

U.S. Customs and Border Protection



19 CFR PARTS 111 AND 163

Customs Broker Recordkeeping Requirements Regarding Location and Method of Record Retention

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

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with an additional technical correction, proposed amendments to the Customs and Border Protection (CBP) regulations regarding customs broker recordkeeping requirements as they pertain to the location and method of record retention. The amendments permit a licensed customs broker, under prescribed conditions, to store records relating to his or her customs transactions at any location within the customs territory of the United States. The amendments also remove the requirement, as it currently applies to brokers who maintain separate electronic records, that certain entry records must be retained in their original format for the 120-day period after the release or conditional release of imported merchandise. These changes maximize the use of available technologies and serve to conform CBP's recordkeeping requirements to reflect modern business practices without compromising the agency's ability to monitor and enforce recordkeeping compliance.

DATES: Effective July 9, 2012.

FOR FURTHER INFORMATION CONTACT: Anita Harris, Broker Compliance Branch, Trade Policy and Programs, Office of International Trade, Customs and Border Protection, 202-863-6069.

SUPPLEMENTARY INFORMATION:

Background

On March 23, 2010, U.S. Customs and Border Protection (CBP) published in the **Federal Register** (75 FR 13699) a proposal to amend title 19 of the Code of Federal Regulations (19 CFR) regarding customs broker recordkeeping requirements as they pertain to the

location and method of record retention. In that document, CBP proposed amendments to the CBP regulations to permit a licensed customs broker to store records relating to his or her customs transactions at any location within the customs territory of the United States, so long as the broker's designated recordkeeping contact, identified in the broker's permit application, makes all records available to CBP within a reasonable period of time from request at the broker district that covers the CBP port to which the records relate. The document also proposed to remove the requirement, as it applied to brokers who maintain separate electronic records, that certain entry records must be retained in their original format for the 120-day period after the release or conditional release of imported merchandise.

CBP solicited comments on the proposed rulemaking.

Discussion of Comments

Eleven commenters responded to the solicitation of public comment in the proposed rule. Eight commenters expressed support for the proposed rulemaking, noting in particular that the proposed amendments serve to maximize the use of available technologies, increase efficiency and reduce the cost of storing records. Several of these eight commenters included additional suggestions.

A description of the comments received, together with CBP's analyses, is set forth below.

Comment: One commenter requested that CBP issue guidance to the ports as to what constitutes a "reasonable time period" within which a broker must produce requested documentation. The commenter also suggested that CBP allow brokers to submit requested entry documents to any port in an electronic format.

CBP Response: In an effort to maintain uniform standards at its ports, CBP is amending 19 CFR 111.23(a) in this final rule by replacing the term "reasonable time period" with "30 calendar days, or such longer time as specified by CBP." Regarding the submission of requested entry-related documentation in an electronic format, CBP intends, through the Automated Commercial Environment (ACE) and related technology, to allow for the submission of entry-related documentation through electronic imaging.

Comment: One commenter inquired whether the ability to reproduce entry data that is generated by an application-based software program, as opposed to data stored in an electronic Portable Document Format (PDF) or Tagged Image File (TIF) format, satisfies CBP's electronic recordkeeping requirements.

CBP Response: Yes, but unless otherwise excepted, documents must be maintained in their original format for 120 days.

Comment: One commenter inquired whether a broker's electronic (imaged file) documentation can be maintained on a server physically located outside the customs territory of the United States.

CBP Response: For purposes of complying with CBP's broker recordkeeping requirements, a broker's electronic documentation must be maintained on a server physically located within the customs territory of the United States wherein CBP has jurisdiction to issue a summons under 19 U.S.C. 1509(a)(2).

Comment: Two commenters recommended that CBP further amend 19 CFR 163.5(b)(2)(iii) by removing the requirement for express consignment brokers who are also serving as importers of record to maintain records in their original format for 120 days following the end of release or conditional release. The commenters stated that many brokers are the importer of record for numerous shipments and the 120-day recordkeeping requirement is burdensome. Additionally, removing this requirement would allow these brokers to manage their recordkeeping responsibilities in a systemic manner which parallels their day-to-day business practices.

CBP Response: CBP will not remove the requirement for brokers who are also serving as importers of record to maintain records in their original format for the prescribed 120-day period. The intent of the proposed amendments is to eliminate duplicative record retention requirements, and not to alter the importer of record's ultimate responsibility.

Comment: Two commenters noted that most large customs brokers operate nationally (in 42 districts) and are not limited to the specific district in which they are physically located. Unless a broker is able to obtain a waiver from CBP, he or she is faced with the burden of procuring 42 permit qualifiers. The commenters also stated that the recent promulgation of the Remote Location Filing regulations is indicative of the fact that modern business practices allow a customs broker to operate nationally regardless of their actual locations. In light of the above, the commenters suggested that CBP should revise the current regulations that require an individual licensed broker to be designated as a permit qualifier in each customs district. The commenters are of the view that having one national permit without local district permit qualifiers will have no impact on broker responsibilities or liability, as CBP can easily obtain required information and records without the need to have a person available to contact locally in each district.

CBP Response: The recommendation to revise the current regulations that require an individual licensed broker to be designated as a permit qualifier in each district is beyond the scope of this proposed

rulemaking. CBP is, however, engaged in a comprehensive review of the role of brokers, and will consider the proposal in that context.

Comment: One commenter noted that there does not appear to be any reason to distinguish “packing lists” from the other types of records associated with an import transaction and, therefore, CBP should remove the existing exception in 19 CFR 163.5(b)(2)(iii) which excludes “packing lists” from the types of records that a broker must maintain for the requisite 120-day period. The commenter recommended that the final rule provide that the obligation for maintaining original records, including packing lists, rests with the importer of record in accordance with 19 U.S.C. 1509. At a minimum, the commenter suggested that the final rule clarify that the obligation to maintain packing lists in original form does not extend to brokers.

CBP Response: CBP notes that § 163.4(b)(2) requires, in pertinent part, that packing lists must be retained for a shorter 60-day, rather than a 120-day, period. It is further noted that the intent of the proposed rulemaking is not to alter the scope of a broker’s record-keeping requirements; therefore, the obligation to maintain packing lists will continue to apply.

Comment: One commenter suggested the following technical amendments to the final rule:

- The word “broker” should be removed from 19 CFR 111.23(a) in that there is no such thing as a “broker district.”
- Section 163.5(b)(3) has been modified to provide that changes to alternative storage procedures must be approved by Regulatory Audit in Charlotte, North Carolina. However, §§ 111.23(b)(2), 163.5(b)(1), 163.12(b)(2) and 163.12(c)(1) still require that approval be sought from Regulatory Audit in Miami. These locations should be harmonized.
- Several references to “Customs” throughout the cited sections should be changed to “CBP.”

CBP Response: CBP does not agree that the word “broker” should be deleted from 19 CFR 111.23(a). CBP still recognizes broker districts in the administration of broker permits even though districts and regions were eliminated in the agency reorganization of 1995.

The regulatory provisions cited by the commenter, in fact, currently reflect the Regulatory Audit office located in Charlotte, N.C., and do not need to be amended. *See* CBP Dec. 07–82 of October 19, 2007 (72 FR 59174).

When CBP proposes to amend a regulatory provision, it endeavors to change all outdated references in the section to “Customs” and replace it with either “CBP” or “customs,” as appropriate. The pro-

posed rulemaking omitted one such reference in § 163.5(b)(2)(i), and this document corrects such omission.

Conclusion

After analysis of the comments and further review of the matter, CBP has determined to adopt as final, with the technical change noted above in § 163.5(b)(2)(i), and a clarification, the proposed rule published in the **Federal Register** (75 FR 13699) on March 23, 2010. The change to 19 CFR 111.23(a) clarifies that “the reasonable time period” within which a designated recordkeeping contact must make all records available to CBP is “30 calendar days, or such longer time as specified by CBP.”

The Regulatory Flexibility Act and Executive Order 12866

Because these amendments liberalize broker recordkeeping requirements and place no new regulatory requirements on small entities to change their business practices, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. Further, these amendments do not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

Paperwork Reduction Act

The information collections contained in this rule have been previously submitted and approved by the Office of Management and Budget (OMB) and assigned OMB control numbers 1651– 0076 and 1651–0034. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Signing Authority

This document is being issued in accordance with 19 CFR 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his or her delegate) to approve regulations related to certain customs revenue functions.

List of Subjects

19 CFR Part 111

Administrative practice and procedure, Brokers, Customs duties and inspection, Licensing, Penalties, Reporting and recordkeeping requirements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons stated in the preamble, parts 111 and 163 of title 19 of the CFR (19 CFR parts 111 and 163) are amended as set forth below.

PART 111—CUSTOMS BROKERS

■ 1. The authority citation for part 111 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 1641.

* * * * *

■ 2. Section 111.23 is revised to read as follows:

§ 111.23 Retention of records.

(a) *Place of retention.* A licensed customs broker may retain records relating to its customs transactions at any location within the customs territory of the United States in accordance with the provisions of this part and part 163 of this chapter. Upon request by CBP to examine records, the designated recordkeeping contact identified in the broker's applicable permit application, in accordance with § 111.19(b)(6) of this chapter, must make all records available to CBP within 30 calendar days, or such longer time as specified by CBP, at the broker district that covers the CBP port to which the records relate.

(b) *Period of retention.* The records described in this section, other than powers of attorney, must be retained for at least 5 years after the date of entry. Powers of attorney must be retained until revoked, and revoked powers of attorney and letters of revocation must be retained for 5 years after the date of revocation or for 5 years after the date the client ceases to be an "active client" as defined in § 111.29(b)(2)(ii), whichever period is later. When merchandise is withdrawn from a bonded warehouse, records relating to the withdrawal must be retained for 5 years from the date of withdrawal of the last merchandise withdrawn under the entry.

PART 163—RECORDKEEPING

■ 3. The authority citation for part 163 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

■ 4. In § 163.5:

■ a. Paragraph (a) is amended in the first sentence by removing the word “shall” and adding in its place the word “must”, and in the second sentence by removing the word “Customs” and adding in its place the term “CBP”;

■ b. Paragraph (b)(2) introductory text is amended in the second sentence by removing the word “Customs” and adding in its place the term “CBP”;

■ c. Paragraph (b)(2)(i) is amended by removing the word “Customs” and adding in its place the term “CBP”;

■ d. Paragraph (b)(2)(iii) is revised;

■ e. Paragraph (b)(2)(v) is amended by removing the word “Customs” and adding in its place the term “CBP”;

■ f. Paragraph (b)(2)(vi) is amended by removing the word “shall” and adding in its place the word “must”;

■ g. Paragraph (b)(3) is amended by removing the words “the Miami regulatory audit field office” and adding in their place the language, “Regulatory Audit, Office of International Trade, Customs and Border Protection, 2001 Cross Beam Drive, Charlotte, North Carolina 28217”;

■ h. Paragraph (b)(4) is amended by removing the words “shall be” and adding in their place the word “are”; and

■ i. Paragraph (b)(5) is revised.

The revisions read as follows:

§ 163.5 Methods for storage of records.

* * * * *

(b) * * *

(2) * * *

(iii) Except in the case of packing lists (*see* § 163.4(b)(2)), entry records must be maintained by the importer in their original formats for a period of 120 calendar days from the end of the release or conditional release period, whichever is later, or, if a demand for return to CBP custody has been issued, for a period of 120 calendar days either from the date the goods are redelivered or from the date specified in the demand as the latest redelivery date if redelivery has not taken place. Customs brokers who are not serving as the importer of record and who maintain separate electronic records are exempted from this requirement. This exemption does not apply to any document that is required by law to be maintained as a paper record.

* * * * *

(5) *Failure to comply with alternative storage requirements.* If a person listed in § 163.2 uses an alternative storage method for records that is not in compliance with the conditions and requirements of this section, CBP may issue a written notice informing the person of the facts giving rise to the notice and directing that the alternative storage method must be discontinued in 30 calendar days unless the person provides written notice to the issuing CBP office within that time period that explains, to CBP's satisfaction, how compliance has been achieved. Failure to timely respond to CBP will result in CBP requiring discontinuance of the alternative storage method until a written statement explaining how compliance has been achieved has been received and accepted by CBP.

§ 163.12 [Amended]

■ 5. In § 163.12:

■ a. Paragraph (a) is amended by removing the word “Customs” wherever it appears and adding in its place the term “CBP”;

■ b. Paragraph (b)(2) is amended: by removing the word “shall” wherever it appears and adding in its place the word “must”, and; in the second sentence, by removing the words “Customs Recordkeeping” and adding in their place the words “CBP Recordkeeping” and removing the language “the Customs Electronic Bulletin Board (703–921–6155)” and adding in its place the language, “CBP’s Regulatory Audit Web site located at http://www.cbp.gov/xp/cgov/import/regulatory_audit_program/archive/compliance_assessment/”;

■ c. Paragraph (b)(3) introductory text is amended: In the first, third and fourth sentences, by removing the word “Customs” wherever it

appears and adding in its place the term “CBP”, and; in the second sentence, by removing the word “Customs” and adding in its place the words “all applicable”;

■ d. Paragraphs (b)(3)(iii), (iv), (v), and (vi) are amended by removing the word “Customs” wherever it appears and adding in its place the term “CBP”;

■ e. Paragraph (c)(1) is amended by removing the word “shall” wherever it appears and adding in its place the word “will”;

■ f. Paragraph (c)(2) is amended: By removing the word “Customs” and adding in its place the term “CBP”; by removing the word “Miami” and adding in its place the word “Charlotte”, and; by removing the word “shall” and adding in its place the word “will”;

■ g. Paragraph (d)(1) is amended: In the first sentence, by removing the words “Customs shall” and adding in their place the words “CBP will”, and; in the second sentence, by removing the word “Customs” and adding in its place the word “CBP”;

■ h. The introductory text to paragraph (d)(2) is amended by removing the word “shall” and adding in its place the word “must”; and

■ i. Paragraph (d)(3) is amended: By removing the word “shall” and adding in its place the word “must”; and, by removing the word “Customs” and adding in its place the term “CBP”.

Dated: June 4, 2012.

DAVID V. AGUILAR,
Acting Commissioner,
U.S. Customs and Border Protection.

[Published in the Federal Register, June 8, 2012 (77 FR 33964)]



**REQUEST FOR APPLICANTS FOR APPOINTMENT TO THE
ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS
OF CUSTOMS AND BORDER PROTECTION (COAC)**

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

ACTION: Committee Management; Request for Applicants for Appointment to COAC.

SUMMARY: U.S. Customs and Border Protection (CBP) is requesting individuals who are interested in serving on the Advisory Com-

mittee on Commercial Operations of Customs and Border Protection to apply for appointment (COAC). COAC provides advice and makes recommendations to the Commissioner of CBP, the Secretary of the Department of Homeland Security, and the Secretary of the Treasury on all matters involving the commercial operations of CBP and related DHS and Treasury functions.

DATES: Applications for membership should reach CBP at the address below on or before July 27, 2012.

ADDRESSES: If you wish to apply for membership, your application should be submitted by one of the following means:

- *Email:* Traderelations@dhs.gov.
- *Fax:* 202–325–4290.
- *Mail:* Ms. Wanda Tate, Management & Program Analyst, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 5.2A, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Management & Program Analyst, 1300 Pennsylvania Avenue NW., Room 5.2A, Wanda.Tate@dhs.gov, 202–344–1661, 202–325–4290.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Commercial Operations of Customs and Border Protection (COAC) is an advisory committee established in accordance with the provisions of the *Federal Advisory Committee Act (FACA)*, 5 U.S.C. App. 2.

Balanced Membership Plans: The COAC consists of twenty members who are selected from representatives of the trade or transportation community served by U.S. Customs and Border Protection (CBP) or others who are directly affected by CBP commercial operations and related functions. The members shall represent the interests of either importers (and their agents) or those associated with the carriage of international freight. The members will be appointed by the Secretaries of the Department of Homeland Security and the Treasury from candidates recommended by the Commissioner of CBP. In addition, members will represent major regions of the country, and, by statute, not more than ten of the twenty Committee members may be affiliated with the same political party.

It is expected that, during its upcoming thirteenth two-year term, the Committee will consider issues relating to enhanced border and cargo supply chain security, CBP modernization and automation, informed compliance and compliance assessment, account-based pro-

cessing, commercial enforcement and uniformity, international efforts to harmonize customs practices and procedures, strategic planning, northern border and southern border issues, and import safety.

Committee Meetings:

The Committee meets quarterly each year although additional meetings may be scheduled. Generally, every other meeting of the Committee is held outside of Washington, DC, usually at a CBP port of entry. The members are not reimbursed for travel and per diem.

Committee Membership:

Membership on the Committee is personal to the appointee and a member may not send an alternate to represent him or her at a Committee meeting. Appointees will serve a two-year term of office that will be concurrent with the duration of the charter.

No person who is required to register under the *Foreign Agents Registration Act* as an agent or representative of a foreign principal may serve on this advisory Committee. If you are Federal registered lobbyist you will not be eligible to apply for appointment.

Members who are currently serving on the Committee are eligible to re-apply for membership provided that they are not in their second consecutive term and that they have met attendance requirements. A new application letter (see **ADDRESSES** above) is required, but it may incorporate by reference materials previously filed (please attach courtesy copies). Members will not be paid compensation by the Federal Government for their services with respect to the COAC.

Application for Advisory Committee Appointment

Any interested person wishing to serve on the (COAC) must provide the following:

- Statement of interest and reasons for application;
- Complete professional biography or resume;
- Home address and telephone number;
- Work address, telephone number, and email address;
- Political affiliation in order to ensure balanced representation. (Required by COAC's authorizing legislation; if no party registration or allegiance exists, indicate "independent" or "unaffiliated.");
- Statement of the industry you represent;
- Statement whether you are a Federally registered lobbyist;

- Statement agreeing to submit to pre-appointment background and tax checks (mandatory). However, a national security clearance is not required for the position.

The Department of Homeland Security (DHS) does not discriminate in employment on the basis of race, color, religion, sex, national origin, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. DHS strives to achieve a widely diverse candidate pool for all of its recruitment actions.

Dated: June 6, 2012.

DAVID V. AGUILAR,
Acting Commissioner,
U.S. Customs and Border Protection.

[Published in the Federal Register, June 12, 2012 (77 FR 34971)]



ACCREDITATION AND APPROVAL OF SAYBOLT LP, AS A COMMERCIAL GAUGER AND LABORATORY

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

ACTION: Notice of accreditation and approval of Saybolt LP, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Saybolt LP, 18251 Cascades Ave. South Suite A, Tukwila, WA 98188, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

*[http://cbp.gov/linkhandler/cgov/trade/automated/
labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf](http://cbp.gov/linkhandler/cgov/trade/automated/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf)*

DATES: The accreditation and approval of Saybolt LP, as commercial gauger and laboratory became effective on June 9, 2011. The next triennial inspection date will be scheduled for June 2014.

FOR FURTHER INFORMATION CONTACT: Christopher Mocella, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: June 1, 2012.

IRA S. REESE,
Executive Director.

[Published in the Federal Register, June 8, 2012 (77 FR 34055)]



ACCREDITATION AND APPROVAL OF AMSPEC SERVICES LLC, AS A COMMERCIAL GAUGER AND LABORATORY

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

ACTION: Notice of accreditation and approval of Amspec Services LLC, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Amspec Services LLC, 875 Waterman Avenue, East Providence, RI 02914, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/linkhandler/cgov/trade/automated/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf

DATES: The accreditation and approval of Amspec Services LLC, as commercial gauger and laboratory became effective on January 20, 2012. The next triennial inspection date will be scheduled for January 2015.

FOR FURTHER INFORMATION CONTACT: Christopher Mocella, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: June 1, 2012.

IRA S. REESE,
Executive Director.

[Published in the Federal Register, June 8, 2012 (77 FR 34054)]



ACCREDITATION AND APPROVAL OF AMSPEC SERVICES LLC, AS A COMMERCIAL GAUGER AND LABORATORY

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

ACTION: Notice of accreditation and approval of Amspec Services LLC, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Amspec Services LLC, 100 Wheeler Street, Unit G, New Haven, CT 06512, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/linkhandler/cgov/trade/automated/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf

DATES: The accreditation and approval of Amspec Services LLC, as commercial gauger and laboratory became effective on January 06, 2012. The next triennial inspection date will be scheduled for January 2015.

FOR FURTHER INFORMATION CONTACT: Christopher Mocella, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: June 1, 2012.

IRA S. REESE,
Executive Director.

[Published in the Federal Register, June 8, 2012 (77 FR 34054)]



**ACCREDITATION AND APPROVAL OF INSPECTORATE
AMERICA CORPORATION, AS A COMMERCIAL GAUGER
AND LABORATORY**

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

ACTION: Notice of accreditation and approval of Inspectorate America Corporation, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Inspectorate America Corporation, 141 N. Pasadena Blvd., Pasadena, TX 77506, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories: http://cbp.gov/linkhandler/cgov/trade/automated/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.

DATES: The accreditation and approval of Inspectorate America Corporation, as commercial gauger and laboratory became effective on February 22, 2012. The next triennial inspection date will be scheduled for February 2015.

FOR FURTHER INFORMATION CONTACT: Jonathan McGrath, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: May 22, 2012.

IRA S. REESE,
Executive Director.

[Published in the Federal Register, June 8, 2012 (77 FR 34054)]



NOTICE OF ISSUANCE OF FINAL DETERMINATION CONCERNING DIGITAL PROJECTORS

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

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (“CBP”) has issued a final determination concerning the country of origin of certain digital projectors. Based upon the facts presented, CBP has concluded in the final determination that the assembly and programming operations performed in the Taiwan substantially transform the non-TAA country components of the digital projectors. Therefore the country of origin of the digital projectors is Taiwan for purposes of U.S. Government procurement.

DATES: The final determination was issued on June 4, 2012. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within July 12, 2012.

FOR FURTHER INFORMATION CONTACT: Robert Dinerstein, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade (202-325-0132).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on June 4, 2012, pursuant to subpart B of part 177, Customs and Border Protection (CBP) Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of digital projectors which may be offered to the United States Government under an undesignated government

procurement contracts. This final determination, in HQ H193929, was issued at the request of the manufacturer of the digital projectors under the procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP concluded that based upon the facts presented, the assembly and programming operations performed in Taiwan substantially transform the non-TAA country components. Therefore, the country of origin of the finished digital projectors is Taiwan for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: June 6, 2012.

SANDRA L. BELL,
*Executive Director, Regulations and Rulings,
Office of International Trade.*

Attachment

HQ H193929
MAR-2 OT:RR:CTF:VS H193929 RSD
CATEGORY: Marking

MUNFORD PAGE HALL, Esq.
WILLIAM C. SJOBERG, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG LLP
1200 SEVENTEENTH STREET,
NEW WASHINGTON, DC 20036

RE : Final Determination regarding the Country of Origin of Digital Projectors, Substantial Transformation

DEAR MR. HALL AND MR. SJOBERG:

This is in response to your three letters dated November 15, 2011, November 22, 2011, and January 18, 2012, requesting final determinations on behalf of a foreign manufacturer of five digital projector models, pursuant to subpart B of part 177 of the U.S. Customs Border Protection (CBP) Regulations (19 C.F.R. Part 177). Under these regulations which implement Title III of the Trade Agreements Act of 1979 (TAA), as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in the U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of five different models of digital projectors. We note that the manufacturer of the digital projectors, a foreign manufacturer, is a party-at-interest within the meaning the 19 C.F.R. § 177.22(d)(1), and, as such, is entitled to request this final determination.

FACTS:

Five different models of digital projectors are at issue. One of the digital projectors uses light emitting diodes (LEDs) to project videos and images, while the other digital projectors are lamp based.

First Digital Projector Model

In your submission of November 15, 2011, you describe the subject merchandise as a digital LED portable projector referred to as “Model C”. The dimensions of the LED projector are 22 cm × 4.25 cm × 17 cm, (W × H × D), and it weighs 1.1 kg. The digital light processing (“DLP”) projector is designed to use LEDs as the light source for projecting images and videos from a computer or other video sources. The LED projector can produce an image size of up to 120 inches measured diagonally. According to your submission, the LED projector was designed and developed in Taiwan. The LED Projector uses four firmware files: (1) the system firmware, (2) the power control microcontroller firmware, (3) the Extended Display Identification Data (“EDID”) firmware, and (4) multimedia firmware. These four firmware files are developed and coded in Taiwan and are programmed into the corresponding integrated circuits (“ICs”) in Taiwan.

The LED projector contains components from several different countries. Two major functional parts including the digital micro-mirror device (DMD) and the DPP6401 data processor will originate from Taiwan. Other non-

Taiwanese components are shipped to China where they are pre-assembled with the Taiwanese components to create modules or sub-assemblies. You list 16 modules that are assembled together to make the LED projectors. The modules are as follows:

- 1) Bottom casing module containing parts from China, Japan, Korea and Taiwan;
- 2) Top cover module with mechanical parts from China;
- 3 4) Two fan modules with mechanical parts from China;
- 5) Low voltage power supply (LVPS) containing parts from China, Japan, Korea, Malaysia, Philippines, and Taiwan;
- 6) Semi-finished optical engine module with parts and components from China, Taiwan, Philippines, and Japan;
- 7) Photo sensor module containing parts from China, Korea, and Taiwan;
- 8 9 10) Three LED modules with LED chips and circuit boards from the USA;
- 11) Heat sink for blue LED with mechanical parts from China;
- 12) Heat pipe module for green LED with mechanical parts from China;
- 13) Heat pipe module for red LED with mechanical parts from China;
- 14) Projection lens module with optical lens and mechanical parts from China
- 15) Main board module with parts and electronic components from China, Hong Kong, Japan, Korea, Malaysia, Philippines, Taiwan, and a processor from Taiwan; and
- 16) LED driver board module with components and parts from China, Taiwan, Japan, and Malaysia.

After the components are assembled together in China to form the 16 different modules, they are shipped from China to Taiwan for assembly into the LED projectors. Other parts used in the assembly of the projector in Taiwan include screws, brackets which are mounted onto the LVPS sensor board, mylar cable ties, and an EMI gasket.

The assembly, firmware programming, testing and packing processes in Taiwan consist of at least 225 steps taking no less than 4 hours and 54 minutes to complete of which the Taiwanese assembly process consists of at least 71 steps taking approximately 15.6 minutes. The assembly process in producing the projectors in Taiwan includes the following steps:

- 1) The fan modules are screwed to the bottom casing modules.
- 2) The LVPS is screwed to the bottom casing module.
- 3) The semi-finished optical engine module is assembled with other components into the completed optical engine module by screwing, inserting and sticking the pieces together.
- 4) The completed optical engine module is screwed to the bottom casing module.
- 5) The main board module is assembled onto the completed optical engine module. The slot of the main board module must be aligned with the DMD board edge connector so as to plug the main board onto the DMD board incorporated into the optical engine module.
- 6) The wires from the different component and modules are connected to the main board module, by plugging the wires from different components and modules into the corresponding connectors, respectively, on the main board module.

7) The light source with the main board module is assembled by inserting the edge connector of the LED driver board module to the corresponding slot of the main board module.

8) The light source driver is connected with the LVPS and the wire from the LVPS is plugged into the corresponding connector on the light source driver; or the wire is plugged from the light source driver to the corresponding connector on the LVPS;

9) The top cover is screwed to the bottom casing module.

The light source driver in the Model C projectors is the LED driver module. The light source (LEDs) in the Model C projector is assembled with the semi-finished optical engine module to become the completed optical engine module.

The system firmware programming, power control firmware programming, and EDID programming consists of at least 42 steps taking approximately 11.6 minutes to complete. All functions of the LED projectors undergo testing prior to the LED projector being exported to the United States. The normal testing process includes 12 kinds of functions tests and consists of at least 97 steps taking approximately 137.8 minutes. After the whole projector is assembled, the next step is to program the firmware files into the integrated circuits (ICs) before function testing. The firmware programming process involves power control firmware programming, multimedia firmware programming, and system firmware programming.

Second and Third Digital Projector Models

In your submission of November 22, 2011, you provide a description of two other versions of similar digital projectors. You refer to these versions of the projectors as Model A. The two versions of the digital projector are very similar to each other. The two projectors have the same physical dimensions of 32.4 cm × 9.7 cm × 23.4 cm (W × H × D) and weigh 2.9 kg. The two models are DLP projectors designed to use a high-intensity discharge (“HID”) arc lamp as the light source to project images and videos from computers or other video sources. The digital projectors can produce an image size of up to 362 inches in diagonal. The main difference between the two models of digital projectors are in the resolution of the projected image and the throw ratio, which is defined as the distance (D) measured from lens to screen that a projector is placed from the screen, divided by the width (W) of the image that it will project (D/W).

You state that the two digital projectors are designed and developed in Taiwan. They will also be ultimately assembled in Taiwan. Additionally, major functional parts, including the digital micro-mirror device (“DMD”), and the DDP2431 data processor will originate from Taiwan. The digital projectors will also use five firmware files: (1) the system firmware, (2) the power control firmware (i.e. 8051 microcontroller firmware), (3) the extended display identification data (“EDID”) firmware, (4) the network firmware, and (5) the lamp driver firmware which are developed and coded in Taiwan. In addition, the system firmware, power control firmware and EDID firmware are programmed into the corresponding ICs in Taiwan.

The manufacturing of the digital projectors versions of Model A is very similar to the process used to manufacture the digital projector Model C described above. The components will be fabricated in China, Taiwan, USA, Korea, Japan, Indonesia, Malaysia, Thailand, Singapore, and the Czech Republic. In China the components are assembled into 13 different modules

or sub-assemblies. The 13 modules are: 1) the bottom casing module, 2) top cover keypad module, 3,4) two fan modules (i.e. the blower module and system fan module), 5) lamp driver (ballast), 6) zoom ring module, 7) lamp module, 8) lamp cover module, 9) semi-finished optical engine module, 9) color wheel module, 10) main board module, 11) color wheel module, 12) main board module, and 13) LVPS. The modules/subassemblies are shipped to Taiwan where they are assembled into the digital projectors.

According to your submission, the assembly, firmware programming, testing, and packing operations in Taiwan will consist of at least 220 steps and take no less than 11 hours and 48 minutes to complete. The Taiwanese assembly process itself consists of at least 55 steps, taking approximately 15.5 minutes. The assembly of the second and third digital projectors in Taiwan consists of the same basic processing steps as the first digital projector described previously.

The light source driver in Model A projectors is the ballast (lamp driver). The light source (lamp) in the Model A projectors is installed into the system (projector) after the top cover is assembled with bottom casing module.

The system firmware programming, power control firmware programming and EDID programming consists of at least 35 steps taking approximately 9.3 minutes to complete. All functions of the projectors also undergo extensive testing prior to being exported to the United States. The normal testing process includes 11 kinds of function tests and consists of at least 97 steps which will take approximately 11 hours and 13.6 minutes to perform.

Fourth and Fifth Digital Projector Models

In your submission of January 18, 2012, you provide a description of two other versions a digital projector, designated as Model B. The two versions of the digital projector Model B are substantially similar to Model C described above. The projectors have the same dimensions of 32.4 cm × 9.7 cm × 23.4 cm (W × H × D) and weigh 2.9 kg. The products are DLP projectors designed to use a HID arc lamp as the light source to project images and videos from computers or other video sources. One version of Model B can produce a diagonal image up to 303 inches, while the other version can produce a diagonal image up to 362 inches. Again, the main differences between the two digital projectors are the resolution of the projected image and the throw ratio which is defined as the distance (D) measured from lens to screen that a projector is placed from the screen, divided by the width (W) of the image that it will project (D/W).

There are five firmware files used in digital projectors: (1) the system firmware, (2) the power control firmware (i.e. 8051) microcontroller firmware (3) the EDID firmware, (4) the network firmware, and (5) the lamp driver firmware, which are developed and coded in Taiwan. The system firmware, power control firmware and EDID firmware are programmed into the corresponding ICs in Taiwan.

As in the scenario for the Model B projectors the same 13 modules will be assembled in China from components made in various countries and similarly, they will be shipped to Taiwan for final assembly into the digital projectors. Additionally, major functional parts, including the digital micro-mirror device (“DMD”), and DDP2431 data processor will originate in Taiwan.

The power control firmware and system firmware will be programmed into the ICs. The complete digital projector will be subject to five function tests in

what is designated as the “pre-test”. In addition, the digital projectors will be subject to a series of other tests. After finishing the six function tests in the “post test”, the EDID firmware is programmed into the digital projectors to provide the identification of the digital projectors. When the digital projectors pass the “post tests”, they will be sent to the packing department, where they will be packed together with the accessory kits.

The assembly, firmware programming, testing, and packing processes in Taiwan described consist of at least 211 steps taking no less than 2 hours and 59.6 minutes to complete, of which the assembly process consists of at least 68 steps taking approximately 10.6 minutes to complete. The assembly of the fourth and fifth digital projectors in Taiwan consists of the same basic processing steps as the other three digital projector described previously.

The light source driver in Model B projectors is the ballast (lamp driver). The light source (lamp) in the Models B projectors is installed into the system (projector) after the top cover is assembled with the bottom casing module.

The system firmware programming, power control firmware programming and EDID programming consist of at least 35 steps taking approximately 9.3 minutes to perform. All functions of the digital projectors undergo testing prior to exportation to the United States. The normal testing process includes 11 function tests and consists of at least 86 steps taking approximately 2 hours and 30.7 minutes.

ISSUE:

What is the country of origin of the digital projectors for purposes of U.S. government procurement?

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 CFR § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 C.F.R. § 177.22(a).

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens v. United States*, 573 F. Supp. 1149 (Ct. Int'l Trade 1983), *aff'd*, 741 F.2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation.

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP

considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, the extent and nature of post-assembly inspection and testing procedures, and worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

In *Data General v. United States*, 4 Ct. Int'l Trade 182 (1982), the court determined that for purposes of determining eligibility under item 807.00, Tariff Schedules of the United States (predecessor to subheading 9802.00.80, Harmonized Tariff Schedule of the United States), the programming of a foreign PROM (Programmable Read-Only Memory chip) in the United States substantially transformed the PROM into a U.S. article. In programming the imported PROMs, the U.S. engineers systematically caused various distinct electronic interconnections to be formed within each integrated circuit. The programming bestowed upon each circuit its electronic function, that is, its "memory" which could be retrieved. A distinct physical change was effected in the PROM by the opening or closing of the fuses, depending on the method of programming. This physical alteration, not visible to the naked eye, could be discerned by electronic testing of the PROM. The court noted that the programs were designed by a U.S. project engineer with many years of experience in "designing and building hardware." While replicating the program pattern from a "master" PROM may be a quick one-step process, the development of the pattern and the production of the "master" PROM required much time and expertise. The court noted that it was undisputed that programming altered the character of a PROM. The essence of the article, its interconnections or stored memory, was established by programming. The court concluded that altering the non-functioning circuitry comprising a PROM through technological expertise in order to produce a functioning read only memory device, possessing a desired distinctive circuit pattern, was no less a "substantial transformation" than the manual interconnection of transistors, resistors and diodes upon a circuit board creating a similar pattern.

In *Texas Instruments v. United States*, 681 F.2d 778, 782 (CCPA 1982), the court observed that the substantial transformation issue is a "mixed question of technology and customs law." In Headquarters Ruling (HQ) 555578 dated June 11, 1990, overhead projectors were produced in Haiti from components of Belgian and U.S. origin, as well as from parts fabricated in Haiti. CBP concluded that the operations performed in Haiti constituted more than simple combining operations and resulted in a new and different article of commerce with a new name, character and use.

In HQ H114395, dated May 18, 2011, CBP considered the country of origin of a DLP projector that used LEDs as its light source for projecting photos and videos from mobile devices onto any surface. We were asked to consider two scenarios. In the first scenario, PCBA-ICs from Japan, Thailand, the U.S., Korea, and Malaysia; and fly eyes from Japan were shipped to China. Some Taiwanese origin components (DMDs, DPP 1505 chips, EPROMs, LEDs, and lenses) were also be shipped to China for assembly with Chinese-

origin components (PCBs, projecting lenses, mirrors, and mechanical parts), the ICs, and fly eyes for making modules for the light engine and the PCBA main board. In China, two types of Taiwanese firmware for operating the projector were downloaded to memory chips located on the light engine and PCBA main board modules. The modules assembled in China were then shipped to Taiwan for quality inspections. In the second scenario, PCBA-ICs from Japan, Thailand, the U.S., Korea, and Malaysia; and fly eyes from Japan were shipped to Taiwan. The assembly and programming operations that took place in China, under the first scenario, were all performed in Taiwan. We determined that the light engine module and the PCBA main board were the essence of the projector, and it was at their production where the last substantial transformation occurred. Therefore, when the light engine module and PCBA main board module were assembled and programmed in China, the country of origin of the projectors was China for the purposes of U.S. government procurement. However, we also ruled that if the light engine module and PCBAs main board modules were assembled and programmed in Taiwan, then the country of origin of the projectors was Taiwan for purposes of U.S. government procurement.

HQ H146735, (July 29, 2011), concerned a determination of the country of origin of two models of a digital projector, which were very similar to the products under consideration here. In that case, Chinese modules were assembled together into a projector in Taiwan. However, the projectors were designed and developed in Taiwan. Many of the main parts of the projectors, including the data processors were also fabricated in Taiwan. CBP determined that for purposes of government procurement the country of origin of the digital projectors assembled in Taiwan using the Chinese modules was Taiwan. In making this determination, CBP considered that the bottom cover module, elevator module, right cover module, I/O cover module, cosmetic module, two fan modules, lamp driver module programmed in China with Chinese firmware, zoom ring module, lamp module, lamp cover module, LAN module programmed in China with Taiwanese origin firmware, and the LVPS module from China were assembled together in Taiwan with other Chinese components to form a completed projector. After assembly was performed, the projector was programmed in Taiwan with three types of Taiwanese developed firmware (power control firmware, system firmware, and EDID). We found that the assembly and programming operations performed in Taiwan were sufficiently complex and meaningful so as to create a new article with a distinct name, character, and use. In support of this determination, we further noted that some of Chinese modules were made using Taiwanese parts. Thus, through the operations undertaken in Taiwan, we concluded that the individual parts from various countries lost their separate identities to become a new and different article, *i.e.*, the projector.

In our judgment, the five versions of the different models of digital projectors involved in this case closely resemble the digital projectors that we considered in HQ H147365. In addition, in this case the processing steps and programming operations performed in Taiwan are very similar to the actions undertaken in Taiwan in HQ H147365. Moreover, as in HQ H147365, we recognize that the most essential components of the LED projectors, the DMD and data processors, will be made in Taiwan. Furthermore, the important firmware files, namely, the system firmware, power control firmware, lamp driver firmware, and EDID firmware are developed and coded in Taiwan. The programming of the ICs, to make the digital projectors functional

through the interaction of modules and via the firmware files after the digital projectors have been assembled, is also done in Taiwan. We also note that as in HQ H147365, a number of the Chinese modules contain some significant Taiwanese parts. Thus, as in HQ H147365, we find that the assembly processed previously described and the programming operations performed in Taiwan are sufficiently complex and meaningful so as to create new articles with a distinct name, character, and use.

We note that there are some distinctions among the five different versions of the digital projectors under consideration. The projector Model A and projector Model B are the same type of digital projector with different resolutions and some different features. These four versions of the projectors are similar because they are lamp based projectors. Model C is a slightly different type of projector in that it is an LED based projector and does not require a color wheel module. However, we do not believe that these differences in the projectors are relevant in determining their country of origin. Consequently, in accordance with our holding in HQ H147365, we find that the country of origin of the specified five models of the finished digital projectors is Taiwan.

HOLDING:

Based on the facts presented in this case, we find that the assembly and programming operations performed in Taiwan substantially transform the non-Taiwanese components into Taiwanese digital projectors. Therefore, the country of origin of the five different versions of digital projectors described above for purposes of government procurement is Taiwan.

Notice of this final determination will be given in the **Federal Register**, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination.

Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication in the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

SANDRA L. BELL,

*Executive Director Regulations and Rulings
Office of International Trade*

[Published in the Federal Register, June 12, 2012 (77 FR 34967)]

**NOTICE OF ISSUANCE OF FINAL DETERMINATION
CONCERNING TOSHIBA E-STUDIO MULTI-FUNCTION
PERIPHERALS**

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

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (“CBP”) has issued a final determination concerning the country of origin of certain Toshiba e-Studio Multi-function Peripherals (MFPs), which perform imaging, scanning, faxing, and printing functions. Based upon the facts presented, CBP has concluded that the country where the last substantial transformation takes place is Singapore. Therefore, the country of origin of the MFPs is Singapore for purposes of U.S. Government procurement.

DATES: The final determination was issued on June 5, 2012. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination on or before July 12, 2012.

FOR FURTHER INFORMATION CONTACT: Heather K. Pinnock, Valuation and Special Programs Branch: (202) 325–0034.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on June 5, 2012, pursuant to subpart B of Part 177, U.S. Customs and Border Protection Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain Toshiba e-Studio MFPs which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, HQ H198875, was issued under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP concluded that, based upon the facts presented, the country where the last substantial transformation takes place is Singapore. Therefore, the country of origin of the MFPs is Singapore for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: June 5, 2012.

SANDRA L. BELL,
*Executive Director, Regulations and Rulings,
Office of International Trade.*

Attachment

HQ H198875

June 5, 2012

**MAR OT:RR:CTF:VS H198875 HkP
CATEGORY: Origin**

DAVID T. RALSTON JR., ESQ.
FOLEY & LARDNER LLP
3000 K STREET,
NW SUITE 600
WASHINGTON, DC 20007-5109

RE: U.S. Government Procurement; Country of Origin of Toshiba e-Studio Multi-function Peripherals; Substantial Transformation

DEAR MR. RALSTON:

This is in response to your letter, dated December 30, 2011, clarified on January 30, 2012, requesting a final determination on behalf of Toshiba America Business Solutions (“TABS”), pursuant to subpart B of part 177 of the U.S. Customs and Border Protection (“CBP”) Regulations (19 C.F.R. Part 177). Under these regulations, which implement Title III of the Trade Agreements Act of 1979 (“TAA”), as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of eight models of Toshiba e-Studio multi-function peripherals (“MFPs”). As a U.S. importer, TABS is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

Toshiba’s MFPs perform imaging, scanning, faxing and printing functions. TABS imports eight models of MFPs from Singapore: (1) the e-Studio 3040CG; (2) the e-Studio 4540CG; (3) the e-Studio 5540CG; (4) the e-Studio 6540CG; (5) the e-Studio 306G; (6) the e-Studio 456G; (7) the e-Studio 656G; and, (8) the e-Studio 856G. The model numbers ending in “CG” offer full color printing while those ending in “G” offer monochrome printing only. Apart from this, the primary distinction between the model types is the speed at which they print documents. The model name incorporates the maximum page-per-minute (“ppm”) output of each model. For example, the e-Studio 3040CG model prints a maximum of 30 ppm, and the e-Studio 856G model prints a maximum of 85 ppm. Each MFP model is primarily composed of the same major components and assemblies, and is manufactured using essentially the same processes performed in the same locations.

An MFP consists of the following components:

(1) **Logic Control (“LGC”) Board:** a printed circuit board (“PCB”) populated with hundreds of micro-miniaturized parts. It drives the laser and scanner, exposes the photosensitive drum to make a latent image, and otherwise regulates the electric photography process based on the print data received from the System (“SYS”) Board (below); controls the transfer of toner from the drum to the paper while regulating feeding of the paper, the fixing of toner to the paper to complete the print image, and the ejection of the paper

from the MFP; and, for photocopying, directs the scanning of original documents and sends the image data to the SYS Board. The LGC Board is manufactured in Singapore.

(2) **SYS Board:** a PCB populated with hundreds of micro-miniaturized parts. It allows the MFP to receive print data from the intranet, a scanner, an incoming fax, or through its copier function, convert the data and send it to the LGC board. It also allows the user to interface with the MFP by detecting key or touchscreen input and by sending image data to the display screen and displaying it. The SYS Board is manufactured in Singapore.

(3) **Control Panel:** used to operate the MFPs, consists of button and touch-panel switches, light emitting diodes (“LEDs”) and a liquid crystal display (“LCD”). It is assembled in China.

(4) **Scanner:** irradiates the surface of the original document. The reflected light is directed to a charge-coupled device (“CCD”) board using mirrors and lenses, where the optical image data is converted into an electrical signal that is transmitted to the SYS Board for further processing. It consists of different types of glass, an exposure lamp, a reflector, drive pulley, sensor, lens, CCD board, Scanner Logic Board (“SLG”), and other components. It is assembled in China.

(5) **Laser Optical Unit:** radiates a laser beam onto the photoconductive drum in response to the digital image signals transmitted from the scanner, Universal Serial Bus (“USB”) port, or network to create a latent image. The image signal is converted into the light emission signal of the laser diode on the laser driving (“LDR”) PCB, then radiated on the drum through optical elements such as lenses and mirrors. It is assembled in China.

(6) **Paper Feeding System:** feeds paper into the section of the MFP where the image is printed onto paper. It consists of several types of rollers, several types of sensors, and a drive system consisting of several motors. It is assembled in China.

(7) **Electrophotograph Processing Unit (“EPU”):** allows the formation of a latent image on the surface of the photoconductive drum within the unit. The EPU consists of two subassemblies, the process unit (the drum cleaner and developer unit) and the drive section. There are four EPUs in each color printer, one for each color of toner used for color printing (yellow, magenta, cyan, and black). It is assembled in China.

(8) **Transfer and Second Transfer Unit.** The Transfer Unit transfers the toner image from the photoconductive drum onto the transfer belt and the Second Transfer Unit transfers the image from the transfer belt to paper. The units consist of several components: a transfer belt unit, a transfer belt cleaning unit, a second transfer unit, several types of sensors, and a motor. It is assembled in China.

(9) **Fuser Unit:** fuses the toner image to paper by applying heat and pressure. The paper is then transported to the bridge unit or the paper exit unit. The unit principally consists of several types of rollers, heating lamps, thermistors, thermostats, a heating coil, entrance guide, paper guider, separation plate and fingers, and a fuser belt. It is assembled in China.

(10) **Automatic Duplexing Unit (“ADU”):** reverses paper so that images can be automatically printed on both sides of the paper. It consists of various types of sensors, rollers, a PCB, switch and motor. It is assembled in China.

(11) **Paper Exit Unit:** transports paper from the fuser unit or the optional bridge unit to the exit tray or the finisher. It consists of various types of sensors, rollers, a switch, cooling fan and motor. It is assembled in China.

(12) **Hard-disk Drive (“HDD”)**: allows the storage, encryption and protection of data. It is designed and developed in Japan and manufactured overseas. Application software is developed in Japan.

(13) **Firmware**: software that controls all the functions of an MFP. System firmware controls the SYS Board and engine firmware controls the LGC Board. The e-Bridge open software platform enables the installation of multiple devices, the performance of initial settings, and integration with core business applications to streamline workflows. All MFP firmware is developed in Japan.

(14) **Image Processing (“IMG”) Board**: converts image data captured from the original document into printer image data for output to the printer or to be stored as a data file. The conversion process is controlled by the SYS Board and implemented by the LGC Board. The IMG Board itself is not programmed with any software. The board is only installed in the four MFPs that print in color—the “CG” models; image processing in the monochrome MFPs is done by the SYS Board and the LGC Board. It is manufactured in China.

TABS describes the SYS Board and the LGC Board (components 1 and 2 above) as the critical core components of an MFP because they organize and control the mechanical functions of an MFP, and an MFP could not operate without them. According to TABS’ submission, the SYS Board is a system controller that unifies the MFP into a single system and can be considered the “brains” of the machine. On the other hand, the LGC Board functions as the fine mechanical controller of the MFP, precisely regulating the mechanical and electrical actions of the MFP to effect printing, scanning and other functions. TABS analogizes the LGC Board to the human nervous system, in that it carries out the commands of the brain, *i.e.*, the SYS Board.

Manufacture of the MFPs begins in China where all the subassemblies listed above, except for the LGC and SYS Boards and the HDD, are assembled. The subassemblies are connected to each other by a variety of wiring harnesses and attached to the metal frame of the MFP, which is then encased by a plastic cover. The unit is tested to ensure that it operates correctly. The tests involve the temporary installation of SYS and LGC Boards and a HDD, which are not shipped to Singapore with the MFPs. After testing is complete, the MFPs are shipped to Singapore for additional manufacturing, programming, and testing. The manufacturing processes in China account for approximately 60 percent of the total time it takes to manufacture an MFP.

In Singapore, the SYS and LGC Boards are manufactured by populating PCBs with hundreds of circuits and components, after which each board is inspected and tested for functionality using specialized equipment. According to TABS, the manufacture of the boards requires more advanced production technology than typical electric boards. The boards are permanently installed into the MFPs and programmed with system firmware (SYS Board) and engine firmware (LGC Board) developed in Japan. The third country-origin HDD is also permanently installed into the MFPs. The HDD installation process involves creating HDD partitions, installing Japanese-origin application software, and performing an aging test, and takes approximately two hours. The MFPs are then programmed with Japanese-origin Toshiba e-Bridge software, after which the MFPs’ images are tested using specialized equipment and adjusted as necessary. TABS states that because the post-production testing in Singapore concerns the intricacies of image quality and

output rather than the mechanical workings of MFP components, it is far more complicated and requires a higher degree of skill and technology than the testing performed in China. After successfully completing the image quality and adjustment testing in Singapore, the MFPs are packaged for shipment.

ISSUE:

What is the country of origin of the various models of TABS e-Studio Multi-Function Peripherals for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 CFR § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 C.F.R. § 177.22(a).

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item’s components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, the extent and nature of post-assembly inspection and testing procedures, and worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens v. United States*, 573 F. Supp. 1149 (Ct. Int’l Trade 1983), *aff’d*, 741 F.2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. In HQ H098417, dated June 15, 2010, dimmer and fan speed control switches were made from subcomponents made in Hong Kong and shipped to Mexico for assembly. The processing in Mexico included the assembly of a bare printed circuit board into a final PCB and the assembly of the PCB with other components into the finished product. CBP found that the assembly in Mexico was sufficiently complex and the components were substantially transformed into a final

product that had a new name, character and use, such that the country of origin was Mexico. Likewise, in HQ H155115, dated May 24, 2011, CBP found that assembly in the United States of an imported glider and imported and U.S.-origin parts substantially transformed the components into an article with a new name, character, and use. The assembly process in the U.S. was complex and time-consuming and involved a significant U.S. contribution in both parts and labor. Consequently, the country of origin for procurement purposes was the United States.

In *Texas Instruments v. United States*, 681 F.2d 778, 782 (CCPA 1982), the court observed that the substantial transformation issue is a “mixed question of technology and customs law.”

In *Data General v. United States*, 4 Ct. Int'l Trade 182 (1982), the court determined that for purposes of determining eligibility under item 807.00, Tariff Schedules of the United States (predecessor to subheading 9802.00.80, Harmonized Tariff Schedule of the United States), the programming of a foreign PROM (Programmable Read-Only Memory chip) in the United States substantially transformed the PROM into a U.S. article. In programming the imported PROMs, the U.S. engineers systematically caused various distinct electronic interconnections to be formed within each integrated circuit. The court noted that the programs were designed by a U.S. project engineer with many years of experience in “designing and building hardware.”

TABS believes that the country of origin for TAA purposes is Singapore because the components and elements that are most important to the MFPs—the SYS Board (the “brain” of the MFP), the LGC Board (the “nervous system” implementing the commands of the brain), the HDD, and Toshiba proprietary software—are incorporated into the machines in Singapore. In addition, the SYS Board and the LGC Board are manufactured in Singapore. In support of its position, TABS cites HQ H018467 (Jan. 4, 2008).

In HQ H018467, CBP was asked to consider two manufacturing scenarios for multi-function printers. In one scenario, manufacturing took place in two countries; in the other, it took place in three countries. In the two-country scenario, 18 units were manufactured in the Philippines from components produced in various countries: automatic document feeder unit; scanner unit; operation panel unit; feed unit; manual paper feed unit; lift up motor unit; subassembly units; automatic document transferring unit; induction heating fuser unit; induction heating power supply unit; transcription unit; developing unit; laser scanning unit; main drive unit; motor drive board; high voltage power supply board; low voltage power supply board; and automatic duplex unit board. The units were sent to Japan where the system control board, engine control board, OPC drum unit, and the toner reservoir were manufactured and incorporated into the units. The control boards were programmed in Japan with Japanese firmware that controlled the user interface, imaging, memories, and the mechanics of the machines. The machines were then inspected and adjusted as necessary. CBP found that the manufacturing operations in Japan substantially transformed the Philippine units such that Japan was the country of origin of the multifunctional machines. In making our determination we took into consideration the fact that the system control board, the engine control board, and the firmware, which were very important to the functionality of the machines, were manufactured in Japan.

We also found that the operations performed in Japan were meaningful and complex and resulted in an article of commerce with a new name, character and use.

In this case, substantial manufacturing operations are performed in both China and Singapore. Chinese subassemblies are imported into Singapore where they are fitted with Singaporean-origin SYS Boards and LGC Boards and programmed with Japanese-origin system and engine firmware. The firmware controls the functions and mechanics of the MFPs. The HDD, which is manufactured in a third country, is also installed into the MFPs in Singapore and programmed with Japanese-origin application software. The boards assembled in Singapore are important to the function of the MFPs, as is the Japanese software. But the assembly in Singapore completes the MFPs. Therefore, we find that the last substantial transformation occurs in Singapore. *See* HQ 563012, dated May 4, 2004 (CBP found that Hong Kong was the country of origin of fabric switches assembled to completion in Hong Kong, where they were also configured and programmed with U.S.-origin software that transformed the switches from non-functional devices into fabric switches capable of performing various Storage Area Network related functions); HQ H170315, scenario III, dated July 28, 2011 (application and transceiver boards for satellite phones were assembled in Malaysia and programmed with U.K.-origin software in Singapore, where the phones were also assembled. CBP found that no one country's operations dominated the manufacturing operations of the phones and that the last substantial transformation occurred in Singapore.) Therefore, the country of origin of the e-Studio MFPs is Singapore.

HOLDING:

Based on the facts provided, the country where the last substantial transformation takes place is Singapore. As such, the Toshiba e-Studio MFPs described in this ruling are to be considered products of Singapore for purposes of U.S. Government procurement.

Notice of this final determination will be given in the **Federal Register**, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

SANDRA L. BELL,

*Executive Director, Regulations and Rulings,
Office of International Trade.*

[Published in the Federal Register, June 12, 2012 (77 FR 34964)]

AGENCY INFORMATION COLLECTION ACTIVITIES:**Guam-CNMI Visa Waiver Information**

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.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Guam-CNMI Visa Waiver Information (CBP Form I-736). 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 information collection was previously published in the **Federal Register** (77 FR 19304) on March 30, 2012, 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 July 9, 2012.

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to oira_submission@omb.eop.gov or faxed to (202) 395-5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229-1177, at 202-325-0265.

SUPPLEMENTARY INFORMATION: CBP invites 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 techniques or other forms of information.

Title: Guam-CNMI Visa Waiver Information.

OMB Number: 1651-0109.

Form Number: CBP Form I-736.

Abstract: Public Law 110-229, which was enacted on May 8, 2008, provides for certain aliens to be exempt from the nonimmigrant visa requirement if seeking entry into Guam or the Commonwealth of the Northern Mariana Islands (CNMI) as a visitor for a maximum stay of 45 days, provided that no potential threat exists to the welfare, safety, or security of the United States or its territories. Applicants under this provision are not subject to routine screening process at American Consulates. Upon arrival at a Guam or CNMI Port-of-Entry, each applicant for admission presents a completed I-736 to CBP. CBP Form I-736 is provided for by 8 CFR 212.1(q) and is accessible at: http://forms.cbp.gov/pdf/cbp_form_i736.pdf.

ACTION: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to CBP Form I-736.

Type of Review: Extension (without change).

Affected Public: Individuals.

Estimated Number of Respondents: 1,560,000.

Estimated Time per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 129,480.

Dated: June 4, 2012.

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

AGENCY INFORMATION COLLECTION ACTIVITIES:**Certificate of Registration**

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.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: 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 with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (77 FR 18847) on March 28, 2012, 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 July 9, 2012. **ADDRESSES:** Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395-5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229-1177, at 202-325-0265.

SUPPLEMENTARY INFORMATION: CBP invites 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 techniques or other forms of information.

Title: Certificate of Registration.

OMB Number: 1651-0010.

Form Number: CBP Forms 4455 and 4457.

Abstract: Travelers who do not have proof of prior possession in the United States of foreign-made articles and who do not want to be assessed duty on these items can register them prior to departing on travel. In order to register these articles, the traveler completes CBP Form 4457, *Certificate of Registration for Personal Effects Taken Abroad*, and presents it at the port at the time of export. This form must be signed in the presence of a CBP official after verification of the description of the articles is completed. CBP Form 4457 is accessible at: http://forms.cbp.gov/pdf/CBP_Form_4457.pdf.

CBP Form 4455, *Certificate of Registration*, is used primarily for the registration, examination, and supervised lading of commercial shipments of articles exported for repair, alteration, or processing, which will subsequently be returned to the United States either duty free or at a reduced duty rate. CBP Form 4455 is accessible at: http://forms.cbp.gov/pdf/CBP_Form_4455.pdf.

CBP Forms 4457 and 4455 are used to provide a convenient means of showing proof of prior possession of a foreign-made item taken on a trip abroad and later returned to the United States. This registration is restricted to articles with serial numbers or unique markings. These forms are provided for by 19 CFR 148.1.

ACTION: CBP proposes to extend the expiration date of this information collection with a change to the burden hours as a result of a revised estimate to complete CBP Form 4455 from 3 minutes to 10 minutes. There are no changes to the information collected or to CBP Forms 4455 and 4457.

Type of Review: Extension (with change).

Affected Public: Businesses.

CBP Form 4455

Estimated Number of Respondents: 60,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 9,960.

CBP Form 4457

Estimated Number of Respondents: 140,000.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 7,000.

Dated: June 4, 2012.

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

[Published in the Federal Register, June 8, 2012 (77 FR 34055)]