is part of CBP's continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public. To the extent that all entities are able to more efficiently or conveniently access the facilities and resources within the expanded geographical area of the new port limits, this rule should confer benefits to CBP, carriers, importers, and the general public.

Because this rule does not directly regulate small entities, CBP certifies that this rule does not have a significant economic impact on a substantial number of small entities.

VI. SIGNING AUTHORITY

The signing authority for this document falls under 19 CFR 0.2(a), because the port extension is 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).

AMENDMENTS TO CBP REGULATIONS

For the reasons set forth above, part 101, CBP Regulations (19 CFR part 101) 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;

* * * * *

2. In the list of ports in section 101.3(b)(1), under the state of Missouri, the “Limits of port” column adjacent to “St. Louis” in the “Ports of entry” column is amended by removing the language “Including territory described in T.D.s 67–57 and 69–224” and adding in its place “CBP Dec. 09–16.”

Date: May 13, 2009

JANET NAPOLITANO,
Janet Napolitano,
Secretary.

[Published in the Federal Register, May 18, 2009 (74 FR 23110)]

General Notices

19 CFR PART 101

Docket No. USCBP–2008–0047

Extension of Port Limits of Columbus, Ohio

AGENCY: Customs and Border Protection, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking proposes to extend the geographical limits of the port of Columbus, Ohio, to include the Rickenbacker Intermodal Terminal and additional territory that likely will be needed for supporting infrastructure so that it will be within the newly defined port limits. The proposed change would make the boundaries more easily identifiable to the public. The proposed change is part of CBP’s continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

DATES: Comments must be received on or before July 17, 2009.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2008-0047.
- Mail: Border Security Regulations Branch, Office of International Trade, Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Office of International Trade, Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325-0118.

FOR FURTHER INFORMATION CONTACT: Wendy M. Cooper, Office of Field Operations, 202-344-2057.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the notice of proposed rulemaking. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposal. Comments that will provide the most assistance to the Department in developing these procedures will reference a specific portion of the proposal, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

II. Background

As part of its continuing efforts to provide better service to carriers, importers, and the general public, CBP is proposing to extend the port boundaries for the port of entry at Columbus, Ohio.

The Columbus Regional Airport Authority has partnered with the Norfolk Southern Corporation to create an intermodal facility immediately adjacent to Rickenbacker International Airport. The creation of the new Rickenbacker Intermodal Terminal is an important part

of the Columbus Regional Airport Authority's plan to address a capacity problem at current facilities in the area. The terminal is located to the south of the current port boundaries. In order to accommodate the new facility and the necessary additional territory for supporting infrastructure so that it falls within the newly defined port limits, CBP is proposing to amend the port limits of the port of Columbus, Ohio. This proposed change will make the port boundaries more easily identifiable to the public. CBP has determined that this proposed change will result in better service that is provided to the public by the port by addressing a capacity problem at current facilities in the area. The proposed change will not require a change in the staffing or workload at the port.

III. Current Port Limits of Columbus, Ohio

The current port limits of Columbus, Ohio, are contained in two separate Treasury Decisions: 82-9 and 96-67.

Treasury Decision (T.D.) 82-9, published in the Federal Register (47 FR 1286) on January 12, 1982, specified the limits as follows:

"The geographical boundaries of the Columbus, Ohio, Customs port of entry include all of the territory within the corporate limits of Columbus, Ohio; all of the territory completely surrounded by the city of Columbus; and, all of the territory enclosed by Interstate Highway 270 (outer belt), which completely surrounds the city."

T.D. 96-67, published in the Federal Register (61 FR 49058) on September 18, 1996, expanded the port limits of Columbus, Ohio, to encompass the port limits set forth in T.D. 82-9 as well as the following territory:

"Beginning at the intersection of Rohr and Lockbourne Roads, then proceeding southerly along Lockbourne Road to Commerce Street, thence easterly along Commerce Street to its intersection with the N & W railroad tracks, then southerly along the N & W railroad tracks to the Franklin-Pickaway County line, thence easterly along the Franklin-Pickaway County line to its intersection with Pontius Road, then northerly along Pontius Road to its intersection with Rohr Road, thence westerly along Rohr Road to its intersection with Lockbourne Road, the point of beginning, all within the County of Franklin, State of Ohio."

IV. Proposed Port Limits of Columbus, Ohio

The new port limits of Columbus, Ohio, are proposed as follows:

"The geographic boundaries of the Columbus, Ohio, port of entry include all of Franklin County, and that part of Pickaway County east of U.S. Route 23 and north of State Route 752, all in the State of Ohio."

V. Proposed Amendment to the Regulations

If the proposed port limits are adopted, CBP will amend the list of CBP ports of entry at 19 CFR section 101.3(b)(1), to reflect the new description of the limits of the Columbus, Ohio, port of entry.

V. Authority

This change is proposed 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).

VI. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a) because this port extension is not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, the notice of proposed rulemaking may be signed by the Secretary of Homeland Security (or his or her delegate).

VII. Statutory and Regulatory Reviews.

A. Executive Order 12866: Regulatory Planning and Review

This proposed rule is not considered to be an economically significant regulatory action under Executive Order 12866 because it will not result in the expenditure of over \$100 million in any one year. The proposed change is intended to expand the geographical boundaries of the Port of Columbus, Ohio, and make it more easily identifiable to the public. There are no new costs to the public associated with this rule. Accordingly, this proposed rule has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires federal agencies to examine the impact a rule would have on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act), a small not-for-profit organization, or a small governmental jurisdiction (locality with fewer than 50,000 people).

This proposed rule does not directly regulate small entities. The proposed change is part of CBP's continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public. To the extent that all entities are able to more efficiently or conveniently access the facilities and resources within the proposed expanded geo-

graphical area of the new port limits, this proposed rule, if finalized, should confer benefits to CBP, carriers, importers, and the general public.

Because this rule does not directly regulate small entities, we do not believe that this rule has a significant economic impact on a substantial number of small entities. However, we welcome comments on that assumption. The most helpful comments are those that can give us specific information or examples of a direct impact on small entities. If we do not receive comments that demonstrate that the rule causes small entities to incur direct costs, we may certify that this action does not have a significant economic impact on a substantial number of small entities during the final rule.

Date: May 12, 2009

JANET NAPOLITANO,
Secretary.

[Published in the Federal Register, May 18, 2009 (74 FR 23133)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Country of Origin Marking Requirements for Containers or Holders

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

ACTION: 30-Day Notice and request for comments; Extension of an existing information collection: 1651-0057

SUMMARY: U.S. 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: Country of Origin Marking Requirement for Containers or Holders. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no 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** (74 FR 5847-5848) on February 2, 2009, 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 12, 2009.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Department of Homeland Security/Customs and Border Protection, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

SUPPLEMENTARY INFORMATION:

U.S. 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 (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: Country of Origin Marking Requirements for Containers or Holders

OMB Number: 1651-0057

Form Number: None

Abstract: Containers or holders imported into the United States destined for an ultimate purchaser must be marked with the English name of the country of origin at the time of importation into Customs territory.

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

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 250

Estimated Number of Annual Responses per Respondent: 40

Estimated Number of Total Annual Responses: 10,000

Estimated Time Per Respondent: 15 seconds

Estimated Total Annual Burden Hours: 41

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229-1177, at 202-325-0265.

Dated: May 6, 2009

TRACEY DENNING,
Agency Clearance Officer,
Customs and Border Protection.

[Published in the Federal Register, May 13, 2009 (74 FR 22564)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Bonded Warehouse Proprietor's Submission

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

ACTION: 30-Day Notice and request for comments; Extension of an existing information collection: 1651-0033

SUMMARY: U.S. 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: Bonded Warehouse Proprietor's Submission. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no 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** (74 FR 5669) on January 30, 2009, 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 12, 2009.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Department of Homeland Security/Customs and Border Protection, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

SUPPLEMENTARY INFORMATION:

U.S. 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 (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: Bonded Warehouse Proprietor's Submission

OMB Number: 1651–0033

Form Number: CBP Form 300

Abstract: CBP Form 300 is prepared by Bonded Warehouse Proprietor and submitted to CBP annually. The document reflects all bonded merchandise entered, released, and manipulated, and includes beginning and ending inventories.

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

Type of Review: Extension (without change)

Affected Public: Businesses or other for-profit institutions

Estimated Number of Respondents: 1,800

Estimated Time Per Respondent: 24.3 hours

Estimated Total Annual Burden Hours: 43,740

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229–1177, at 202–325–0265.

Dated: May 6, 2009

TRACEY DENNING,
Agency Clearance Officer,
Customs and Border Protection.

[Published in the Federal Register, May 13, 2009 (74 FR 22565)]

AGENCY INFORMATION COLLECTION ACTIVITIES:**Customs Modernization Act Recordkeeping Requirements**

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

ACTION: 30-Day Notice and request for comments; Extension of an existing information collection: 1651-0076

SUMMARY: U.S. 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: Customs Modernization Act Recordkeeping Requirements. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no 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** (74 FR 5670) on January 30, 2009, 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 15, 2009.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Department of Homeland Security/Customs and Border Protection, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

SUPPLEMENTARY INFORMATION:

U.S. 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 (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: Customs Modernization Act Recordkeeping Requirements
OMB Number: 1651-0076

Form Number: None

Abstract: This recordkeeping requirement is to allow CBP to verify the accuracy of the claims made on the entry documents regarding the tariff status of imported merchandise, admissibility, classification/nomenclature, value and rate of duty applicable to the entered goods.

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

Type of Review: Extension (without change)

Affected Public: Businesses or other for-profit institutions

Estimated Number of Respondents: 4,695

Estimated Average Annual Time Per Respondent: 1,037 hours

Estimated Total Annual Burden Hours: 4,870,610

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229-1177, at 202-325-0265.

Dated: May 6, 2009

TRACEY DENNING,
Agency Clearance Officer,
Customs and Border Protection.

[Published in the Federal Register, May 14, 2009 (74 FR 22760)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Free Admittance Under Conditions of Emergency

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

ACTION: 60-Day notice and request for comments; Extension of an existing information collection: 1651-0044

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 Free Admittance Under Conditions of Emergency. 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 July 20, 2009, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229–1177, at 202–325–0265.

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

Title: Free Admittance Under Conditions of Emergency

OMB Number: 1651–0044

Form Number: None

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: There are no changes to the information collection. This submission is being made to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Nonprofit Assistance Organizations

Estimated Number of Respondents: 1

Estimated Time Per Respondent: 1 hour
Estimated Total Annual Burden Hours: 1

Dated: May 14, 2009

TRACEY DENNING,
*Agency Clearance Officer,
Customs and Border Protection.*

[Published in the Federal Register, May 20, 2009 (74 FR 23737)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, May 20, 2009

The following documents of U.S. 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,
*Executive Director,
Regulations and Rulings,
Office of International Trade.*

**MODIFICATION OF TWO RULING LETTERS AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF CERTAIN PLATE MAKING
APPARATUS**

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

ACTION: Notice of modification of two ruling letters and revocation of treatment relating to tariff classification of certain computer-to-plate plate making apparatus.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) is modifying New York Ruling Letter (NY) 898413, dated June 20, 1994, and NY R01892, dated May 26, 2005, which pertain to the tariff classification of certain plate making apparatus under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly,

CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the Customs Bulletin, Vol. 43, No. 15, on April 10, 2009. 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 August 7, 2009.

FOR FURTHER INFORMATION CONTACT: Greg Connor, Tariff Classification and Marking Branch: (202) 325-0025.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the Customs Bulletin, Vol. 43, No. 15, on April 10, 2009, proposing to modify NY 898413 and NY R01892 which classified certain certain computer-to-plate plate making apparatus identified as the "Platesetter", "Lotem", and "Trendsetter" under heading 8442, HTSUS, which provides for, in pertinent part, "[m]achinery, apparatus and equipment. . . for preparing or making plates . . ." No comments were received in response to the notice. As stated in the proposed notice, this action will cover any rulings on the subject 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 ruling identified above. 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 comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. §1625 (c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved with substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this final decision.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is modifying NY 898413 and NY R01892 to reflect the proper tariff classification of this merchandise under subheading 8442.30.0150, HTSUS, which provides for, in pertinent part: "[m]achinery, apparatus and equipment . . . for preparing or making plates . . .: Machinery, apparatus and equipment . . . Other machinery, apparatus and equipment", pursuant to the analysis set forth in Headquarters Ruling Letter H032674, which is attached to this document. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is revoking any treatment previously accorded by it 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 13, 2009

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

Attachment

DEPARTMENT OF HOMELAND SECURITY,
U.S. CUSTOMS AND BORDER PROTECTION,
HQ H032674
May 13, 2009
CLA-2 OT:RR:CTF:TCM H032674 GC
CATEGORY: Classification
TARIFF NO.: 8442.30.0150

ROLAND SHRULL, ESQ.
50 Burlington Mall Road, Suite 205
Burlington, Massachusetts 01803-4536

RE: Modification of NY 898413 and NY R01892; Tariff classification of computer-to-plate plate-making apparatus

DEAR MR. SHRULL:

This letter pertains to your request, following our meeting of July 7, 2008, that Customs and Border Protection (CBP) reconsider New York Ruling Letter (NY) 898413, dated June 20, 1994, and NY R01892, dated May 26, 2005. The two rulings concerned the tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS) of the Platesetter (NY 898413) and the Lotem or Trendsetter (NY R01892), all of which are used in computer-to-plate (CTP) systems to create printing plates used in offset printing. Also consulted in the preparation of this ruling were your electronic submissions of December 2, 2008, December 20, 2008, January 9, 2009, and February 20, 2009. We have since reviewed NY 898413 and NY R01892, and find them to be factually incorrect. For the reasons set out below, we are modifying these two rulings. Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to modify NY 898413 and NY R01892 was published on April 10, 2009, in Volume 43, Number 15, of the Customs Bulletin. CBP received no comments in response to the notice.

The company to which NY 898413 and NY R01892 were issued, Creo Products, Inc., was subsequently acquired by Eastman Kodak Company (Kodak). Accordingly, pursuant to your correspondence on January 14, 2009, we are addressing the modification of these rulings to you in your capacity as counsel for Kodak.

FACTS:

The Platesetter (model 3244) was described in NY 898413 as a fully automatic CTP imaging machine. It is used to “write” digital information which is to be printed directly onto pre-sensitized printing plates. The plates created by the Platesetter are fixed in a developer and then mounted onto the cylinder of a printing press. Direct digital imaging onto a printing plate enables large commercial printers to eliminate traditional plate-making steps involving imaging and exposing photographic film, thus saving both time and money.

Particularly relevant in this case, it was noted in NY 898413 that the plates are created by loading digital data into the Platesetter, processing the data with computer workstation and raster image processor incorporated in the unit utilizing specialized software, and using multiple laser beams to create the corresponding image onto photo-sensitive receiving plates.

In NY R01892, CBP referenced NY 898413 in the description of the Lotem or Trendsetter products, which were incorporated into the CTP systems sub-

ject to the ruling. In so doing, we described the plate making process as involving the transfer of digital data onto photo-sensitive receiving plates by multiple laser beams.

Since the issuance of NY R01892 and NY 898413, new facts have come to our attention regarding the operation of the subject CTP products. According to your submissions, the lasers incorporated within the CTP products from NY R01892 and NY 898413 do not transfer digital data by emitting light onto photosensitive media. Rather, through an infrared (IR) laser beam, they transfer the data directly onto heat-sensitive aluminum plates.

Through your correspondence on this issue, you have clarified that two types of aluminum plates, generally described as physical thermal plates and chemical thermal plates, are used with the subject CTP products. You state that the physical thermal printing plates are coated with thermoplastic pearls, which fuse together and bond to the aluminum plate to produce the desired image when they react to an IR laser beam of a specified threshold temperature. The thermoplastic pearls that do not come into contact with the laser, are washed away in a solution.

The chemical thermal printing plates are coated with a phenolic resin that contains certain polymers as well as dyes, which serve to absorb the IR laser beam. When the IR beam of a specified threshold temperature makes contact with the resin coating, acid in the coating reacts with the polymers, causing them to bond and adhere to the aluminum plate, thus creating the desired image. The unaffected coating is then washed off of the plate using an alkaline developer solution comprised of silicates and hydroxides.

As a result, the composition of the coatings on the plates used with the subject equipment is such that the image is formed directly on the plate when a threshold temperature is reached. The heat-based operation eliminates the risk of over-exposure or under-exposure that can be associated with plate making machines using lasers to deliver a source of light. Likewise, the Platesetter, Lotem, and Trendsetter products can be utilized anywhere in the printing plant, as there is no need for darkrooms or safety lights, which is the case for other light-based, computer-to-film plate making systems.

ISSUE:

Whether the subject merchandise is classified under heading 8442, HTSUS, as apparatus for preparing or making plates, or under heading 9006, HTSUS, as photographic cameras?

LAW AND ANALYSIS:

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

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

8442	Machinery, apparatus and equipment (other than the machine tools of headings 8456 to 8465), for preparing or making plates, cylinders or other printing components; plates, cylinders and other printing components; plates, cylinders and lithographic stones, prepared for printing purposes (for example, planed, grained or polished); parts thereof:
8442.30.01	Machinery, apparatus and equipment . . .
8442.30.0150	Other machinery, apparatus and equipment * * *
9006	Photographic (other than cinematographic) cameras; photographic flashlight apparatus and flashbulbs other than discharge lamps of heading 8539; parts and accessories thereof:
9006.10.0000	Cameras of a kind used for preparing printing plates or cylinders . . .

Note 1(m) to Section XVI, HTSUS, excludes “[a]rticles of Chapter 90” from classification in Section XVI. Accordingly, before considering heading 8442, HTSUS, which covers apparatus for preparing or making plates, cylinders or other printing components, we must first analyze whether the subject merchandise fits the terms of heading 9006, HTSUS, which provides for photographic cameras.

The term “photographic” is not defined in the HTSUS. In the absence of contrary legislative intent, tariff terms are to be construed in accordance with their common and commercial meanings which are presumed to be the same. Various dictionaries agree that the term photography means “[t]he art or process of producing images on sensitized surfaces by the action of light or more generally, of any form of radiant energy.” See Headquarters Ruling Letter 958054, dated September 26, 1995; see also *St. Regis Paper Co., v. United States*, 11 CIT 601 (1987) (where the Court of International Trade adopted the same broad definition within the context of the Tariff Schedule of the United States).

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Note (ENs) may be utilized. The ENs, though not dispositive or legally binding, may 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 (Aug. 23, 1989).

In its description of the scope of heading 9006, HTSUS, and the scope of the term “photographic camera”, EN 90.06 (I) states the following, in pertinent part:

There are many different types of cameras, but the conventional types consist essentially of a light-tight chamber, a lens, a shutter, a diaphragm, a holder for a photographic plate or film, and a viewfinder. Variations in these essential features characterize the different kinds of cameras . . .

* * *

The cameras of this group include:

- (17) Cameras used for composing or preparing printing plates or cylinders by photographic means. This apparatus may be of considerable size and may differ considerably from other types of photographic cameras mentioned above. This group includes:

* * *

- (iv) Laser photoplotter for creating latent images on photosensitive film, generally from digital formats, (e.g., colour transparencies, which are used to reproduce digital artwork with continuous-tone) by means of a laser beam. To reproduce an image, the primary colours (cyan, magenta and yellow) are first selected, whereupon each colour is separately turned into rasterized data by an automatic data image processor. The raster image processor may be incorporated into the photoplotter.*

One of the methods of using lasers to create printing plates involves the exposure of sheets of either photographic film or bromide paper to a light source. The laser emits a beam of ultraviolet (UV) light onto the film to create the desired image through variation of the intensity of the light as well as the duration of exposure. Once the film is developed, the high quality black and white image is then used to expose lithography plates used in offset printing. Indeed, this method of plate making adheres to that described in EN 90.06 (I)(17)(iv), as well as EN 84.42(A).

However, the subject CTP products complete the plate making process using a different method from that described in EN 90.06 (I)(17)(iv). As described in the “Facts” section above, the lasers incorporated within the subject CTP products do not transfer digital data by emitting light onto photosensitive film for subsequent imaging onto plates. Rather, the lasers from the Platesetter, Lotem, and Trendsetter products transfer the data directly onto the heat-sensitive aluminum plates using an IR laser beam. As a result, the composition of the coatings on the plates used with the subject equipment is such that the image is formed directly on the plate when a threshold temperature is reached.

This description of the plate making process utilized by the Platesetter, Lotem, and Trendsetter machines is in fact partially consistent with rulings at issue here. In NY R01892, CBP explained that the computer systems managing the plate making operations are “integrated with the thermal printing platesetters . . .” This is the accurate description of the plate making process undertaken by the subject machines, which contrasts with the process by which other plate making machines use lasers to impose digital images on photosensitive film for ultimate creation of printing plates.

Thus, while the technology incorporated by the subject CTP products may fit within the broad definition of “photography” in the sense that the IR laser is a form of radiant energy, and the plates are pre-sensitized, the technology does not fall within the scope of the term “photographic cameras” contemplated by heading 9006, HTSUS, because the plate making process does not involve the exposure of film to light. Rather, the subject merchandise incor-

*EN 84.42(A) states that “the heading excludes photographic cameras, photographic enlargers or reducers, photographic contact printers and similar photographic apparatus for preparing printing plates or cylinders (**Chapter 90**) . . .” (Emphasis in original).

porates technology that directly casts an image onto the aluminum printing plates using either a physical or chemical reaction achieved only through the precise application of heat in the form of a laser. For instance, the melting of thermoplastic beads directly onto the physical thermal aluminum plate is entirely distinguishable from the photographic process employed by a good of heading 9006, HTSUS. The chemical reaction catalyzed by the direct application of the IR laser, which causes polymers to bind directly to the chemical thermal aluminum plate, also differs from the photographic plate making process covered by heading 9006, HTSUS.

Accordingly, we find that the subject plate making machines are not described by the term “photographic cameras”, which fall under heading 9006, HTSUS, because the plate making process conducted by the Platesetter, Lotem, and Trendsetter products is not “photographic”. Consequently, they are specifically provided for under heading 8442, HTSUS, as apparatus for preparing or making plates. *See also* HQ 086122, dated January 17, 1991 and HQ 088459, dated November 4, 1991.

HOLDING:

By application GRI 1, the aforementioned Platesetter, Lotem, and Trendsetter products are provided for in heading 8442, HTSUS. They are specifically classifiable in subheading 8442.30.0150, HTSUS, which provides for, in pertinent part: “Machinery, apparatus and equipment . . . for preparing or making plates, cylinders or other printing components . . . ; parts thereof: Machinery, apparatus and equipment . . . Other machinery, apparatus and equipment”. The column one, general rate of duty is free.

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

EFFECT ON OTHER RULINGS:

NY 898413, dated June 20, 1994, and NY R01892, dated May 26, 2005, are hereby MODIFIED.

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

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