

U.S. Customs and Border Protection

DEPARTMENT OF HOMELAND SECURITY

6 CFR PART 27

8 CFR PARTS 270, 274A, AND 280

U.S. CUSTOMS AND BORDER PROTECTION

19 CFR PART 4

COAST GUARD

33 CFR PART 27

TRANSPORTATION SECURITY ADMINISTRATION

49 CFR PART 1503

RIN 1601-AA80

**CIVIL MONETARY PENALTY ADJUSTMENTS FOR
INFLATION**

AGENCY: Department of Homeland Security.

ACTION: Final rule.

SUMMARY: In this final rule, the Department of Homeland Security (DHS) is making the 2019 annual inflation adjustment to its civil monetary penalties. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act) was signed into law on November 2, 2015. Pursuant to the 2015 Act, all agencies must adjust civil monetary penalties annually and publish the adjustment in the **Federal Register**. Accordingly, this final rule adjusts DHS's civil monetary penalties for 2019 pursuant to the 2015 Act and OMB guidance. The new penalties will be effective for penalties assessed after April 5, 2019 whose associated violations occurred after November 2, 2015.

DATES: This rule is effective on April 5, 2019.

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I. Statutory and Regulatory Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114–74 section 701 (Nov. 2, 2015)) (2015 Act).¹ The 2015 Act amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act required agencies to: (1) Adjust the level of civil monetary penalties with an initial “catch-up” adjustment through issuance of an Interim Final Rule (IFR) and (2) make subsequent annual adjustments for inflation. Through the “catch-up” adjustment, agencies were required to adjust the maximum amounts of civil monetary penalties to more accurately reflect inflation rates.

For the subsequent annual adjustments, the 2015 Act requires agencies to increase the penalty amounts by a cost-of-living adjustment. The 2015 Act directs OMB to provide guidance to agencies each year to assist agencies in making the annual adjustments. The 2015 Act requires agencies to make the annual adjustments no later than January 15 of each year and to publish the adjustments in the **Federal Register**.

¹ The 2015 Act was enacted as part of the Bipartisan Budget Act of 2015, Public Law 114–74 (Nov. 2, 2015).

Pursuant to the 2015 Act, DHS undertook a review of the civil penalties that DHS and its components administer.² On July 1, 2016, DHS published an IFR adjusting the maximum civil monetary penalties with an initial “catch-up” adjustment, as required by the 2015 Act.³ DHS calculated the adjusted penalties based upon nondiscretionary provisions in the 2015 Act and upon guidance that OMB issued to agencies on February 24, 2016.⁴ The adjusted penalties were effective for civil penalties assessed after August 1, 2016 (the effective date of the IFR) whose associated violations occurred after November 2, 2015 (the date of enactment of the 2015 Act). On January 27, 2017, DHS published a final rule finalizing the IFR and making the annual adjustment for 2017.⁵ DHS made the 2018 annual inflation adjustment on April 2, 2018.⁶

II. Overview of the Final Rule

This final rule makes the 2019 annual inflation adjustments to civil monetary penalties pursuant to the 2015 Act and pursuant to guidance OMB issued to agencies on December 14, 2018.⁷ The penalty amounts in this final rule will be effective for penalties assessed after April 5, 2019 where the associated violation occurred after November 2, 2015. Consistent with OMB guidance, the 2015 Act does not change previously assessed penalties that the agency is actively collecting or has collected.

The adjusted penalty amounts will apply to penalties assessed after the effective date of this final rule. We discuss civil penalties by DHS component in Section III below. For each component identified in Section III, below, we briefly describe the relevant civil penalty (or penalties), and we provide a table showing the increase in the penalties for 2019. In the table for each component, we show (1) the penalty name, (2) the penalty statutory and/or regulatory citation,

² The 2015 Act applies to all agency civil penalties except for any penalty (including any addition to tax and additional amount) under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*) and the Tariff Act of 1930 (19 U.S.C. 1202 *et seq.*). See sec. 4(a)(1) of the 2015 Act. In the case of DHS, several civil penalties that are assessed by U.S. Customs and Border Protection (CBP) and the U.S. Coast Guard fall under the Tariff Act of 1930, and thus DHS did not adjust those civil penalties in this rulemaking.

³ See 81 FR 42987.

⁴ OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Table A, 24 February 2016. <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2016/m-16-06.pdf> (last accessed Dec. 5, 2017).

⁵ See 82 FR 8572.

⁶ See 83 FR 13826.

⁷ OMB Memorandum M-19-04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. Available at https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf.

(3) the penalty amount as adjusted in the 2017 final rule, (4) the cost-of-living adjustment multiplier for 2019 that OMB provided in its December 14, 2018 guidance, and (5) the new 2019 adjusted penalty. The 2015 Act instructs agencies to round penalties to the nearest \$1. For a more complete discussion of the method used for calculating the initial “catch-up” inflation adjustments and a component-by-component breakdown to the nature of the civil penalties and relevant legal authorities, please see the IFR preamble at 81 FR 42987–43000.

III. Adjustments by Component

In the following sections, we briefly describe the civil penalties that DHS and its components assess. We include tables at the end of each section, which list the individual adjustments for each penalty.

A. Cybersecurity and Infrastructure Security Agency

The Cybersecurity and Infrastructure Security Agency (CISA) (formerly the National Protection and Programs Directorate (NPPD))⁸ administers only one civil penalty that the 2015 Act affects. That penalty assesses fines for violations of the Chemical Facility Anti-Terrorism Standards (CFATS). CFATS is a program that regulates the security of chemical facilities that, in the discretion of the Secretary, present high levels of security risk. DHS established the CFATS program in 2007 pursuant to section 550 of the Department of Homeland Security Appropriations Act of 2007 (Pub. L. 109–295).⁹ The CFATS regulation is located in part 27 of title 6 of the Code of Federal Regulations (CFR). Below is a table showing the 2019 adjustment for the CFATS penalty that CISA administers.

⁸ On November 16, 2018, the Cybersecurity and Infrastructure Security Agency Act of 2018 (Pub. L. 115–278), was enacted to redesignate NPPD as CISA. Henceforth, CISA is the DHS operational component responsible for overseeing critical infrastructure protection, cybersecurity, and other related programs.

⁹ Section 550 has since been superseded by the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014 (Pub. L. 113–254). The new legislation codified the statutory authority for the CFATS program within Title XXI of the Homeland Security Act of 2002, as amended. See 6 U.S.C. 621 *et seq.* Public Law 113–254 authorized the CFATS program from January 18, 2015 to January 17, 2019. The Chemical Facility Anti-Terrorism Standards Program Extension Act (Pub. L. 116–2) extends the CFATS program authorization to April 17, 2020. DHS is adding these citations to the authority citation for part 27 of title 6 of the Code of Federal Regulations.

TABLE 1—CFATS CIVIL PENALTY ADJUSTMENT

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Penalty for non-compliance with CFATS regulations.	6 U.S.C. 624(b)(1); 6 CFR 27.300(b)(3).	\$34,013 per day.	1.02522	\$34,871

* OMB Memorandum M–19–04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf.

B. U.S. Customs and Border Protection

U.S. Customs and Border Protection (CBP) assesses civil monetary penalties under various titles of the United States Code and the CFR. These include penalties for certain violations of title 8 of the CFR regarding the Immigration and Nationality Act of 1952 (Pub. L. 82–414, as amended) (INA). The INA contains provisions that impose penalties on persons, including carriers and aliens, who violate specified provisions of the INA. The relevant penalty provisions are located in numerous sections of the INA, however CBP has enumerated these penalties in regulation in one location—8 CFR 280.53. For a complete list of the INA sections for which penalties are assessed, in addition to a brief description of each violation, see the IFR preamble at 81 FR 42989–42990.

On December 8, 2017, CBP adjusted three non-INA penalties inadvertently left out of the IFR and 2017 final rule.¹⁰ The three penalties concerned the following violations: Transporting passengers between coastwise points in the United States by a non-coastwise qualified vessel; towing a vessel between coastwise points in the United States by a non-coastwise qualified vessel; and dealing in or using an empty stamped imported liquor container after it has already been used once. On December 28, 2018, CBP adjusted two additional non-INA penalties inadvertently left out of the IFR and 2018 final rule.¹¹ The two penalties concern the following violations: Transporting passengers coastwise for hire by certain vessels (known as Bowaters vessels) that do not meet specified conditions; and employing a vessel in a trade without a required Certificate of Documentation. This final rule incorporates these penalties, in addition to the other CBP penalties, and adjusts them according to the 2019 multiplier.

Below is a table showing the 2019 adjustment for the penalties that CBP administers.

¹⁰ See 82 FR 57821.

¹¹ See 83 FR 67069.

TABLE 2—U.S. CUSTOMS AND BORDER PROTECTION CIVIL
PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Penalties for non-compliance with arrival and departure manifest requirements for passengers, crewmembers, or occupants transported on commercial vessels or aircraft arriving to or departing from the United States.	8 U.S.C. 1221(g); 8 CFR 280.53(b)(1) (INA section 231(g)).	\$1,360.....	1.02522	\$1,394.
Penalties for non-compliance with landing requirements at designated ports of entry for aircraft transporting aliens.	8 U.S.C. 1224; 8 CFR 280.53(b)(2); (INA section 234).	3,695.....	1.02522	3,788.
Penalties for failure to depart voluntarily.....	8 U.S.C. 1229c(d); 8 CFR 280.53(b)(3) (INA section 240B(d)).	1,558–7,791....	1.02522	1,597–7,987.
Penalties for violations of removal orders relating to aliens transported on vessels or aircraft under section 241(d) of the INA, or for costs associated with removal under section 241(e) of the INA.	8 U.S.C. 1253(c)(1)(A); 8 CFR 280.53(b)(4); (INA section 243(c)(1)(A)).	3,116.....	1.02522	3,195.
Penalties for failure to remove alien stowaways under section 241(d)(2) of the INA.	8 U.S.C. 1253(c)(1)(B); 8 CFR 280.53(b)(5) (INA section 243(c)(1)(B)).	7,791.....	1.02522	7,987.
Penalties for failure to report an illegal landing or desertion of alien crewmen, and for each alien not reported on arrival or departure manifest or lists required in accordance with section 251 of the INA.	8 U.S.C. 1281(d); 8 CFR 280.53(b)(6); (INA section 251(d)).	369 for each alien	1.02522	378.

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Penalties for use of alien crewmen for longshore work in violation of section 251(d) of the INA.	8 U.S.C. 1281(d); 8 CFR 280.53(b)(6); (INA section 251(d)).	9,239.....	1.02522	9,472.
Penalties for failure to control, detain, or remove alien crewmen.	8 U.S.C. 1284(a); 8 CFR 280.53(b)(7) (INA section 254(a)).	924–5,543.....	1.02522	947–5,683.
Penalties for employment on passenger vessels of aliens afflicted with certain disabilities.	8 U.S.C. 1285; 8 CFR 280.53(b)(8) (INA section 255).	1,848.....	1.02522	1,895.
Penalties for discharge of alien crewmen	8 U.S.C. 1286; 8 CFR 280.53(b)(9) (INA section 256).	2,771–5,543....	1.02522	2,841–5,683.
Penalties for bringing into the United States alien crewmen with intent to evade immigration laws.	8 U.S.C. 1287; 8 CFR 280.53(b)(10); (INA section 257).	18,477.....	1.02522	18,943.
Penalties for failure to prevent the unauthorized landing of aliens.	8 U.S.C. 1321(a); 8 CFR 280.53(b)(11) (INA section 271(a)).	5,543.....	1.02522	5,683.
Penalties for bringing to the United States aliens subject to denial of admission on a health-related ground.	8 U.S.C. 1322(a); 8 CFR 280.53(b)(12) (INA section 272(a)).	5,543.....	1.02522	5,683.
Penalties for bringing to the United States aliens without required documentation.	8 U.S.C. 1323(b); 8 CFR 280.53(b)(13) (INA section 273(b)).	5,543.....	1.02522	5,683.
Penalties for failure to depart	8 U.S.C. 1324d; 8 CFR 280.53(b)(14) (INA section 274D).	779	1.02522	799.

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Penalties for improper entry.....	8 U.S.C. 1325(b); 8 CFR 280.53(b)(15) (INA section 275(b)).	78–390.....	1.02522	80–400.
Penalty for dealing in or using empty stamped imported liquor containers.	19 U.S.C. 469 ...	518	1.02522	*** 531.
Penalty for employing a vessel in a trade without a required Certificate of Documentation **.	19 U.S.C. 1706a; 19 CFR 4.80(i).	1296.....	1.02522	1329.
Penalty for transporting passengers coastwise for hire by certain vessels (known as Bowers vessels) that do not meet specified conditions **.	46 U.S.C. 12118(f)(3).....	518	1.02522	*** 531.
Penalty for transporting passengers between coastwise points in the United States by a non-coastwise qualified vessel.	46 U.S.C. 55103(b); 19 CFR 4.80(b)(2).	778	1.02522	798.
Penalty for towing a vessel between coastwise points in the United States by a non-coastwise qualified vessel.	46 U.S.C. 55111(c); 19 CFR 4.92.	907–2852, plus 155 per ton.	1.02522	930–2,924, plus 159 per ton.

* OMB Memorandum M–19–04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf.

** Adjustments made in the December 28, 2018 final rule, 83 FR 67069.

*** No applicable conforming edit to regulatory text.

C. U.S. Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement (ICE) assesses civil monetary penalties for certain employment-related violations arising from the INA. ICE’s civil penalties are located in title 8 of the CFR.

There are three different sections in the INA that impose civil monetary penalties for violations of the laws that relate to employment actions: Sections 274A, 274B, and 274C. ICE has primary enforcement responsibilities for two of these civil penalty provisions (sections 274A and 274C), and the Department of Justice (DOJ) has enforcement responsibilities for one of these civil penalty provisions

(section 274B). The INA, in sections 274A and 274C, provides for imposition of civil penalties for various specified unlawful acts pertaining to the employment eligibility verification process (Form I-9, Employment Eligibility Verification), the employment of unauthorized aliens, and document fraud.

Because both DHS and DOJ implement the three employment related penalty sections in the INA, both Departments’ implementing regulations reflect the civil penalty amounts. For a complete description of the civil money penalties assessed and a discussion of DHS’s and DOJ’s efforts to update the penalties in years past, see the IFR preamble at 81 FR 42991. Below is a table showing the 2019 adjustment for the penalties that ICE administers.¹²

TABLE 3—U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Civil penalties for failure to depart voluntarily, INA section 240B(d).	8 U.S.C. 1229c(d); 8 CFR 280.53(b)(3).	\$1,558–\$7,791	1.02522	\$1,597–\$7,987
Civil penalties for violation of INA sections 274C(a)(1)–(a)(4), penalty for first offense.	8 CFR 270.3(b)(1)(ii)(A)	461–3,695	1.02522	473–3,788
Civil penalties for violation of INA sections 274C(a)(5)–(a)(6), penalty for first offense.	8 CFR 270.3(b)(1)(ii)(B).....	390–3,116	1.02522	400–3,195
Civil penalties for violation of INA sections 274C(a)(1)–(a)(4), penalty for subsequent offenses.	8 CFR 270.3(b)(1)(ii)(C)	3,695–9,239	1.02522	3,788–9,472
Civil penalties for violation of INA sections 274C(a)(5)–(a)(6), penalty for subsequent offenses.	8 CFR 270.3(b)(1)(ii)(D)	3,116–7,791	1.02522	3,195–7,987
Violation/prohibition of indemnity bonds.....	8 CFR 274a.8(b).....	2,236	1.02522	2,292

¹² Table 3 also includes two civil penalties that are also listed as penalties administered by CBP. These are penalties for failure to depart voluntarily, INA section 240B(d), and failure to depart after a final order of removal, INA section 274D. Both CBP and ICE may administer these penalties, but as ICE is the DHS component primarily responsible for assessing and collecting them, they are also listed among the penalties ICE administers.

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Civil penalties for knowingly hiring, recruiting, referral, or retention of unauthorized aliens—Penalty for first offense (per unauthorized alien).	8 CFR 274a.10(b)(1)(ii)(A)	559–4,473	1.02522	573–4,586
Penalty for second offense (per unauthorized alien)	8 CFR 274a.10(b)(1)(ii)(B)	4,473–11,181	1.02522	4,586–11,463
Penalty for third or subsequent offense (per unauthorized alien).	8 CFR 274a.10(b)(1)(ii)(C)	6,709–22,363	1.02522	6,878–22,927
Civil penalties for I–9 paperwork violations..	8 CFR 274a.10(b)(2)..	224–2,236	1.02522	230–2,292
Civil penalties for failure to depart, INA section 274D	8 U.S.C. 1324d; 8 CFR 280.53(b)(14).	779	1.02522	¹³ 799

* OMB Memorandum M–19–04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf.

D. U.S. Coast Guard

The Coast Guard is authorized to assess close to 150 penalties involving maritime safety and security and environmental stewardship that are critical to the continued success of Coast Guard missions. Various statutes in titles 14, 16, 19, 33, 42, 46, and 49 of the United States Code authorize these penalties. Titles 33 and 46 authorize the vast majority of these penalties as these statutes deal with navigation, navigable waters, and shipping. Beyond titles 33 and 46, the Coast Guard is also authorized to collect civil monetary penalties related to the organization and management of the Coast Guard, aquatic species conservation, obstruction of revenue, and hazardous substances and materials. For a complete discussion of the civil monetary penalties assessed by the Coast Guard, see the IFR preamble at 81 FR 42992.

The Coast Guard has identified the penalties it administers, adjusted those penalties for inflation, and is listing those new penalties in a table located in the CFR—specifically, Table 1 in 33 CFR 27.3.

¹³ As written prior to this final rule, the regulatory text at 8 CFR 280.53(b)(14) did not make clear that the amount stated is a maximum. The statutory authority for the penalty, 8 U.S.C. 1324d, is clear that the amount reflects a maximum penalty. Thus, consistent with the statutory authority, and to prevent any confusion, DHS is making a technical clarification with this final rule by adding the word “maximum” to paragraph (b)(14).

Table 1 in 33 CFR 27.3 identifies the statutes that provide the Coast Guard with civil monetary penalty authority and sets out the inflation-adjusted maximum penalty that the Coast Guard may impose pursuant to each statutory provision. Table 1 in 33 CFR 27.3 provides the current maximum penalty for violations that occurred after November 2, 2015.¹⁴

The applicable civil penalty amounts for violations occurring on or before November 2, 2015 are set forth in previously published regulations amending 33 CFR part 27. To find the applicable penalty amount for a violation that occurred on or before November 2, 2015, look to the prior versions of the CFR that pertain to the date on which the violation occurred. Table 4 below shows the 2019 adjustment for the penalties that the Coast Guard administers.

TABLE 4—U.S. COAST GUARD CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Saving Life and Property	14 U.S.C. 521(c)..	\$10,389	1.02522	\$10,651
Saving Life and Property; Intentional Interference with Broadcast.	14 U.S.C. 521(e)..	1,066	1.02522	1,093
Confidentiality of Medical Quality Assurance Records (first offense).	14 U.S.C. 645(i); 33 CFR 27.3.	5,218	1.02522	5,350
Confidentiality of Medical Quality Assurance Records (subsequent offenses).	14 U.S.C. 645(i); 33 CFR 27.3.	34,791	1.02522	35,668
Aquatic Nuisance Species in Waters of the United States.	16 U.S.C. 4711(g)(1); 33 CFR 27.3.	38,954	1.02522	39,936
Obstruction of Revenue Officers by Masters of Vessels.	19 U.S.C. 70; 33 CFR 27.3.	7,779	1.02522	7,975
Obstruction of Revenue Officers by Masters of Vessels—Minimum Penalty.	19 U.S.C. 70; 33 CFR 27.3.	1,815	1.02522	1,861
Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge.	19 U.S.C. 1581(d).....	** 5,000	N/A	** 5,000

¹⁴ The Frank LoBiondo Coast Guard Authorization Act of 2018 re-designated certain existing sections of the United States Code, including 14 U.S.C. 88 (now 14 U.S.C. 521) and 33 U.S.C. 1232 and 1236 (now 46 U.S.C. 70036 and 70041). The revised table reflects those changes to the statutory citations.

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge—Minimum Penalty.	19 U.S.C. 1581(d).....	** 1,000	N/A	** 1,000
Anchorage Ground/ Harbor Regulations General	33 U.S.C. 471; 33 CFR 27.3.	11,279	1.02522	11,563
Anchorage Ground/ Harbor Regulations St. Mary's river.	33 U.S.C. 474; 33 CFR 27.3.	778	1.02522	798
Bridges/Failure to Comply with Regulations.....	33 U.S.C. 495(b); 33 CFR 27.3.	28,474	1.02522	29,192
Bridges/Drawbridges.....	33 U.S.C. 499(c); 33 CFR 27.3.	28,474	1.02522	29,192
Bridges/Failure to Alter Bridge Obstructing Navigation	33 U.S.C. 502(c); 33 CFR 27.3.	28,474	1.02522	29,192
Bridges/Maintenance and Operation.....	33 U.S.C. 533(b); 33 CFR 27.3.	28,474	1.02522	29,192
Bridge to Bridge Communication; Master, Person in Charge or Pilot.	33 U.S.C. 1208(a); 33 CFR 27.3.	2,074	1.02522	2,126
Bridge to Bridge Communication; Vessel	33 U.S.C. 1208(b); 33 CFR 27.3.	2,074	1.02522	2,126
Oil/Hazardous Substances: Discharges (Class I per violation).	33 U.S.C. 1321(b)(6)(B)(i); 33 CFR 27.3.	18,477	1.02522	18,943
Oil/Hazardous Substances: Discharges (Class I total under paragraph).	33 U.S.C. 1321(b)(6)(B)(i); 33 CFR 27.3.	46,192	1.02522	47,357
Oil/Hazardous Substances: Discharges (Class II per day of violation).	33 U.S.C. 1321(b)(6)(B)(ii); 33 CFR 27.3.	18,477	1.02522	18,943
Oil/Hazardous Substances: Discharges (Class II total under paragraph).	33 U.S.C. 1321(b)(6)(B)(ii); 33 CFR 27.3.	230,958	1.02522	236,783
Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment.	33 U.S.C. 1321(b)(7)(A); 33 CFR 27.3.	46,192	1.02522	47,357

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Oil/Hazardous Substances: Discharges (per barrel of oil or unit discharged) Judicial Assessment.	33 U.S.C. 1321(b)(7)(A); 33 CFR 27.3.	1,848	1.02522	1,895
Oil/Hazardous Substances: Failure to Carry Out Removal/ Comply With Order (Judicial Assessment).	33 U.S.C. 1321(b)(7)(B); 33 CFR 27.3.	46,192	1.02522	47,357
Oil/Hazardous Substances: Failure to Comply with Regulation Issued Under 1321(j) (Judicial Assessment).	33 U.S.C. 1321(b)(7)(C); 33 CFR 27.3.	46,192	1.02522	47,357
Oil/Hazardous Substances: Discharges, Gross Negligence (per barrel of oil or unit discharged) Judicial Assessment.	33 U.S.C. 1321(b)(7)(D); 33 CFR 27.3.	5,543	1.02522	5,683
Oil/Hazardous Substances: Discharges, Gross Negligence— Minimum Penalty (Judicial Assessment).	33 U.S.C. 1321(b)(7)(D); 33 CFR 27.3.	184,767	1.02522	189,427
Marine Sanitation Devices; Operating.....	33 U.S.C. 1322(j); 33 CFR 27.3.	7,779	1.02522	7,975
Marine Sanitation Devices; Sale or Manufacture	33 U.S.C. 1322(j); 33 CFR 27.3.	20,742	1.02522	21,265
International Navigation Rules; Operator ..	33 U.S.C. 1608(a); 33 CFR 27.3.	14,543	1.02522	14,910
International Navigation Rules; Vessel	33 U.S.C. 1608(b); 33 CFR 27.3.	14,543	1.02522	14,910
Pollution from Ships; General	33 U.S.C. 1908(b)(1); 33 CFR 27.3.	72,718	1.02522	74,552
Pollution from Ships; False Statement	33 U.S.C. 1908(b)(2); 33 CFR 27.3.	14,543	1.02522	14,910
Inland Navigation Rules; Operator	33 U.S.C. 2072(a); 33 CFR 27.3.	14,543	1.02522	14,910
Inland Navigation Rules; Vessel	33 U.S.C. 2072(b); 33 CFR 27.3.	14,543	1.02522	14,910

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Shore Protection; General	33 U.S.C. 2609(a); 33 CFR 27.3.	51,302	1.02522	52,596
Shore Protection; Operating Without Permit.	33 U.S.C. 2609(b); 33 CFR 27.3.	20,521	1.02522	21,039
Oil Pollution Liability and Compensation	33 U.S.C. 2716a(a); 33 CFR 27.3.	46,192	1.02522	47,357
Clean Hulls.....	33 U.S.C. 3852(a)(1)(A); 33 CFR 27.3.	42,292	1.02522	43,359
Clean Hulls-related to false statements	33 U.S.C. 3852(a)(1)(A); 33 CFR 27.3.	56,391	1.02522	57,813
Clean Hulls—Recreational Vessel	33 U.S.C. 3852(c); 33 CFR 27.3.	5,639	1.02522	5,781
Hazardous Substances, Releases, Liability, Compensation (Class I).	42 U.S.C. 9609(a); 33 CFR 27.3.	55,907	1.02522	57,317
Hazardous Substances, Releases, Liability, Compensation (Class II).	42 U.S.C. 9609(b); 33 CFR 27.3.	55,907	1.02522	57,317
Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense).	42 U.S.C. 9609(b); 33 CFR 27.3.	167,722	1.02522	171,952
Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment).	42 U.S.C. 9609(c); 33 CFR 27.3.	55,907	1.02522	57,317
Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense).	42 U.S.C. 9609(c); 33 CFR 27.3.	167,722	1.02522	171,952
Safe Containers for International Cargo	46 U.S.C. App 1505(a)(2) (codified as 46 U.S.C. 80509); 33 CFR 27.3.	6,111	1.02522	6,265
Suspension of Passenger Service	46 U.S.C. App 1805(c)(2) (codified as 46 U.S.C. 70305); 33 CFR 27.3.	61,115	1.02522	62,656
Vessel Inspection or Examination Fees	46 U.S.C. 2110(e); 33 CFR 27.3.	9,239	1.02522	9,472

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Alcohol and Dangerous Drug Testing.....	46 U.S.C. 2115; 33 CFR 27.3.	7,520	1.02522	7,710
Negligent Operations: Recreational Vessels...	46 U.S.C. 2302(a); 33 CFR 27.3.	6,802	1.02522	6,974
Negligent Operations: Other Vessels.....	46 U.S.C. 2302(a); 33 CFR 27.3.	34,013	1.02522	34,871
Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug.	46 U.S.C. 2302(c)(1); 33 CFR 27.3.	7,520	1.02522	7,710
Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent.	46 U.S.C. 2306(a)(4); 33 CFR 27.3.	11,712	1.02522	12,007
Vessel Reporting Requirements: Master....	46 U.S.C. 2306(b)(2); 33 CFR 27.3.	2,343	1.02522	2,402
Immersion Suits.....	46 U.S.C. 3102(c)(1); 33 CFR 27.3.	11,712	1.02522	12,007
Inspection Permit.....	46 U.S.C. 3302(i)(5); 33 CFR 27.3.	2,443	1.02522	2,505
Vessel Inspection; General	46 U.S.C. 3318(a); 33 CFR 27.3.	11,712	1.02522	12,007
Vessel Inspection; Nautical School Vessel	46 U.S.C. 3318(g); 33 CFR 27.3.	11,712	1.02522	12,007
Vessel Inspection; Failure to Give Notice IAW 3304(b)	46 U.S.C. 3318(h); 33 CFR 27.3.	2,343	1.02522	2,402
Vessel Inspection; Failure to Give Notice IAW 3309(c)	46 U.S.C. 3318(i); 33 CFR 27.3.	2,343	1.02522	2,402
Vessel Inspection; Vessel ≥1,600 Gross Tons.	46 U.S.C. 3318(j)(1); 33 CFR 27.3.	23,426	1.02522	24,017
Vessel Inspection; Vessel <1,600 Gross Tons.	46 U.S.C. 3318(j)(1); 33 CFR 27.3.	4,685	1.02522	4,803
Vessel Inspection; Failure to Comply with 3311(b).....	46 U.S.C. 3318(k); 33 CFR 27.3.	23,426	1.02522	24,017
Vessel Inspection; Violation of 3318(b)–3318(f).....	46 U.S.C. 3318(l); 33 CFR 27.3.	11,712	1.02522	12,007

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
List/count of Passengers.....	46 U.S.C. 3502(e); 33 CFR 27.3.	244	1.02522	250
Notification to Passengers	46 U.S.C. 3504(c); 33 CFR 27.3.	24,421	1.02522	25,037
Notification to Passengers; Sale of Tickets...	46 U.S.C. 3504(c); 33 CFR 27.3.	1,220	1.02522	1,251
Copies of Laws on Passenger Vessels; Master.....	46 U.S.C. 3506; 33 CFR 27.3.	489	1.02522	501
Liquid Bulk/Dangerous Cargo.....	46 U.S.C. 3718(a)(1); 33 CFR 27.3.	61,055	1.02522	62,595
Uninspected Vessels.....	46 U.S.C. 4106; 33 CFR 27.3.	10,260	1.02522	10,519
Recreational Vessels (maximum for related series of violations).	46 U.S.C. 4311(b)(1); 33 CFR 27.3.	323,027	1.02522	331,174
Recreational Vessels; Violation of 4307(a)....	46 U.S.C. 4311(b)(1); 33 CFR 27.3.	6,460	1.02522	6,623
Recreational vessels.....	46 U.S.C. 4311(c); 33 CFR 27.3.	2,443	1.02522	2,505
Uninspected Commercial Fishing Industry Vessels.....	46 U.S.C. 4507; 33 CFR 27.3.	10,260	1.02522	10,519
Abandonment of Barges.....	46 U.S.C. 4703; 33 CFR 27.3.	1,739	1.02522	1,783
Load Lines.....	46 U.S.C. 5116(a); 33 CFR 27.3.	11,181	1.02522	11,463
Load Lines; Violation of 5112(a).....	46 U.S.C. 5116(b); 33 CFR 27.3.	22,363	1.02522	22,927
Load Lines; Violation of 5112(b).....	46 U.S.C. 5116(c); 33 CFR 27.3.	11,181	1.02522	11,463
Reporting Marine Casualties.....	46 U.S.C. 6103(a); 33 CFR 27.3.	38,954	1.02522	39,936
Reporting Marine Casualties; Violation of 6104.....	46 U.S.C. 6103(b); 33 CFR 27.3.	10,260	1.02522	10,519
Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement.	46 U.S.C. 8101(e); 33 CFR 27.3.	1,848	1.02522	1,895

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Manning of Inspected Vessels.....	46 U.S.C. 8101(f); 33 CFR 27.3.	18,477	1.02522	18,943
Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by USCG.	46 U.S.C. 8101(g); 33 CFR 27.3.	18,477	1.02522	18,943
Manning of Inspected Vessels; Freight Vessel <100 GT, Small Passenger Vessel, or Sailing School Vessel.	46 U.S.C. 8101(h); 33 CFR 27.3.	2,443	1.02522	2,505
Watchmen on Passenger Vessels	46 U.S.C. 8102(a).....	2,443	1.02522	2,505
Citizenship Requirements.....	46 U.S.C. 8103(f).	1,220	1.02522	1,251
Watches on Vessels; Violation of 8104(a) or (b).....	46 U.S.C. 8104(i).	18,477	1.02522	18,943
Watches on Vessels; Violation of 8104(c), (d), (e), or (h).	46 U.S.C. 8104(j).	18,477	1.02522	18,943
Staff Department on Vessels.....	46 U.S.C. 8302(e).	244	1.02522	250
Officer's Competency Certificates.....	46 U.S.C. 8304(d).....	244	1.02522	250
Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	46 U.S.C. 8502(e).	18,477	1.02522	18,943
Coastwise Pilotage; Individual	46 U.S.C. 8502(f).	18,477	1.02522	18,943
Federal Pilots	46 U.S.C. 8503	58,562	1.02522	60,039
Merchant Mariners Documents	46 U.S.C. 8701(d).....	1,220	1.02522	1,251
Crew Requirements	46 U.S.C. 8702(e).	18,477	1.02522	18,943
Small Vessel Manning ..	46 U.S.C. 8906	38,954	1.02522	39,936
Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	46 U.S.C. 9308(a).....	18,477	1.02522	18,943
Pilotage: Great Lakes; Individual	46 U.S.C. 9308(b).....	18,477	1.02522	18,943
Pilotage: Great Lakes; Violation of 9303	46 U.S.C. 9308(c).	18,477	1.02522	18,943
Failure to Report Sexual Offense.....	46 U.S.C. 10104(b).....	9,819	1.02522	10,067

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Pay Advances to Seamen.....	46 U.S.C. 10314(a)(2)	1,220	1.02522	1,251
Pay Advances to Seamen; Remuneration for Employment.	46 U.S.C. 10314(b).....	1,220	1.02522	1,251
Allotment to Seamen	46 U.S.C. 10315(c)	1,220	1.02522	1,251
Seamen Protection; General	46 U.S.C. 10321..	8,465	1.02522	8,678
Coastwise Voyages: Advances.....	46 U.S.C. 10505(a)(2)	8,465	1.02522	8,678
Coastwise Voyages: Advances; Remuneration for Employment.	46 U.S.C. 10505(b).....	8,465	1.02522	8,678
Coastwise Voyages: Seamen Protection; General	46 U.S.C. 10508(b).....	8,465	1.02522	8,678
Effects of Deceased Seamen.....	46 U.S.C. 10711 ..	489	1.02522	501
Complaints of Unfitness	46 U.S.C. 10902(a)(2)	1,220	1.02522	1,251
Proceedings on Examination of Vessel	46 U.S.C. 10903(d).....	244	1.02522	250
Permission to Make Complaint	46 U.S.C. 10907(b).....	1,220	1.02522	1,251
Accommodations for Seamen.....	46 U.S.C. 11101(f).....	1,220	1.02522	1,251
Medicine Chests on Vessels	46 U.S.C. 11102(b).....	1,220	1.02522	1,251
Destitute Seamen.....	46 U.S.C. 11104(b).....	244	1.02522	250
Wages on Discharge	46 U.S.C. 11105(c)	1,220	1.02522	1,251
Log Books; Master Failing to Maintain....	46 U.S.C. 11303(a).....	489	1.02522	501
Log Books; Master Failing to Make Entry.....	46 U.S.C. 11303(b).....	489	1.02522	501
Log Books; Late Entry..	46 U.S.C. 11303(c)	366	1.02522	375
Carrying of Sheath Knives	46 U.S.C. 11506 ..	122	1.02522	125
Vessel Documentation...	46 U.S.C. 12151(a)(1)	15,995	1.02522	16,398
Documentation of Vessels—Related to Activities involving mobile offshore drilling units.	46 U.S.C. 12151 (a)(2)	26,659	1.02522	27,331

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Vessel Documentation; Fishery Endorsement.	46 U.S.C. 12151(c)	122,231	1.02522	125,314
Numbering of Undocumented Vessels—Willful violation.	46 U.S.C. 12309(a).....	12,211	1.02522	12,519
Numbering of Undocumented Vessels	46 U.S.C. 12309(b).....	2,443	1.02522	2,505
Vessel Identification System.....	46 U.S.C. 12507(b).....	20,521	1.02522	21,039
Measurement of Vessels	46 U.S.C. 14701..	44,727	1.02522	45,855
Measurement; False Statements.....	46 U.S.C. 14702..	44,727	1.02522	45,855
Commercial Instruments and Maritime Liens.....	46 U.S.C. 31309..	20,521	1.02522	21,039
Commercial Instruments and Maritime Liens; Mortgagor.	46 U.S.C. 31330(a)(2)	20,521	1.02522	21,039
Commercial Instruments and Maritime Liens; Violation of 31329.	46 U.S.C. 31330(b)(2)	51,302	1.02522	52,596
Ports and Waterway Safety Regulations	46 U.S.C. 70036(a); 33 CFR 27.3.	91,901	1.02522	94,219
Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge.	46 U.S.C. 70041(d) (1)(B); 33 CFR 27.3.	9,239	1.02522	9,472
Vessel Navigation: Regattas or Marine Parades; Owner On-board Vessel.	46 U.S.C. 70041(d) (1)(C); 33 CFR 27.3.	9,239	1.02522	9,472
Vessel Navigation: Regattas or Marine Parades; Other Persons.	46 U.S.C. 70041(d) (1)(D); 33 CFR 27.3.	4,619	1.02522	4,735
Port Security.....	46 U.S.C. 70119(a).....	34,013	1.02522	34,871
Port Security—Continuing Violations.....	46 U.S.C. 70119(b).....	61,115	1.02522	62,656
Maritime Drug Law Enforcement	46 U.S.C. 70506(c)	5,639	1.02522	5,781
Hazardous Materials: Related to Vessels	49 U.S.C. 5123(a)(1)	79,976	1.02522	81,993

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Hazardous Materials: Related to Vessels—Penalty from Fatalities, Serious Injuries/Illness or substantial Damage to Property.	49 U.S.C. 5123(a)(2)	186,610	1.02522	191,316
Hazardous Materials: Related to Vessels; Training	49 U.S.C. 5123(a)(3)	481	1.02522	493

* OMB Memorandum M–19–04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf.

** Enacted under the Tariff Act; exempt from inflation adjustments.

E. Transportation Security Administration

The Transportation Security Administration (TSA) is updating its civil penalties regulation in accordance with the 2015 Act. Pursuant to its statutory authority in 49 U.S.C. 46301(a)(1), (4), (5), 49 U.S.C. 46301(d)(8), and 49 U.S.C. 114(v),¹⁵ TSA may impose penalties for violations of any statute that TSA administers, whether an implementing regulation or order imposes the penalty. TSA assesses these penalties for a wide variety of aviation and surface security requirements, including violations of TSA's requirements applicable to Transportation Worker Identification Credentials (TWIC),¹⁶ as well as violations of requirements described in chapter 449 of title 49 of the United States Code. These penalties can apply to a wide variety of situations, as described in the statutory and regulatory provisions, as well as in guidance that TSA publishes. Below is a table showing the 2019 adjustment for the penalties that TSA administers.

¹⁵ As amended by sec. 1302 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53, 121 Stat. 266 (Aug. 3, 2007)).

¹⁶ See, e.g., 46 U.S.C. 70105, 49 U.S.C. 46302 and 46303, and 49 U.S.C. chapter 449.

**TABLE 5—TRANSPORTATION SECURITY ADMINISTRATION CIVIL
PENALTIES ADJUSTMENTS**

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Violation of 49 U.S.C. ch. 449 (except secs. 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), or 49 U.S.C. 46302 or 46303, a regulation prescribed, or order issued thereunder by a person operating an aircraft for the transportation of passengers or property for compensation.	49 U.S.C. 46301(a)(1), (4), (5); 49 U.S.C. 46301(d)(8); 49 CFR 1503.401(c)(3)	\$33,333 (up to a total of \$533,324 per civil penalty action).	1.02522	\$34,174 (up to a total of \$546,774 per civil penalty action).
Violation of 49 U.S.C. ch. 449 (except secs. 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), or 49 U.S.C. 46302 or 46303, a regulation prescribed, or order issued thereunder by an individual (except an airman serving as an airman), any person not operating an aircraft for the transportation of passengers or property for compensation, or a small business concern.	49 U.S.C. 46301(a)(1), (4), (5); 49 U.S.C. 46301(d)(8); 49 CFR 1503.401(c)(1) and (2).	\$13,333 (up to a total of \$66,666 total for small businesses, \$533,324 for others).	1.02522	\$13,669 (up to a total of \$68,347 total for small business, \$546,774 for others).
Violation of any other provision of title 49 U.S.C. or of 46 U.S.C. ch. 701, a regulation prescribed, or order issued thereunder.	49 U.S.C. 114(v); 49 CFR 1503.401(b).	\$11,410 (up to a total of \$57,051 total for small businesses, \$456,409 for others).	1.02522	\$11,698 (up to a total of \$58,490 total for small businesses, \$467,920 for others).

* OMB Memorandum M–19–04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf.

IV. Administrative Procedure Act

DHS is promulgating this final rule to ensure that the amount of civil penalties that DHS assesses or enforces reflects the statutorily mandated ranges as adjusted for inflation. The 2015 Act provides a clear formula for adjustment of the civil penalties, leaving DHS and its components with little room for discretion. DHS and its components have been charged only with performing ministerial computations to determine the amounts of adjustments for inflation to civil monetary penalties. In these annual adjustments DHS is merely

updating the penalty amounts by applying the cost-of-living adjustment multiplier that OMB has provided to agencies. Furthermore, the 2015 Act specifically instructed that agencies make the required annual adjustments notwithstanding section 553 of title 5 of the United States Code. Thus, as specified in the 2015 Act, the prior public notice-and-comment procedures and delayed effective date requirements of the Administrative Procedure Act (APA) do not apply to this rule. Further, as described above, this rule also makes to minor amendments to the regulations to reflect clear statutory authority, and DHS finds that prior notice and comment procedures for these amendments are unnecessary.

V. Regulatory Analyses

A. *Executive Orders 12866 and 13563*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. OMB has not designated this final rule a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed this rule.

This final rule makes nondiscretionary adjustments to existing civil monetary penalties in accordance with the 2015 Act and OMB guidance.¹⁷ DHS therefore did not consider alternatives and does not have the flexibility to alter the adjustments of the civil monetary penalty amounts as provided in this rule. To the extent this final rule increases civil monetary penalties, it would result in an increase in transfers from persons or entities assessed a civil monetary penalty to the government.

B. *Regulatory Flexibility Act*

The Regulatory Flexibility Act applies only to rules for which an agency publishes a notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). See 5 U.S.C. 601–612. The Regulatory Flexibility Act does not apply to this final rule, because a notice of proposed rulemaking was not required for the reasons stated above.

¹⁷ OMB Memorandum M–19–04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf.

C. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. This final rule will not result in such an expenditure.

D. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule, because this final rule does not trigger any new or revised recordkeeping or reporting.

VI. Signing Authority

The amendments to 19 CFR part 4 in this document are issued in accordance with 19 CFR 0.2(a), which provides that the authority of the Secretary of the Treasury with respect to CBP regulations that are not related to customs revenue functions was transferred to the Secretary of Homeland Security pursuant to Section 403(l) of the Homeland Security Act of 2002. Accordingly, this final rule to amend such regulations may be signed by the Secretary of Homeland Security (or his or her delegate).

List of Subjects

6 CFR Part 27

Reporting and recordkeeping requirements, Security measures.

8 CFR Part 270

Administrative practice and procedure, Aliens, Employment, Fraud, Penalties.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

8 CFR Part 280

Administrative practice and procedure, Immigration, Penalties.

19 CFR Part 4

Exports, Freight, Harbors, Maritime carriers, Oil pollution, Reporting and recordkeeping requirements, Vessels.

33 CFR Part 27

Administrative practice and procedure, Penalties.

49 CFR Part 1503

Administrative practice and procedure, Investigations, Law enforcement, Penalties.

Amendments to the Regulations

Accordingly, for the reasons stated in the preamble, DHS is amending 6 CFR part 27, 8 CFR parts 270, 274a, and 280, 19 CFR part 4, 33 CFR part 27, and 49 CFR part 1503 as follows:

Title 6—Domestic Security

PART 27—CHEMICAL FACILITY ANTI-TERRORISM STANDARDS

■ 1. The authority citation for part 27 is revised to read as follows:

Authority: 6 U.S.C. 624; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114– 74, 129 Stat. 599; Pub. L. 113–254, 128 Stat. 2898, as amended by Pub. L. 116–2, 133 Stat. 5.

■ 2. In § 27.300, revise paragraph (b)(3) to read as follows:

§ 27.300 Orders.

* * * * *

(b) * * *

(3) Where the Assistant Secretary determines that a facility is in violation of an Order issued pursuant to paragraph (a) of this section and issues an Order Assessing Civil Penalty pursuant to paragraph (b)(1) of this section, a chemical facility is liable to the United States for a civil penalty of not more than \$25,000 for each day during which the violation continues, if the violation of the Order occurred on or before November 2, 2015, or \$34,871 for each day during which the violation of the Order continues, if the violation occurred after November 2, 2015.

* * * * *

Title 8—Aliens and Nationality

PART 270—PENALTIES FOR DOCUMENT FRAUD

■ 3. The authority citation for part 270 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, and 1324c; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321 and Pub. L. 114–74, 129 Stat. 599.

■ 4. In § 270.3, revise paragraphs (b)(1)(ii)(A) through (D) to read as follows:

§ 270.3 Penalties.

* * * * *

- (b) * * *
- (1) * * *
- (ii) * * *

(A) *First offense under section 274C(a)(1) through (a)(4).* Not less than \$275 and not exceeding \$2,200 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before March 27, 2008; not less than \$375 and not exceeding \$3,200 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act on or after March 27, 2008 and on or before November 2, 2015; and not less than \$473 and not exceeding \$3,788 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act after November 2, 2015.

(B) *First offense under section 274C(a)(5) or (a)(6).* Not less than \$250 and not exceeding \$2,000 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act before March 27, 2008; not less than \$275 and not exceeding \$2,200 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act on or after March 27, 2008 and on or before November 2, 2015; and not less than \$400 and not exceeding \$3,195 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act after November 2, 2015.

(C) *Subsequent offenses under section 274C(a)(1) through (a)(4).* Not less than \$2,200 and not more than \$5,500 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before March 27, 2008; not less than \$3,200 and not exceeding \$6,500 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the

Act occurring on or after March 27, 2008 and on or before November 2, 2015; and not less than \$3,788 and not more than \$9,472 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act after November 2, 2015.

(D) *Subsequent offenses under section 274C(a)(5) or (a)(6)*. Not less than \$2,000 and not more than \$5,000 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act before March 27, 2008; not less than \$2,200 and not exceeding \$5,500 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act occurring on or after March 27, 2008 and on or before November 2, 2015; and not less than \$3,195 and not more than \$7,987 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act after November 2, 2015.

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

■ 5. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114–74, 129 Stat. 599.

■ 6. In § 274a.8, revise paragraph (b) to read as follows:

§ 274a.8 Prohibition of indemnity bonds.

* * * * *

(b) *Penalty*. Any person or other entity who requires any individual to post a bond or security as stated in this section shall, after notice and opportunity for an administrative hearing in accordance with section 274A(e)(3)(B) of the Act, be subject to a civil monetary penalty of \$1,000 for each violation before September 29, 1999, of \$1,100 for each violation occurring on or after September 29, 1999 but on or before November 2, 2015, and of \$2,292 for each violation occurring after November 2, 2015, and to an administrative order requiring the return to the individual of any amounts received in violation of this section or, if the individual cannot be located, to the general fund of the Treasury.

■ 7. In § 274a.10, revise paragraphs (b)(1)(ii)(A) through (C) and the first sentence of paragraph (b)(2) to read as follows:

§ 274a.10 Penalties.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) First offense—not less than \$275 and not more than \$2,200 for each unauthorized alien with respect to whom the offense occurred before March 27, 2008; not less than \$375 and not exceeding \$3,200, for each unauthorized alien with respect to whom the offense occurred occurring on or after March 27, 2008 and on or before November 2, 2015; and not less than \$573 and not more than \$4,586 for each unauthorized alien with respect to whom the offense occurred occurring after November 2, 2015;

(B) Second offense—not less than \$2,200 and not more than \$5,500 for each unauthorized alien with respect to whom the second offense occurred before March 27, 2008; not less than \$3,200 and not more than \$6,500, for each unauthorized alien with respect to whom the second offense occurred on or after March 27, 2008 and on or before November 2, 2015; and not less than \$4,586 and not more than \$11,463 for each unauthorized alien with respect to whom the second offense occurred after November 2, 2015; or

(C) More than two offenses—not less than \$3,300 and not more than \$11,000 for each unauthorized alien with respect to whom the third or subsequent offense occurred before March 27, 2008; not less than \$4,300 and not exceeding \$16,000, for each unauthorized alien with respect to whom the third or subsequent offense occurred on or after March 27, 2008 and on or before November 2, 2015; and not less than \$6,878 and not more than \$22,927 for each unauthorized alien with respect to whom the third or subsequent offense occurred after November 2, 2015; and

* * * * *

(2) A respondent determined by the Service (if a respondent fails to request a hearing) or by an administrative law judge, to have failed to comply with the employment verification requirements as set forth in § 274a.2(b), shall be subject to a civil penalty in an amount of not less than \$100 and not more than \$1,000 for each individual with respect to whom such violation occurred before September 29, 1999; not less than \$110 and not more than \$1,100 for each individual with respect to whom such violation occurred on or after September 29, 1999 and on or before November 2, 2015; and not less than \$230 and not more than \$2,292 for each individual with respect to whom such violation occurred after November 2, 2015. * * *

* * * * *

PART 280—IMPOSITION AND COLLECTION OF FINES

■ 8. The authority citation for part 280 continues to read as follows:

Authority: 8 U.S.C. 1103, 1221, 1223, 1227, 1229, 1253, 1281, 1283, 1284, 1285, 1286, 1322, 1323, 1330; 66 Stat. 173, 195, 197, 201, 203, 212, 219, 221–223, 226, 227, 230; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114–74, 129 Stat. 599.

■ 9. In § 280.53 revise paragraphs (b)(1) through (15) to read as follows:

§ 280.53 Civil monetary penalties inflation adjustment.

* * * * *

(b) * * *

(1) Section 231(g) of the Act, Penalties for non-compliance with arrival and departure manifest requirements for passengers, crewmembers, or occupants transported on commercial vessels or aircraft arriving to or departing from the United States: From \$1,360 to \$1,394.

(2) Section 234 of the Act, Penalties for non-compliance with landing requirements at designated ports of entry for aircraft transporting aliens: From \$3,695 to \$3,788.

(3) Section 240B(d) of the Act, Penalties for failure to depart voluntarily: From \$1,558 minimum/\$7,791 maximum to \$1,597 minimum/\$7,987 maximum.

(4) Section 243(c)(1)(A) of the Act, Penalties for violations of removal orders relating to aliens transported on vessels or aircraft, under section 241(d) of the Act, or for costs associated with removal under section 241(e) of the Act: From \$3,116 to \$3,195.

(5) Penalties for failure to remove alien stowaways under section 241(d)(2): From \$7,791 to \$7,987.

(6) Section 251(d) of the Act, Penalties for failure to report an illegal landing or desertion of alien crewmen, and for each alien not reported on arrival or departure manifest or lists required in accordance with section 251 of the Act: From \$369 to \$378; and penalties for use of alien crewmen for longshore work in violation of section 251(d) of the Act: From \$9,239 to \$9,472.

(7) Section 254(a) of the Act, Penalties for failure to control, detain, or remove alien crewmen: From \$924 minimum/\$5,543 maximum to \$947 minimum/\$5,683 maximum.

(8) Section 255 of the Act, Penalties for employment on passenger vessels of aliens afflicted with certain disabilities: From \$1,848 to \$1,895.

(9) Section 256 of the Act, Penalties for discharge of alien crewmen: From \$2,771 minimum/\$5,543 maximum to \$2,841 minimum/\$5,683 maximum.

(10) Section 257 of the Act, Penalties for bringing into the United States alien crewmen with intent to evade immigration laws: From \$18,477 maximum to \$18,943 maximum.

(11) Section 271(a) of the Act, Penalties for failure to prevent the unauthorized landing of aliens: From \$5,543 to \$5,683.

(12) Section 272(a) of the Act, Penalties for bringing to the United States aliens subject to denial of admission on a health-related ground: From \$5,543 to \$5,683.

(13) Section 273(b) of the Act, Penalties for bringing to the United States aliens without required documentation: From \$5,543 to \$5,683.

(14) Section 274D of the Act, Penalties for failure to depart: From \$779 maximum to \$799 maximum, for each day the alien is in violation.

(15) Section 275(b) of the Act, Penalties for improper entry: From \$78 minimum/\$390 maximum to \$80 minimum/\$400 maximum, for each entry or attempted entry.

Title 19—Customs Duties

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

■ 10. The authority citation for part 4 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

* * * * *

Sections 4.80, 4.80a, and 4.80b also issued under 19 U.S.C. 1706a; 28 U.S.C. 2461 note; 46 U.S.C. 12112, 12117, 12118, 50501–55106, 55107, 55108, 55110, 55114, 55115, 55116, 55117, 55119, 56101, 55121, 56101, 57109; Pub. L. 108–7, Division B, Title II, § 211;

* * * * *

Section 4.92 also issued under 28 U.S.C. 2461 note; 46 U.S.C. 55111;

* * * * *

■ 11. In § 4.80, revise paragraphs (b)(2) and (i) to read as follows:

§ 4.80 Vessels entitled to engage in coastwise trade.

* * * * *

(b) * * *

(2) The penalty imposed for the unlawful transportation of passengers between coastwise points is \$300 for each passenger so transported and landed on or before November 2, 2015, and \$798 for each passenger so transported and landed after November 2, 2015 (46 U.S.C. 55103, as adjusted by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015).

* * * * *

(i) Any vessel, entitled to be documented and not so documented, employed in a trade for which a Certificate of Documentation is issued under the vessel documentation laws (see § 4.0(c)), other than a trade covered by a registry, is liable to a civil penalty of \$500 for each port at which it arrives without the proper Certificate of Documentation on or before November 2, 2015, and \$1329 for each port at which it arrives without the proper Certificate of Documentation after November 2, 2015 (19 U.S.C. 1706a, as adjusted by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015). If such a vessel has on board any foreign merchandise (sea stores excepted), or any domestic taxable alcoholic beverages, on which the duty and taxes have not been paid or secured to be paid, the vessel and its cargo are subject to seizure and forfeiture.

■ 12. In § 4.92, revise the second and third sentences to read as follows:

§ 4.92 Towing.

* * * The penalties for violation of this provision occurring on or before November 2, 2015, are a fine of from \$350 to \$1,100 against the owner or master of the towing vessel and a further penalty against the towing vessel of \$60 per ton of the towed vessel. The penalties for violation of this provision occurring after November 2, 2015, are a fine of from \$930 to \$2,924 against the owner or master of the towing vessel and a further penalty against the towing vessel of \$159 per ton of the towed vessel (46 U.S.C. 55111, as adjusted by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015).

Title 33—Navigation and Navigable Waters

**PART 27—ADJUSTMENT OF CIVIL MONETARY
PENALTIES FOR INFLATION**

■ 13. The authority citation for part 27 continues to read as follows:

Authority: Secs. 1–6, Pub. L. 101–410, 104 Stat. 890, as amended by Sec. 31001(s)(1), Pub. L. 104–134, 110 Stat. 1321 (28 U.S.C. 2461 note); Department of Homeland Security Delegation No. 0170.1, sec. 2 (106).

■ 14. In § 27.3, revise the third sentence of the introductory text and table 1 to read as follows:

§ 27.3 Penalty adjustment table.

* * * The adjusted civil penalty amounts listed in Table 1 are applicable for penalty assessments issued after April 5, 2019, with respect to violations occurring after November 2, 2015. * * *

TABLE 1—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. Code citation	Civil monetary penalty description	2019 Adjusted maximum penalty amount (\$)
14 U.S.C. 521(c)	Saving Life and Property	\$10,651
14 U.S.C. 521(e)	Saving Life and Property; Intentional Interference with Broadcast	1,093
14 U.S.C. 645(i).....	Confidentiality of Medical Quality Assurance Records (first offense)	5,350
14 U.S.C. 645(i).....	Confidentiality of Medical Quality Assurance Records (subsequent offenses)	35,668
16 U.S.C. 4711(g)(1)..	Aquatic Nuisance Species in Waters of the United States	39,936
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels	7,975
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels—Minimum Penalty	1,861
19 U.S.C. 1581(d).....	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge ¹	5,000
19 U.S.C. 1581(d).....	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge—Minimum Penalty ¹ .	1,000
33 U.S.C. 471	Anchorage Ground/Harbor Regulations General	11,563
33 U.S.C. 474	Anchorage Ground/Harbor Regulations St. Mary's River	798
33 U.S.C. 495(b).....	Bridges/Failure to Comply with Regulations ...	29,192
33 U.S.C. 499(c)	Bridges/Drawbridges	29,192
33 U.S.C. 502(c)	Bridges/Failure to Alter Bridge Obstructing Navigation	29,192
33 U.S.C. 533(b).....	Bridges/Maintenance and Operation.....	29,192
33 U.S.C. 1208(a).....	Bridge to Bridge Communication; Master, Person in Charge or Pilot	2,126
33 U.S.C. 1208(b).....	Bridge to Bridge Communication; Vessel.....	2,126

U.S. Code citation	Civil monetary penalty description	2019 Adjusted maximum penalty amount (\$)
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I per violation)	18,943
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I total under paragraph)	47,357
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II per day of violation)	18,943
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II total under paragraph)	236,783
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment	47,357
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit discharged) Judicial Assessment.	1,895
33 U.S.C. 1321(b)(7)(B)	Oil/Hazardous Substances: Failure to Carry Out Removal/Comply With Order (Judicial Assessment).	47,357
33 U.S.C. 1321(b)(7)(C)	Oil/Hazardous Substances: Failure to Comply with Regulation Issued Under 1321(j) (Judicial Assessment).	47,357
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence (per barrel of oil or unit discharged) Judicial Assessment.	5,683
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence—Minimum Penalty (Judicial Assessment).	189,427
33 U.S.C. 1322(j)	Marine Sanitation Devices; Operating	7,975
33 U.S.C. 1322(j)	Marine Sanitation Devices; Sale or Manufacture	21,265
33 U.S.C. 1608(a)	International Navigation Rules; Operator	14,910
33 U.S.C. 1608(b)	International Navigation Rules; Vessel	14,910
33 U.S.C. 1908(b)(1)	Pollution from Ships; General	74,552
33 U.S.C. 1908(b)(2)	Pollution from Ships; False Statement	14,910
33 U.S.C. 2072(a)	Inland Navigation Rules; Operator	14,910
33 U.S.C. 2072(b)	Inland Navigation Rules; Vessel	14,910
33 U.S.C. 2609(a)	Shore Protection; General	52,596
33 U.S.C. 2609(b)	Shore Protection; Operating Without Permit	21,039
33 U.S.C. 2716a(a)	Oil Pollution Liability and Compensation	47,357
33 U.S.C. 3852(a)(1)(A)	Clean Hulls; Civil Enforcement	43,359
33 U.S.C. 3852(a)(1)(A)	Clean Hulls; related to false statements	57,813
33 U.S.C. 3852(c)	Clean Hulls; Recreational Vessels	5,781
42 U.S.C. 9609(a)	Hazardous Substances, Releases, Liability, Compensation (Class I)	57,317
42 U.S.C. 9609(b)	Hazardous Substances, Releases, Liability, Compensation (Class II)	57,317

U.S. Code citation	Civil monetary penalty description	2019 Adjusted maximum penalty amount (\$)
42 U.S.C. 9609(b).....	Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense) ..	171,952
42 U.S.C. 9609(c)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment)	57,317
42 U.S.C. 9609(c)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense).	171,952
46 U.S.C. 80509(a).....	Safe Containers for International Cargo	6,265
46 U.S.C. 70305(c)	Suspension of Passenger Service	62,656
46 U.S.C. 2110(e)	Vessel Inspection or Examination Fees	9,472
46 U.S.C. 2115	Alcohol and Dangerous Drug Testing.....	7,710
46 U.S.C. 2302(a).....	Negligent Operations: Recreational Vessels	6,974
46 U.S.C. 2302(a).....	Negligent Operations: Other Vessels	34,871
46 U.S.C. 2302(c)(1)..	Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug.....	7,710
46 U.S.C. 2306(a)(4) .	Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent	12,007
46 U.S.C. 2306(b)(2) .	Vessel Reporting Requirements: Master	2,402
46 U.S.C. 3102(c)(1) ..	Immersion Suits.....	12,007
46 U.S.C. 3302(i)(5) ..	Inspection Permit.....	2,505
46 U.S.C. 3318(a).....	Vessel Inspection; General	12,007
46 U.S.C. 3318(g).....	Vessel Inspection; Nautical School Vessel.....	12,007
46 U.S.C. 3318(h).....	Vessel Inspection; Failure to Give Notice IAW 3304(b)	2,402
46 U.S.C. 3318(i).....	Vessel Inspection; Failure to Give Notice IAW 3309(c)	2,402
46 U.S.C. 3318(j)(1) ..	Vessel Inspection; Vessel ≥1,600 Gross Tons	24,017
46 U.S.C. 3318(j)(1) ..	Vessel Inspection; Vessel <1,600 Gross Tons	4,803
46 U.S.C. 3318(k).....	Vessel Inspection; Failure to Comply with 3311(b)	24,017
46 U.S.C. 3318(l).....	Vessel Inspection; Violation of 3318(b)–3318(f) .	12,007
46 U.S.C. 3502(e).....	List/count of Passengers.....	250
46 U.S.C. 3504(c)	Notification to Passengers.....	25,037
46 U.S.C. 3504(c)	Notification to Passengers; Sale of Tickets	1,251
46 U.S.C. 3506	Copies of Laws on Passenger Vessels; Master...	501
46 U.S.C. 3718(a)(1) .	Liquid Bulk/Dangerous Cargo	62,595
46 U.S.C. 4106	Uninspected Vessels.....	10,519
46 U.S.C. 4311(b)(1)..	Recreational Vessels (maximum for related series of violations)	331,174
46 U.S.C. 4311(b)(1)..	Recreational Vessels; Violation of 4307(a)	6,623
46 U.S.C. 4311(c)	Recreational Vessels	2,505
46 U.S.C. 4507	Uninspected Commercial Fishing Industry Vessels	10,519
46 U.S.C. 4703	Abandonment of Barges	1,783

U.S. Code citation	Civil monetary penalty description	2019 Adjusted maximum penalty amount (\$)
46 U.S.C. 5116(a)	Load Lines	11,463
46 U.S.C. 5116(b)	Load Lines; Violation of 5112(a)	22,927
46 U.S.C. 5116(c)	Load Lines; Violation of 5112(b)	11,463
46 U.S.C. 6103(a)	Reporting Marine Casualties	39,936
46 U.S.C. 6103(b)	Reporting Marine Casualties; Violation of 6104	10,519
46 U.S.C. 8101(e)	Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement	1,895
46 U.S.C. 8101(f)	Manning of Inspected Vessels	18,943
46 U.S.C. 8101(g)	Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by USCG	18,943
46 U.S.C. 8101(h)	Manning of Inspected Vessels; Freight Vessel <100 GT, Small Passenger Vessel, or Sailing School Vessel.	2,505
46 U.S.C. 8102(a)	Watchmen on Passenger Vessels	2,505
46 U.S.C. 8103(f)	Citizenship Requirements	1,251
46 U.S.C. 8104(i)	Watches on Vessels; Violation of 8104(a) or (b)	18,943
46 U.S.C. 8104(j)	Watches on Vessels; Violation of 8104(c), (d), (e), or (h)	18,943
46 U.S.C. 8302(e)	Staff Department on Vessels	250
46 U.S.C. 8304(d)	Officer's Competency Certificates	250
46 U.S.C. 8502(e)	Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	18,943
46 U.S.C. 8502(f)	Coastwise Pilotage; Individual	18,943
46 U.S.C. 8503	Federal Pilots	60,039
46 U.S.C. 8701(d)	Merchant Mariners Documents	1,251
46 U.S.C. 8702(e)	Crew Requirements	18,943
46 U.S.C. 8906	Small Vessel Manning	39,936
46 U.S.C. 9308(a)	Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	18,943
46 U.S.C. 9308(b)	Pilotage: Great Lakes; Individual	18,943
46 U.S.C. 9308(c)	Pilotage: Great Lakes; Violation of 9303	18,943
46 U.S.C. 10104(b)	Failure to Report Sexual Offense	10,067
46 U.S.C. 10314(a)(2)	Pay Advances to Seamen	1,251
46 U.S.C. 10314(b)	Pay Advances to Seamen; Remuneration for Employment	1,251
46 U.S.C. 10315(c)	Allotment to Seamen	1,251
46 U.S.C. 10321	Seamen Protection; General	8,678
46 U.S.C. 10505(a)(2)	Coastwise Voyages: Advances	8,678
46 U.S.C. 10505(b)	Coastwise Voyages: Advances; Remuneration for Employment	8,678

U.S. Code citation	Civil monetary penalty description	2019 Adjusted maximum penalty amount (\$)
46 U.S.C. 10508(b)....	Coastwise Voyages: Seamen Protection; General.....	8,678
46 U.S.C. 10711	Effects of Deceased Seamen.....	501
46 U.S.C. 10902(a)(2).....	Complaints of Unfitness.....	1,251
46 U.S.C. 10903(d)....	Proceedings on Examination of Vessel.....	250
46 U.S.C. 10907(b)....	Permission to Make Complaint	1,251
46 U.S.C. 11101(f)	Accommodations for Seamen	1,251
46 U.S.C. 11102(b)....	Medicine Chests on Vessels.....	1,251
46 U.S.C. 11104(b)....	Destitute Seamen.....	250
46 U.S.C. 11105(c)....	Wages on Discharge.....	1,251
46 U.S.C. 11303(a)....	Log Books; Master Failing to Maintain.....	501
46 U.S.C. 11303(b)....	Log Books; Master Failing to Make Entry	501
46 U.S.C. 11303(c)	Log Books; Late Entry.....	375
46 U.S.C. 11506	Carrying of Sheath Knives.....	125
46 U.S.C. 12151(a)(1).....	Vessel Documentation.....	16,398
46 U.S.C. 12151(a)(2).....	Documentation of Vessels- Related to activities involving mobile offshore drilling units	27,331
46 U.S.C. 12151(c)....	Vessel Documentation; Fishery Endorsement ..	125,314
46 U.S.C. 12309(a)....	Numbering of Undocumented Vessels—Willful violation	12,519
46 U.S.C. 12309(b)....	Numbering of Undocumented Vessels.....	2,505
46 U.S.C. 12507(b)....	Vessel Identification System	21,039
46 U.S.C. 14701	Measurement of Vessels	45,855
46 U.S.C. 14702	Measurement; False Statements.....	45,855
46 U.S.C. 31309	Commercial Instruments and Maritime Liens..	21,039
46 U.S.C. 31330(a)(2).....	Commercial Instruments and Maritime Liens; Mortgagor	21,039
46 U.S.C. 31330(b)(2).....	Commercial Instruments and Maritime Liens; Violation of 31329	52,596
46 U.S.C. 70036(a)....	Ports and Waterways Safety Regulations.....	94,219
46 U.S.C. 70041(d)(1)(B).....	Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge	9,472
46 U.S.C. 70041(d)(1)(C).....	Vessel Navigation: Regattas or Marine Parades; Owner Onboard Vessel.....	9,472
46 U.S.C. 70041(d)(1)(D)	Vessel Navigation: Regattas or Marine Parades; Other Persons	4,735
46 U.S.C. 70119(a)	Port Security	34,871
46 U.S.C. 70119(b)....	Port Security—Continuing Violations	62,656
46 U.S.C. 70506	Maritime Drug Law Enforcement; Penalties	5,781
49 U.S.C. 5123(a)(1) .	Hazardous Materials: Related to Vessels—Maximum Penalty	81,993

U.S. Code citation	Civil monetary penalty description	2019 Adjusted maximum penalty amount (\$)
49 U.S.C. 5123(a)(2) .	Hazardous Materials: Related to Vessels— Penalty from Fatalities, Serious Injuries/ Illness or Substantial Damage to Property.	191,316
49 U.S.C. 5123(a)(3) .	Hazardous Materials: Related to Vessels— Training	493

¹ Enacted under the Tariff Act of 1930, exempt from inflation adjustments.

Title 49—Transportation

PART 1503—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

■ 15. The authority citation for part 1503 continues to read as follows:

Authority: 6 U.S.C. 1142; 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 114, 20109, 31105, 40113–40114, 40119, 44901–44907, 46101–46107, 46109–46110, 46301, 46305, 46311, 46313–46314; Pub. L. 104–134, as amended by Pub. L. 114–74.

■ 16. In § 1503.401, revise paragraphs (b)(1) and (2) and (c)(1) through (3) to read as follows:

§ 1503.401 Maximum penalty amounts.

* * * * *

(b) * * *

(1) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$50,000 per civil penalty action, in the case of an individual or small business concern, as defined in section 3 of the Small Business Act (15 U.S.C. 632). For violations that occurred after November 2, 2015 \$11,698 per violation, up to a total of \$58,490 per civil penalty action, in the case of an individual or small business concern; and

(2) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$400,000 per civil penalty action, in the case of any other person. For violations that occurred after November 2, 2015, \$11,698 per violation, up to a total of \$467,920 per civil penalty action, in the case of any other person.

(c) * * *

(1) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$50,000 per civil penalty action, in the case of an individual or small business concern, as defined in section 3 of the Small Business Act (15 U.S.C. 632). For violations

that occurred after November 2, 2015, \$13,669 per violation, up to a total of \$68,347 per civil penalty action, in the case of an individual (except an airman serving as an airman), or a small business concern.

(2) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$400,000 per civil penalty action, in the case of any other person (except an airman serving as an airman) not operating an aircraft for the transportation of passengers or property for compensation. For violations that occurred after November 2, 2015, \$13,669 per violation, up to a total of \$546,774 per civil penalty action, in the case of any other person (except an airman serving as an airman) not operating an aircraft for the transportation of passengers or property for compensation.

(3) For violations that occurred on or before November 2, 2015, \$25,000 per violation, up to a total of \$400,000 per civil penalty action, in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman). For violations that occurred after November 2, 2015, \$34,174 per violation, up to a total of \$546,774 per civil penalty action, in the case of a person (except an individual serving as an airman) operating an aircraft for the transportation of passengers or property for compensation.

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General Counsel.

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RECORDATIONS
(NO. 3 2019)**

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

SUMMARY: The following copyrights, trademarks, and trade names were recorded with U.S. Customs and Border Protection in March 2019. The last notice was published in the CUSTOMS BULLETIN Vol. 53, No. 7, March 20, 2019.

Corrections or updates may be sent to: Intellectual Property Rights Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, 90 K Street, NE., 10th Floor, Washington, D.C. 20229–1177, or via email at iprrquestions@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT: LaVerne Watkins, Paralegal Specialist, Intellectual Property Rights Branch, Regulations and Rulings, Office of Trade at (202) 325–0095.

CHARLES R. STEUART
*Chief, Intellectual Property Rights Branch
Regulations and Rulings, Office of Trade*

CBP IPR RECORDATION — MARCH 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/k/Tnm	Owner Name	GM Restricted
COP 19-00007	03/05/2019	12/05/2019	CB-9101 Air Filter Installation Instructions	All-Filters, Inc.	No
COP 19-00008	03/07/2019	03/07/2039	SUPER MARIO PARTY.	Nintendo of America Inc.	No
COP 19-00009	03/07/2019	03/07/2039	POKEMON	GAME FREAK inc.	No
COP 19-00010	03/07/2019	03/07/2039	POKEMON: LET'S GO, EEVEE!	GAME FREAK inc.	No
COP 19-00011	03/08/2019	03/08/2039	Luxor	Artistic Tile, Inc.	No
COP 19-00015	03/25/2019	03/25/2039	Sahara Panel Design	3form, Inc. d.b.a. 3form	No
COP 19-00016	03/25/2019	03/25/2039	Harvest Panel Design	3form, Inc. d.b.a. 3form.	No
COP 19-00017	03/25/2019	03/25/2039	Swept Panel Design	3form, Inc. d.b.a. 3form	No
COP 19-00018	03/25/2019	03/25/2039	Halftone Pattern Panel Design	3form, Inc. d.b.a. 3form	No
COP 19-00019	03/25/2019	03/25/2039	Amazon Panel Design	3form, Inc. d.b.a. 3form	No
COP 19-00020	03/25/2019	03/25/2039	3form Chroma Brochure (2011)	3form, Inc.	No
COP 19-00021	03/25/2019	03/25/2039	Connection Pure.	3form, LLC	No
COP 19-00022	03/25/2019	03/25/2039	Painterly Collection	3form, LLC.	No
COP 19-00023	03/25/2019	03/25/2039	DISNEY PIXAR COCO - STYLE GUIDE VERSION 5 GLOBAL NOV 2017 ON SHELF.	Disney Enterprises, Inc.	No
COP 19-00024	03/25/2019	03/25/2039	DISNEY WRECK-IT RALPH BRANDING & PACKAGING GUIDELINES - FA12.	Disney Enterprises, Inc.	No
COP 19-00025	03/26/2019	12/26/2019	Toy Coding Robot With Remote	Learning Resources, Inc.	No
COP 19-00026	03/26/2019	12/26/2019	1875 Just Lovely	burton + BURTON	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/TmK/TmM	Owner Name	GM Restricted
COP 19-00027	03/26/2019	12/26/2019	9734276 Heart	burton + BURTON	No
COP 19-00028	03/26/2019	12/26/2019	9734278 Hearts In Heart	burton + BURTON	No
COP 19-00029	03/26/2019	12/26/2019	9734327 All Over Hearts	burton + BURTON	No
COP 19-00030	03/26/2019	12/26/2019	1900 Blissful Boho	burton + BURTON	No
COP 19-00031	03/26/2019	12/26/2019	1902 Burton Bee	burton + BURTON	No
COP 19-00032	03/26/2019	12/26/2019	9712119 Stars And Stripes	burton + BURTON	No
COP 19-00033	03/26/2019	12/26/2019	1212 Lil Baby Dots	burton + BURTON	No
COP 19-00034	03/26/2019	12/26/2019	1427 Little Man	burton + BURTON	No
COP 19-00035	03/26/2019	12/26/2019	1811 Shibori Blue	burton + BURTON	No
COP 19-00036	03/26/2019	12/26/2019	1439270 Superpower Mom	burton + BURTON	No
COP 19-00037	03/26/2019	12/26/2019	9730782 Superpower Aunt	burton + BURTON	No
COP 19-00038	03/26/2019	12/26/2019	9730783 Superpower Gigi	burton + BURTON	No
COP 19-00039	03/26/2019	12/26/2019	9730784 Superpower Grandma	burton + BURTON	No
COP 19-00040	03/26/2019	12/26/2019	9730785 Superpower Mimi	burton + BURTON	No
COP 19-00041	03/26/2019	12/26/2019	9730786 Superpower Nana	burton + BURTON	No
COP 19-00042	03/26/2019	12/26/2019	9730787 Superpower Nurse	burton + BURTON	No
COP 19-00043	03/26/2019	12/26/2019	9730788 Superpower Sister	burton + BURTON	No
COP 19-00044	03/26/2019	12/26/2019	9730789 Superpower Teacher	burton + BURTON	No
COP 19-00045	03/29/2019	03/29/2039	DISNEY PRINCESS - BRANDING GUIDELINES SS15 UPDATE.	DISNEY ENTERPRISES, INC.	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
COP 19-00046	03/29/2019	03/29/2039	DISNEY MOANA - BRANDING VER-SION 1 GLOBAL NOV 2016.	DISNEY ENTERPRISES, INC.	No
COP 19-00047	03/29/2019	12/29/2019	Four Legged Twerk-Llama-Llove	Daniel Flaherty	No
COP 92-00476	03/29/2019	03/29/2039	Disney's Aladdin	The Walt Disney Company	No
COP 99-00108	03/05/2019	03/05/2039	Mario Party	Nintendo of America, Inc.	No
TMK 01-00340	03/25/2019	06/02/2029	TRETORN	ABG-TRETORN, LLC	No
TMK 02-00817	03/12/2019	03/12/2029	NEWPORT	LORILLARD LICENSING COMPANY, LLC	No
TMK 02-00986	03/14/2019	04/05/2029	Chrome Hearts plus Horseshoe Design	CHROME HEARTS LLC	No
TMK 02-00988	03/13/2019	04/05/2029	Chrome Hearts (Stylized In Scroll Design)	CHROME HEARTS, LLC	No
TMK 04-01100	03/05/2019	10/28/2028	Design Only (Horse Head)	PDB Sports, Ltd. DBA Denver Broncos	No
TMK 07-00025	03/13/2019	04/05/2029	Chrome Hearts plus Scroll Design	Chrome Hearts LLC	No
TMK 07-00352	03/29/2019	12/26/2026	MANI (Stylized)	MANI, Inc.	No
TMK 08-00525	03/29/2019	06/25/2025	COAST	HIGH RIDGE BRANDS CO.	No
TMK 09-00094	03/29/2019	05/24/2029	NFL & Shield Design	NFL PROPERTIES LLC	No
TMK 09-00884	03/12/2019	03/30/2029	SPIDER-MAN	Marvel Characters, Inc.	No
TMK 09-00889	03/12/2019	03/08/2029	IRON MAN	MARVEL CHARACTERS, INC.	No
TMK 09-01091	03/29/2019	05/17/2029	DESIGN ONLY (Damier Trademark)	LOUIS VUITTON MALLETIER	No
TMK 10-00627	03/07/2019	03/30/2029	ROYAL VELVET	Icon NY Holdings LLC	No
TMK 10-00755	03/12/2019	03/13/2029	PROCRIT	JOHNSON & JOHNSON	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 10-00806	03/27/2019	06/10/2029	DESIGN (color blue as it is applied to the goods)	Positronic Industries, Inc.	No
TMK 10-00855	03/29/2019	04/10/2029	LV Stylized	LOUIS VUITTON MALLETIER	No
TMK 10-00868	03/12/2019	04/10/2029	SIERRA	V & V SUPREMO FOODS, INC.	No
TMK 11-00313	03/05/2019	03/12/2029	KENT	Lorillard Licensing Company, LLC	No
TMK 11-00316	03/05/2019	03/12/2029	OLD GOLD	Lorillard Licensing Company, LLC	No
TMK 11-00639	03/12/2019	11/14/2027	CHELSEA FOOTBALL CLUB LOGO	Chelsea Football Club Limited	No
TMK 11-00990	03/29/2019	04/17/2029	LITTLE PEOPLE	MATTEL, INC.	No
TMK 11-01262	03/02/2019	05/16/2029	MARILYN MONROE	THE ESTATE OF MARILYN MONROE, LLC	No
TMK 12-01061	03/29/2019	09/30/2028	MERCK	MERCK SHARP & DOHME CORP.	No
TMK 12-01065	03/29/2019	10/10/2027	JANUVIA	MERCK SHARP & DOHME CORP.	No
TMK 12-01067	03/29/2019	02/07/2026	CRIXIVAN	MERCK SHARP & DOHME CORP.	No
TMK 12-01070	03/29/2019	04/22/2028	JANUMET	MERCK SHARP & DOHME CORP.	No
TMK 12-01071	03/29/2019	02/15/2026	GARDASIL	MERCK SHARP & DOHME CORP.	No
TMK 13-00466	03/14/2019	06/17/2029	POLY-WOOD	POLY-WOOD, LLC	No
TMK 13-00919	03/14/2019	03/16/2029	HARTLAND	American Pacific Industries, Inc.	No
TMK 14-00033	03/25/2019	10/11/2026	SPRYCEL	Bristol-Myers Squibb Company	No
TMK 14-00961	03/29/2019	05/23/2029	D DINAN (AND DESIGN)	Dinan Engineering, Inc.	No
TMK 14-00984	03/29/2019	06/21/2029	DESIGN ONLY (CHEVROLET EMBLEM)	GENERAL MOTORS LLC	No

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TMK 14-01043	03/29/2019	03/30/2029	DESIGN ONLY	SONY INTERACTIVE ENTERTAINMENT INC.	No
TMK 16-00267	03/12/2019	03/22/2029	KIMBER (STYLIZED)	KIMBER IP, LLC	No
TMK 16-00413	03/29/2019	04/09/2029	CC Stylized & Design	CARTIER INTERNATIONAL A.G.	No
TMK 16-01247	03/05/2019	03/16/2029	C OF H	Citizens of Humanity, LLC	No
TMK 17-00754	03/29/2019	03/29/2029	METALLICA (STYLIZED)	METALLICA	No
TMK 19-00200	03/01/2019	01/19/2022	MSD (STYLIZED)	MERCK SHARP & DOHME CORP.	No
TMK 19-00201	03/01/2019	04/02/2028	COMMIT30	Commit30, LLC	No
TMK 19-00202	03/01/2019	07/27/2023	KIRBY MORGAN	KIRBY MORGAN DIVE SYSTEMS, INC.	No
TMK 19-00203	03/01/2019	02/27/2022	SUPERLITE	KIRBY MORGAN DIVE SYSTEMS, INC.	No
TMK 19-00204	03/01/2019	03/25/2029	STARK	Stark, LLC	No
TMK 19-00205	03/01/2019	09/30/2025	BANDMASK	Kirby Morgan Dive Systems, Inc.	No
TMK 19-00206	03/01/2019	03/12/2029	KMB-BAND MASK	KIRBY MORGAN DIVE SYSTEMS, INC. (FORMERLY KNOWN AS DIVING SYSTEMS INTERNATIONAL)	No
TMK 19-00207	03/01/2019	08/18/2024	DESIGN ONLY (Diamond)	Kirby Morgan Dive Systems, Inc.	No
TMK 19-00208	03/04/2019	02/13/2029	GAME BOY Console and Design	NINTENDO OF AMERICA INC.	No
TMK 19-00209	03/04/2019	08/01/2028	R and Design	THE RIDGE WALLET LLC	No
TMK 19-00210	03/04/2019	05/07/2026	A.R.E.	A.R.E. Accessories, LLC	No
TMK 19-00211	03/04/2019	02/11/2029	ARE & Design	A.R.E. ACCESSORIES, LLC	No
TMK 19-00212	03/04/2019	02/11/2029	A ARE & Design	A.R.E. ACCESSORIES, LLC	No

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TMK 19-00213	03/04/2019	02/13/2029	THE GLAM PLANNER	Paper & Glam LLC	No
TMK 19-00214	03/04/2019	04/08/2029	ALE + WANG	Ale & Wang, Inc.	No
TMK 19-00215	03/04/2019	11/16/2025	3FORM	3FORM, LLC	No
TMK 19-00216	03/04/2019	11/14/2028	AF	All-Filters, Inc.	No
TMK 19-00217	03/04/2019	09/12/2028	AF ALL-FILTERS, INC. THE AMERICAN FILTER COMPANY (Stylized) and Design	(REGISTRANT) All-Filters, Inc. CORPORATION NEVADA PO 19144 Reno NE-VADA 89511	No
TMK 19-00218	03/04/2019	05/19/2029	MYHEP ALL	Mylan Laboratories Limited	No
TMK 19-00219	03/05/2019	12/18/2028	MD ELECTRICAL INTEGRATION LLC (Stylized) and Design	HOWELL, MARK	No
TMK 19-00220	03/05/2019	06/25/2027	BANANA REPUBLIC	BANANA REPUBLIC (APPAREL) INC.	No
TMK 19-00221	03/05/2019	12/30/2028	HORI and Design	Hori (USA), Inc.	No
TMK 19-00222	03/05/2019	02/19/2024	HORI and Design	Hori (U.S.A.), Inc.	No
TMK 19-00223	03/05/2019	03/25/2029	ANIMAL CROSSING	Nintendo of America Inc.	No
TMK 19-00224	03/05/2019	01/30/2028	ORIOLES (Stylized)	Baltimore Orioles Limited Partnership	No
TMK 19-00225	03/05/2019	04/08/2029	POKEMON GO Logo/Design	NINTENDO OF AMERICA INC.	No
TMK 19-00226	03/05/2019	04/04/2021	D-BACKS	AZPB Limited Partnership LIMITED	No
TMK 19-00227	03/06/2019	11/07/2021	R/T (Stylized)	FCA US LLC	No
TMK 19-00228	03/06/2019	08/10/2025	D (Stylized/Design)	AZPB	No
TMK 19-00229	03/06/2019	05/13/2027	R/T word mark.	FCA US LLC	No
TMK 19-00230	03/06/2019	04/20/2029	Snakehead with Baseball Design	AZPB Limited Partnership	No

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TMK 19-00231	03/06/2019	10/19/2021	BALTIMORE & Design (Stylized)	Baltimore Orioles Limited Partnership	No
TMK 19-00232	03/06/2019	06/23/2020	Orioles Bird in Batting Position Design	Baltimore Orioles Limited Partnership	No
TMK 19-00233	03/06/2019	08/27/2028	Orioles Bird Head Design	Baltimore Orioles Limited Partnership	No
TMK 19-00234	03/06/2019	03/04/2028	O's (Stylized)	Baltimore Orioles Limited Partnership	No
TMK 19-00235	03/06/2019	04/12/2020	BOSOx	Boston Red Sox Baseball Club Limited Partnership	No
TMK 19-00236	03/06/2019	02/02/2021	RED SOX (Stylized)	Boston Red Sox Baseball Club Limited Partnership	No
TMK 19-00237	03/06/2019	12/06/2021	BOSTON (Stylized)	Boston Red Sox Baseball Club Limited Partnership	No
TMK 19-00238	03/06/2019	11/30/2020	Socks Design	Boston Red Sox Baseball Club Limited Partnership	No
TMK 19-00239	03/06/2019	04/21/2024	SHOLDIT	Uncaged, LLC	No
TMK 19-00240	03/06/2019	05/21/2027	DESIGN ONLY (Squirrel with zipper)	Uncaged, LLC	No
TMK 19-00241	03/07/2019	08/15/2021	ZYMOX	PET KING BRANDS, INC.	No
TMK 19-00242	03/07/2019	04/21/2024	THE RIDGE	THE RIDGE WALLET LLC	No
TMK 19-00243	03/07/2019	03/18/2029	MARCO M KELLY & Design	EMI Fashion Station inc.	No
TMK 19-00244	03/07/2019	03/04/2029	THE MODERN SKEIN	Graff Royal Holdings Inc.	No
TMK 19-00245	03/07/2019	09/23/2019	CUBBIES	CHICAGO CUBS BASEBALL CLUB, LLC	No
TMK 19-00246	03/07/2019	07/17/2027	CUBS (Stylized) and Design	CHICAGO CUBS BASEBALL CLUB, LLC	No

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TMK 19-00247	03/07/2019	12/05/2025	C with Walking Bear & Design	CHICAGO CUBS BASEBALL CLUB, LLC	No
TMK 19-00248	03/07/2019	10/19/2021	CHICAGO (Stylized)	Chicago Cubs Baseball Club, LLC	No
TMK 19-00249	03/07/2019	05/05/2029	JOSE PEPPER'S	Jose Pepper's Restaurants, LLC	No
TMK 19-00250	03/07/2019	06/25/2028	Bear Face Design	Chicago Cubs Baseball Club, LLC	No
TMK 19-00251	03/07/2019	01/27/2020	DESIGN ONLY (Bear Face in Two Circles)	CHICAGO CUBS BASEBALL CLUB, LLC	No
TMK 19-00252	03/07/2019	04/19/2026	SERPENT'S BITE	Constellation Brands U.S. Operations, Inc.	No
TMK 19-00253	03/07/2019	09/13/2027	W (Stylized)	Chicago Cubs Baseball Club, LLC	No
TMK 19-00254	03/07/2019	07/17/2027	CUBS	CHICAGO CUBS BASEBALL CLUB, LLC	No
TMK 19-00255	03/07/2019	12/24/2022	DARRELL LEA	DL ASSETS PTY	No
TMK 19-00256	03/07/2019	11/25/2025	LUCKY COUNTRY and Design	DL ASSETS PTY LTD	No
TMK 19-00257	03/07/2019	11/25/2025	LUCKY COUNTRY	DL ASSETS PTY LTD	No
TMK 19-00258	03/07/2019	08/01/2020	C (Stylized)	CLEVELAND INDIANS BASEBALL COMPANY, LLC	No
TMK 19-00259	03/07/2019	10/26/2021	CLEVELAND (Stylized)	CLEVELAND INDIANS BASEBALL COMPANY, LLC	No
TMK 19-00260	03/07/2019	09/10/2028	I (Stylized)	CLEVELAND INDIANS BASEBALL COMPANY, LLC	No
TMK 19-00261	03/07/2019	02/28/2027	INDIANS	CLEVELAND INDIANS BASEBALL COMPANY, LLC	No

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TMK 19-00262	03/07/2019	11/04/2025	TRIBE	CLEVELAND INDIANS BASEBALL COMPANY, LLC	No
TMK 19-00263	03/07/2019	11/30/2021	COLORADO (Stylized)	Colorado Rockies Baseball Club, Ltd.	No
TMK 19-00264	03/07/2019	06/18/2024	H and Star Design	Houston Astros, LLC	No
TMK 19-00265	03/07/2019	03/22/2026	KC (Stylized) and Banner Design	Kansas City Royals Baseball Corporation	No
TMK 19-00266	03/07/2019	10/12/2021	LOS ANGELES (Stylized)	Los Angeles Dodgers LLC	No
TMK 19-00267	03/08/2019	06/18/2024	ASTROS (Stylized)	Houston Astros, LLC	No
TMK 19-00268	03/08/2019	04/28/2024	HOUSTON (Stylized)	Houston Astros, LLC	No
TMK 19-00269	03/08/2019	11/16/2021	KANSAS CITY (Stylized)	Kansas City Royals Baseball Corporation	No
TMK 19-00270	03/08/2019	08/01/2027	A (Stylized) with a Halo Design	Angels Baseball LP	No
TMK 19-00271	03/08/2019	03/11/2028	TC (Stylized)	Minnesota Twins, LLC	No
TMK 19-00272	03/11/2019	12/06/2021	GAMBLER	Top Tobacco, L.P.	No
TMK 19-00273	03/11/2019	06/29/2026	SECRET SILKY	GILDAN APPAREL (CANADA) LP	No
TMK 19-00274	03/11/2019	01/13/2026	UNDER CONTROL BY SECRET	GILDAN APPAREL (CANADA) LP	No
TMK 19-00275	03/11/2019	03/27/2026	COMFORT COLORS	GILDAN ACTIVEWEAR SRL	No
TMK 19-00276	03/11/2019	10/12/2026	GILDAN	Gildan Activewear SRL	No
TMK 19-00277	03/11/2019	07/21/2025	GILDAN PERFORMANCE	Gildan Activewear SRL	No
TMK 19-00278	03/11/2019	07/12/2026	GILDAN PLATINUM	Gildan Activewear SRL	No
TMK 19-00279	03/11/2019	02/07/2028	TOWELS PLUS	Gildan Activewear SRL	No
TMK 19-00280	03/11/2019	01/14/2029	AMERICAN APPAREL	GILDAN ACTIVEWEAR SRL	No

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TMK 19-00281	03/11/2019	07/27/2020	ALCS	Office of the Commissioner of Baseball	No
TMK 19-00282	03/11/2019	07/27/2020	ALDS	Office of the Commissioner of Baseball	No
TMK 19-00283	03/11/2019	03/29/2020	LEAGUE CHAMPIONSHIP SERIES	Office of the Commissioner of Baseball	No
TMK 19-00284	03/11/2019	08/01/2027	RED SOX (Stylized)	Boston Red Sox Baseball Club Limited Partnership	No
TMK 19-00285	03/11/2019	03/09/2029	N L CHAMPIONS	Office of the Commissioner of Baseball	No
TMK 19-00286	03/11/2019	11/13/2021	CLAIBORNE	LIZ CLAIBORNE, INC.	No
TMK 19-00287	03/11/2019	07/17/2027	B (Stylized)	Boston Red Sox Baseball Club Limited Partnership	No
TMK 19-00288	03/11/2019	07/27/2020	NLCS	Office of the Commissioner of Baseball	No
TMK 19-00289	03/11/2019	07/27/2020	NLDS	Office of the Commissioner of Baseball	No
TMK 19-00290	03/11/2019	06/11/2028	C (Stylized)	CHICAGO CUBS BASEBALL CLUB, LLC	No
TMK 19-00291	03/11/2019	01/23/2028	YANKES (Stylized) and Design	New York Yankees Partnership	No
TMK 19-00292	03/12/2019	08/03/2026	MORFOSE	A&A Cosmetics, Inc	No
TMK 19-00293	03/12/2019	01/30/2028	CUBS	CHICAGO NATIONAL LEAGUE BALL CLUB, LLC	No
TMK 19-00294	03/12/2019	05/26/2029	FORTNITE	Epic Games, Inc.	No
TMK 19-00295	03/12/2019	04/15/2028	LA (Stylized)	Los Angeles Dodgers LLC	No
TMK 19-00296	03/12/2019	07/04/2019	LA (Stylized)	LOS ANGELES DODGERS LLC	No
TMK 19-00297	03/12/2019	12/27/2021	MUSE	Torpack Limited	No

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TMK 19-00298	03/12/2019	09/03/2028	WORLD SERIES	Office of the Commissioner of Baseball	No
TMK 19-00299	03/12/2019	01/16/2023	MUSE	Torpack Limited	No
TMK 19-00300	03/12/2019	01/11/2022	MUSE	Torpack Limited	No
TMK 19-00301	03/12/2019	11/18/2025	MUSE	Torpack Limited	No
TMK 19-00302	03/12/2019	01/09/2029	CMAUSAR AUSARCM	HOLY MAAT, INC.	No
TMK 19-00303	03/12/2019	10/17/2028	YAWN AIR	High Street TV (Group) Ltd	No
TMK 19-00304	03/12/2019	08/01/2028	MAXI-GLIDER 360	High Street TV (Group) Ltd Registered Company UNITED KINGDOM High Street TV (Group) Ltd,	No
TMK 19-00305	03/12/2019	04/11/2021	SAATVA	WHITESTONE HOME FURNISHINGS, LLC	No
TMK 19-00306	03/12/2019	06/17/2025	LOOM & LEAF	WHITESTONE HOME FURNISHINGS, LLC	No
TMK 19-00307	03/12/2019	05/04/2027	PUMIE	United States Pumice Company	No
TMK 19-00308	03/12/2019	07/12/2021	NEW YORK (Stylized)	New York Yankees Partnership	No
TMK 19-00309	03/12/2019	01/23/2028	NY (Stylized)	New York Yankees Partnership	No
TMK 19-00310	03/12/2019	02/07/2028	SCOURING STICK	United States Pumice Company	No
TMK 19-00311	03/12/2019	10/26/2021	SEATTLE & Design (Stylized)	THE BASEBALL CLUB OF SEATTLE, LLLP	No
TMK 19-00312	03/12/2019	05/14/2027	ZENHAVEN	WHITESTONE HOME FURNISHINGS, LLC	No
TMK 19-00313	03/12/2019	05/02/2020	RAYS & Design (Stylized)	Tampa Bay Rays Baseball Ltd.	No

CBP IPR RECORDATION — MARCH 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 19-00314	03/12/2019	11/03/2020	Design Only (Glint)	Tampa Bay Rays Baseball Ltd.	No
TMK 19-00315	03/12/2019	06/30/2020	TB (Stylized)	Tampa Bay Rays Baseball Ltd.	No
TMK 19-00316	03/12/2019	01/14/2025	COOKIES SF	COOKIES SF LLC	No
TMK 19-00317	03/12/2019	07/05/2026	JUVÉDERM	Allergan Holdings France	No
TMK 19-00318	03/13/2019	04/16/2028	INSPIRED BY THE PLANET, CRAFTED BY JOB	Republic Technologies (NA) LLC	No
TMK 19-00319	03/13/2019	08/11/2020	GAMBLER	Top Tobacco LP	No
TMK 19-00320	03/13/2019	11/30/2021	JOB (Stylized) and Design (Diamond and Oval)	Republic Technologies (NA) LLC	No
TMK 19-00321	03/13/2019	11/30/2021	JOB (Stylized) and Diamond Design	Republic Technologies (NA) LLC	No
TMK 19-00322	03/13/2019	05/19/2029	Amos Rome (Stylized)	Amos Rome Vineyards LLC	No
TMK 19-00323	03/14/2019	09/19/2028	BABY FOOT	Liberta Co., Ltd.	No
TMK 19-00324	03/14/2019	04/27/2026	Chief Wahoo Indian Head Design	CLEVELAND INDIANS BASEBALL COMPANY, LLC	No
TMK 19-00325	03/14/2019	04/08/2028	INDIANS (Stylized)	CLEVELAND INDIANS BASEBALL COMPANY, LLC	No
TMK 19-00326	03/14/2019	01/30/2028	ANGELS (Stylized) and Design	Angels Baseball LP	No
TMK 19-00327	03/14/2019	04/15/2028	DODGERS (Stylized)	Los Angeles Dodgers LLC	No
TMK 19-00328	03/14/2019	09/02/2029	AMERICAN LEAGUE	Office of the Commissioner of Baseball	No
TMK 19-00329	03/14/2019	08/26/2019	DIVISION SERIES	Office of the Commissioner of Baseball	No
TMK 19-00330	03/14/2019	03/11/2028	ANGELS (Stylized)	Angels Baseball LP	No

CBP IPR RECORDATION — MARCH 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 19-00331	03/14/2019	03/04/2029	ZERO PIOJOS & Design	Gute Bessering Hauser LLC	No
TMK 19-00332	03/14/2019	02/03/2020	NATIONAL LEAGUE	Office of the Commissioner of Baseball	No
TMK 19-00333	03/14/2019	09/01/2024	MLB	Major League Baseball Properties, Inc.	No
TMK 19-00334	03/14/2019	09/01/2024	MLB	Major League Baseball Properties, Inc.	No
TMK 19-00335	03/14/2019	01/23/2028	NY (Stylized)	New York Yankees Partnership	No
TMK 19-00336	03/14/2019	08/10/2021	TEXAS (Stylized)	RANGERS BASEBALL LLC	No
TMK 19-00337	03/14/2019	02/06/2028	NY (Stylized)	New York Yankees Partnership	No
TMK 19-00338	03/14/2019	01/30/2028	YANKERS	New York Yankees	No
TMK 19-00339	03/14/2019	02/06/2028	REDS	The Cincinnati Reds LLC	No
TMK 19-00340	03/14/2019	06/30/2020	T TEXAS RANGERS and Design	RANGERS BASEBALL LLC	No
TMK 19-00341	03/14/2019	01/30/2028	YANKERS	New York Yankees Partnership	No
TMK 19-00342	03/14/2019	07/19/2024	ROCKIES	COLORADO ROCKIES BASEBALL CLUB, LTD.	No
TMK 19-00343	03/14/2019	07/01/2024	ASTROS (Stylized)	Houston Astros, LLC	No
TMK 19-00344	03/14/2019	03/18/2028	T (Stylized)	RANGERS BASEBALL LLC	No
TMK 19-00345	03/14/2019	01/23/2028	T TEXAS RANGERS and Design	RANGERS BASEBALL LLC	No
TMK 19-00346	03/14/2019	09/03/2028	W (Stylized)	WASHINGTON NATIONALS BASEBALL CLUB, LLC	No
TMK 19-00347	03/14/2019	02/19/2024	WASHINGTON (Stylized)	Washington Nationals Baseball Club, LLC	No
TMK 19-00348	03/14/2019	04/15/2028	SD (Stylized)	Padres L.P.	No

CBP IPR RECORDATION — MARCH 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 19-00349	03/14/2019	08/06/2028	CR (Stylized)	Colorado Rockies Baseball Club, Ltd.	No
TMK 19-00350	03/18/2019	04/17/2027	TOOLOUD	ABC Online Resources, LLC	No
TMK 19-00351	03/18/2019	07/01/2024	H and Star Design	Houston Astros, LLC	No
TMK 19-00352	03/18/2019	03/29/2026	KC and Design	Kansas City Royals Baseball Corporation	No
TMK 19-00353	03/18/2019	05/19/2028	TC (Stylized)	MINNESOTA TWINS, LLC	No
TMK 19-00354	03/18/2019	12/09/2027	GRILLMASTER	United States Pumice Company	No
TMK 19-00355	03/18/2019	07/08/2028	WORLD SERIES	Office of the Commissioner of Baseball	No
TMK 19-00356	03/18/2019	08/26/2019	WORLD SERIES	Office of the Commissioner of Baseball	No
TMK 19-00357	03/18/2019	08/27/2028	WORLD SERIES	Office of the Commissioner of Baseball	No
TMK 19-00358	03/18/2019	11/24/2020	FLEXI-SCOUR	United States Pumice Company	No
TMK 19-00359	03/18/2019	09/18/2026	FOOTSTONE	United States Pumice Company	No
TMK 19-00360	03/18/2019	09/25/2026	POOL BLOK	United States Pumice Company	No
TMK 19-00361	03/18/2019	06/01/2026	SIERRA ARTISAN	United States Pumice Company	No
TMK 19-00362	03/18/2019	10/16/2026	FEATHERROCK	Featherock, Inc.	No
TMK 19-00363	03/18/2019	07/23/2023	ICLUSIG	ARIAD Pharmaceuticals, Inc.	No
TMK 19-00364	03/20/2019	06/17/2025	BELSONMRA	Merck Sharp & Dohme Corp	No
TMK 19-00365	03/20/2019	03/14/2022	SCHERING	MERCK SHARP & DOHME CORP.	No
TMK 19-00366	03/20/2019	06/07/2027	DIA-BURS	MANI, Inc.	No
TMK 19-00367	03/20/2019	07/12/2026	ZEPATIER	Merck Sharp & Dohme Corp.	No

CBP IPR RECORDATION — MARCH 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 19-00368	03/20/2019	12/23/2024	BRAVECTO	Intervet Inc.	No
TMK 19-00369	03/20/2019	02/01/2027	MYSTIC NAILS	Zabel Inc.	No
TMK 19-00370	03/20/2019	06/05/2029	DESIGN (STRIPE) & COLOR	Gucci America, Inc.	No
TMK 19-00371	03/20/2019	05/13/2027	HEIRLOOM	Minglement, Inc.	No
TMK 19-00372	03/20/2019	05/19/2029	DigiGalaxy	DigiGalaxy LLC	No
TMK 19-00373	03/20/2019	03/25/2023	KEYTRUDA	Merck Sharp & Dohme Corp.	No
TMK 19-00374	03/20/2019	09/27/2026	MOTO METAL	WHEEL PROS, LLC	No
TMK 19-00375	03/20/2019	12/26/2026	PALLO & Design	JoeGlo & Co., LLC	No
TMK 19-00376	03/20/2019	10/12/2026	KMC WHEELS (Stylized)	Wheel Pros, LLC	No
TMK 19-00377	03/20/2019	09/10/2024	OPDIVO	Bristol-Myers Squibb Company	No
TMK 19-00378	03/20/2019	08/17/2026	CEASE FIRE & Design	CEASE FIRE, LLC	No
TMK 19-00379	03/20/2019	06/15/2026	XD Series & Design	Wheel Pros, LLC	No
TMK 19-00380	03/20/2019	09/14/2026	BRIDION	Merck Sharp & Dohme B.V.	No
TMK 19-00381	03/20/2019	03/18/2028	ISENTRESS	MERCK SHARP & DOHME CORP.	No
TMK 19-00382	03/20/2019	04/16/2028	SportBike Chic & Design	SportBike Chic	No
TMK 19-00383	03/20/2019	07/05/2026	NICCE	Mitchel Galvin-Farnol	No
TMK 19-00384	03/20/2019	07/24/2022	DESIGN ONLY (3 DIMENSIONAL HANDLE)	WCM Industries, Inc.	No
TMK 19-00385	03/20/2019	11/13/2023	DESIGN ONLY (3D HANDLE)	WCM Industries, Inc.	No

CBP IPR RECORDATION — MARCH 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 19-00386	03/20/2019	05/05/2023	DESIGN ONLY (3D HANDLE DESIGN Brown)	WCM Industries, Inc.	No
TMK 19-00387	03/20/2019	04/16/2028	BBPOS	BBPOS Limited limited company (Ltd.)	No
TMK 19-00388	03/20/2019	04/01/2028	NEXPLANON	MERCK SHARP & DOHME B.V.	No
TMK 19-00389	03/25/2019	07/05/2026	TOTTENHAM HOTSPUR & Design	Tottenham Hotspur Limited	No
TMK 19-00390	03/25/2019	05/28/2026	FREDDY (Stylized)	FREDDY s.p.a.	No
TMK 19-00391	03/26/2019	09/26/2027	DESIGN ONLY (DANCING MAN)	FREDDY SPA S.P.A.	No
TMK 19-00392	03/26/2019	11/27/2023	WR.UP	FREDDY s.p.a.	No
TMK 19-00393	03/26/2019	04/24/2026	FREDDY	FREDDY S.P.A.	No
TMK 19-00394	03/29/2019	09/07/2026	GAMBLER	Top Tobacco L.P.	No
TMK 19-00395	03/29/2019	12/10/2022	JOB & man design	REPUBLIC TECHNOLOGIES (NA), LLC	No
TMK 19-00396	03/29/2019	04/23/2021	JOB & Design	Republic Technologies (NA), LLC	No
TMK 19-00397	03/29/2019	03/13/2026	TOP-O-MATIC (Stylized)	Top Tobacco, L.P.	No
TMK 19-00398	03/29/2019	03/04/2029	FITBIT FLYER	Fitbit, Inc.	No
TMK 19-00399	03/29/2019	04/29/2029	FITBIT IONIC	Fitbit, Inc.	No
TMK 19-00400	03/29/2019	06/19/2029	FORTNITE	Epic Games, Inc.	No
TMK 19-00401	03/29/2019	10/28/2019	TANGO DOWN	TangoDown, Inc.	No
TMK 19-00402	03/29/2019	10/28/2019	BATTLEGRIP	TangoDown, Inc.	No
TMK 19-00403	03/29/2019	10/28/2019	ARC	TangoDown, Inc.	No
TMK 19-00404	03/29/2019	02/16/2021	ACB	TangoDown, Inc.	No

CBP IPR RECORDATION — MARCH 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/Trm	Owner Name	GM Restricted
TMK 19-00405	03/29/2019	11/22/2027	COAST	HIGH RIDGE BRANDS CO.	No
TMK 19-00406	03/29/2019	06/12/2029	WILD EARTH	Wild Earth, Inc.	No
TMK 19-00407	03/29/2019	05/12/2029	MIJENKO	Mijenko	No
TMK 19-00408	03/29/2019	08/29/2028	LAURA LEE LOS ANGELES (Stylized/Design)	Laura Lee Inc.	No
TMK 19-00409	03/29/2019	08/29/2028	RICKY ZOOM	Entertainment One UK Limited limited company (ltd.)	No
TMK 19-00410	03/29/2019	03/23/2025	KD KYMDAN SINCE 1954 (STYLIZED)	KYMDAN AMERICA, INC.	No
TMK 19-00411	03/29/2019	03/30/2025	KD SINCE 1954 KYMDAN 100% NATURAL LATEXMAITRESSES INTERNATIONALQUALITY YOUR COMFORT IS OUR BUSINESS & Design	KYMDAN AMERICA, INC.	No
TMK 91-00036	03/13/2019	11/27/2025	JOB and Design	Republic Technologies (NA), LLC	No
TMK 91-00165	03/29/2019	04/17/2029	ORIGINS	ORIGINS NATURAL RESOURCES INC.	No
TMK 92-00673	03/06/2019	06/15/2028	1.0 POINT (STYLIZED)	DRL ENTERPRISES, INC.	No
TMK 99-00067	03/12/2019	07/18/2029	C REDS & Design	The Cincinnati Reds LLC	No
TNM 19-00013	03/15/2019	07/21/9999	PERFORMANCE RACING WAREHOUSE	PRW INDUSTRIES, INC.	No
TNM 19-00014	03/15/2019	01/19/9999	PRW	PRW Industries, Inc.	No

**PROPOSED REVOCATION OF ONE RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF WOOD FENCE POST
BRACKET ASSEMBLY**

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

ACTION: Notice of proposed revocation of one ruling letter and revocation of treatment relating to the tariff classification of wood fence post bracket assembly.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke one ruling letter concerning tariff classification of a wood fence post bracket assembly under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before May 24, 2019.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229-1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325-0118.

FOR FURTHER INFORMATION CONTACT: Michele A. Boyd, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325-0136.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and

related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the tariff classification of a wood fence post bracket assembly. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) L83439, dated March 25, 2005 (Attachment 1), this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this comment period. An importer’s failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY L83439, CBP classified a wood fence post bracket assembly in heading 7326, HTSUS, specifically in subheading 7326.90.8587, HTSUSA (Annotated), which provides for “Other articles of iron or steel: Other: Other: Other: Other...Other.” CBP has reviewed NY L83439 and has determined the ruling letter to be in error. It is now CBP’s position that wood fence post bracket assembly is properly classified, in heading 7318, HTSUS, specifically in subheading 7318.15.5090, HTSUSA, which provides for “Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles. Of iron or steel: threaded articles: Other screws and bolts, whether or not with the nuts or washers: Studs: Other: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY L83439 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H268650, set forth as Attachment 2 to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

Before taking this action, consideration will be given to any written comments timely received.

Dated: April 4, 2019

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

NY L83439

March 25, 2005

CLA-2-73:RR:NC:N1:113 L83439

CATEGORY: Classification

TARIFF NO.: 7326.90.8587

MR. ANURAG CHOPRA
MARATHON TOOLS, INC.
400 E. PRATT STREET, #800
BALTIMORE, MD 21202

RE: The tariff classification of fence insulators from India

DEAR MR. CHOPRA:

In your letter dated March 11, 2005, you requested a tariff classification ruling.

The sample you provided is a wood fence post bracket assembly, made of steel. The item is used to stand a live wire off an electrified fence. The item resembles a 13.5 cm screw hook. At one end is the threading to screw the item into the wood post. At the other end is a plastic bobbin held in place by a locknut.

The applicable subheading for the insulator will be 7326.90.8587, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of iron or steel, other. The rate of duty will be 2.9 percent ad valorem.

Articles classifiable under subheading 7326.90.8587, HTS, which are products of India are currently entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations. The GSP, however, is subject to modification and periodic suspension, which may affect the status of your transaction at the time of entry for consumption or withdrawal from warehouse. To obtain current information on GSP, check our Web site at www.cbp.gov and search for the term "GSP".

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist James Smyth at 646-733-3018.

Sincerely,

ROBERT B. SWIERUPSKI
Director,
National Commodity
Specialist Division

ATTACHMENT B

HQ H268650
OT:RR:CTF:CPMM H268650 MAB
CATEGORY: Classification
TARIFF NO.: 7318.15.5090

MR. ANURAG CHOPRA
MARATHON TOOLS, INC.
10432 BALLS FORD ROAD, #300
MANASSAS, VIRGINIA 20109

RE: Revocation of NY L83439; Classification of wood fence post bracket assembly

DEAR MR. CHOPRA:

On March 25, 2005, U.S. Customs and Border Protection (CBP) issued New York Ruling Letter (“NY”) L83439 to you on behalf of Marathon Tools, Inc., classifying a wood fence post bracket assembly in heading 7326 of the Harmonized Tariff Schedule of the United States (HTSUS). After reviewing NY L83439, we have found that ruling to be in error with respect to the tariff classification.

FACTS:

The merchandise at issue is a wood fence post bracket assembly. The item is used to support a live wire on an electrified fence. It is composed of a wood fence post bracket, a corresponding locknut, and a bobbin.

The wood fence post bracket is an L-shaped, zinc-plated, steel rod measuring approximately three-eighths (3/8) of an inch in diameter and eight (8) inches in length. One end of the rod has coarse (wood screw) threading and a sharp point, which is designed to screw into a wood fence post or a tree. The rod is bent at an approximate right angle roughly six (6) inches from the point. The opposite end of the rod is not pointed and has fine (machine screw) threading to accommodate the locknut. The net weight of the wood fence post bracket is approximately 112 grams. The locknut is made of zinc-plated steel and an injection molded nylon insert. It is designed to hold the plastic bobbin in place when torqued onto the fine thread of the wood fence post bracket. The net weight of the locknut is approximately 11 grams. The insulator bobbin is made of injection molded plastic. It measures approximately one and three-fifths (1-3/5) inches in diameter and one (1) inch in width. When in use, fence wire passes through the bobbin’s groove. The net weight of the insulator bobbin is approximately 20.26 grams.

In NY L83439, CBP classified the instant wood fence post bracket assembly in heading 7326, HTSUS, which provides for “Other articles of iron or steel.”¹

¹ When this ruling was issued in 2005, CBP classified the instant merchandise in subheading 7326.90.8587, HTSUSA (Annotated) (2005). However, this subheading has been replaced by 7326.90.8688, HTSUSA (2018), and provides for “Other articles of iron or steel: Other: Other: Other: Other...Other.”

ISSUE:

Whether the wood fence post bracket assembly is considered “Other articles of plastics and other materials of heading 3901 to 3914” of heading 3926, HTSUS, or “Screws, bolts, nuts...and similar articles, of iron and steel” of heading 7318, HTSUS, or “Other articles of iron or steel” of heading 7326, HTSUS.

LAW AND ANALYSIS:

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

GRI 3 provides, in pertinent part, that when goods are *prima facie*, classifiable under two or more headings, classification shall be effected by the following:

- (a) [t]he heading which provides the most specific heading shall be preferred to headings providing a more general description. However, ... when two or more headings each refer to part only of the items in a set, those headings are to be regarded as equally specific, even if one of them gives a more complete or precise description of the goods. (b) ... goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character ... (c) [w]hen goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

The 2018 HTSUS provisions under consideration are as follows:

3926 Other articles of plastics and articles of other materials of heading 3901 to 3914:

7318 Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel:

7326 Other articles of iron or steel:

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. While not legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Explanatory Note VII to GRI 3(b) states that:

The factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature

of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.

In NY L83439, CBP classified the instant wood fence post bracket assembly in heading 7326, HTSUS, by application of GRI 1. However, we find the analysis used for classifying the instant article is incorrect. The wood fence post bracket assembly is a composite good consisting of different components (i.e., the wood fence post bracket made of steel with corresponding locknut and plastic bobbin), each of which, if imported separately, would be classifiable under different tariff headings. Accordingly, we find that the classification of this product should be determined on the basis of GRI 3(b) or 3(c) and not GRI 1.

Thus, we will first consider the correct classification of the wood fence post bracket made of steel with corresponding locknut.

Heading 7326, HTSUS, covers a wide range of iron or steel articles that are not more specifically provided for elsewhere in the HTSUS, whereas heading 7318 provides for more specific articles. In particular, subheading 7318.15.50, HTSUS, provides for threaded studs made of iron or steel, whether or not with their nuts or washers.

The definition of a stud was addressed in Informed Compliance Publication (ICP) “What Every Member of The Trade Community Should Know About: Fasteners of Heading 7318” (April 2012). CBP defined a stud as “a threaded fastener with one end anchored or fixed in place to provide a projection to which something may be attached by a nut or other fastener.” *Id.* at 11.

It is our determination that the wood fence post bracket made of steel in the instant case meets the definition of a stud as described in the aforementioned ICP. One end of the bracket (or rod) has coarse (wood screw) threading and a sharp point which is designed to screw into a wood fence post or a tree. The opposite end of the bracket (or rod) is not pointed and has fine (machine screw) threading to accommodate the locknut and bobbin. Therefore, the instant wood fence post bracket made of steel is classified in heading 7318, HTSUS, and specifically in subheading 7318.15.50, HTSUS, as “Screws, bolts, nut,...and similar articles, of iron or steel: Threaded articles: Other screws and bolts, whether or not with their nuts or washers: Studs.” Because the instant wood fence post bracket made of steel is described more specifically in another heading, it is not classified in heading 7326, HTSUS.

We note that in N265109, dated June 12, 2015, CBP classified a similar wood fence post bracket and corresponding locknut made of steel in heading 7318, HTSUS, and specifically in subheading 7318.15.50, HTSUS.² We concur with this classification.

The fact that the instant L-shaped rod is bent at a right angle does not preclude its classification as a stud in heading 7318, HTSUS. In N059835, dated May 20, 2009, CBP classified a threaded steel foundation rod with a right angle bend at one end in heading 7318, HTSUS, and specifically in subheading 7318.15.50, HTSUS.

In NY G81864, dated September 11, 2000, CBP classified a steel extension bracket for an electric fence in subheading 7326.90.85, HTSUS. This L-shaped bracket measured eight (8) inches long by three (3) inches wide and had a plastic clip at its tip to fold an electric wire six (6) inches from the fence

² We note the only difference between NY L83439 and N265109 is that in the former ruling the wood fence post bracket with corresponding locknut included a plastic bobbin, whereas in the latter ruling the wood fence post bracket with corresponding locknut did not.

post. Although it served a similar function, we note that this article differed significantly from the instant merchandise because it did not meet the definition of a stud of heading 7318, HTSUS.

In regard to the classification of the plastic bobbin, it falls under chapter 39 (“Plastics and Articles Thereof”), and is classified in heading 3926, HTSUS, as “Other articles of plastic...” Specifically, it is classified in subheading 3926.90.9996, HTSUSA, as “Other articles of plastics...Other: Other... Other.”³ (See NY N170381, dated June 20, 2011, classifying plastic bobbins from China in subheading 3926.90.99, HTSUS.)

According to GRI 3(b), composite goods consisting of different materials or made up of different components shall be classified as if they consisted of the material or component which gives them their essential character. Although the GRIs do not provide a definition of “essential character,” EN (VIII) of GRI 3(b) provides guidance. According to this EN, the essential character may be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.

Based on a physical examination of the instant article and information provided by the importer, the steel rod and locknut predominate by weight, bulk, and value over the plastic insulator bobbin. However, the plastic bobbin performs an essential role of holding a live wire on an electrified fence.

In Headquarters Ruling Letter (HQ) H013681, dated June 27, 2008, CBP classified screw and anchor sets comprised of plastic anchors and steel screws in heading 7318, HTSUS, by application of GRI 3(c). CBP noted that the plastic anchors expand and grip the surface of a wall as the screw is tightened. The anchors provide strength and stability, which reinforce the set’s ability to support and mount heavy items. However, without the mounting capability of the screw, the anchor could not function. Although the effectiveness of the set would be greatly reduced without the anchor, standing alone, the screw has the independent ability to mount or fasten articles to a wall. CBP determined that both the screw and anchor were equally essential in performing the primary purpose of the set, and accordingly, neither imparted the essential character.

We find the rationale CBP employed in HQ H013681 to be persuasive in determining the instant case. (See also HQ 953095, dated April 15, 1993, NY I83699, dated June 25, 2002, and NY I84859, dated August 8, 2002; these rulings reflect CBP’s consistent classification of substantially similar screw/anchor kits under heading 7318, HTSUS.)

It is therefore our view that neither component of the instant wood fence post bracket assembly imparts the essential character of the subject merchandise. The plastic bobbin performs the role of holding and insulating the electrified wire, while the steel stud and locknut perform the role of securely mounting the bobbin to a fence or tree. Although the bobbin is the only component that comes in physical contact with the wire, it could not perform its intended function without the strength and support provided by the stud and locknut. Although the stud and locknut make up the greater weight, bulk, and value, without the bobbin, the stud alone cannot carry out the specific activity or function of supporting a live wire on an electrified fence.

³ In NY L83439, dated March 25, 2005, the applicable subheading for the plastic bobbin was 3926.90.98, HTSUS; as of 2018, this subheading has been changed at the eight-digit level to 3926.90.99, HTSUS.

Thus, CBP regards the stud with locknut and the bobbin to be equally essential to the use of the article. Accordingly, GRI 3(b) is not applicable and we must turn to GRI 3(c).

GRI 3(c) provides that when goods cannot be classified by reference to GRI 3(a) or 3(b), they are to be classified in the heading that occurs last in numerical order among those which equally merit consideration. If imported separately, the stud and locknut would be classified together in heading 7318, HTSUS, while the plastic bobbin would be classified in heading 3926, HTSUS. Consequently, by application of GRI 3(c), we find that the correct classification of wood fence post bracket assembly is under heading 7318, HTSUS, as, “[s]crews, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles of iron or steel.”

HOLDING:

By application of GRI 3(c), the wood fence post bracket assembly is classified in heading 7318, HTSUS. Specifically, it is provided for in subheading 7318.15.5090, HTSUSA, which provides for: “Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles. Of iron or steel: Threaded articles: Other screws and bolts, whether or not with the nuts or washers: Studs: Other.” The column one, general rate of duty is *Free*.

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

The merchandise in question may be subject to antidumping duties or countervailing duties (AD/CVD). We note that the International Trade Administration in the Department of Commerce is not necessarily bound by a country of origin or classification determination issued by CBP, with regard to the scope of antidumping or countervailing duty orders. Written decisions regarding the scope of AD/CVD orders are issued by the International Trade Administration and are separate from tariff classification and origin rulings issued by CBP. The International Trade Administration can be contacted at <http://www.trade.gov/ia/>. A list of current AD/CVD investigations at the United States International Trade Commission can be viewed on its website at <http://www.usitc.gov>. AD/CVD cash deposit and liquidation messages can be searched using ACE, the system of record for AD/CVD messages, or the AD/CVD Search tool at <http://addevd.cbp.gov/index.asp?ac=home>.

EFFECT ON OTHER RULINGS:

NY L83439, dated March 25, 2005, is REVOKED.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**PROPOSED MODIFICATION OF ONE RULING LETTER
AND REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF RECLINING SOFAS**

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

ACTION: Notice of proposed revocation of one ruling letter, and revocation of treatment relating to the tariff classification of reclining sofas.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to modify one ruling letter concerning tariff classification of reclining sofas under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to modify any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before May 24, 2019.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Reema Radwan, Chemicals, Petroleum, Metals and Miscellaneous Articles Branch, Regulations and Rulings, Office of Trade, at (202) 325–7703.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the

importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to modify one ruling letter pertaining to the tariff classification of reclining sofas. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) N289071, dated August 25, 2017 (Attachment A), this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this comment period. An importer’s failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY N289071, CBP classified reclining sofas in heading 9401, HTSUS, specifically in subheading 9401.61.40, HTSUS, which provides for “Other seats, with wooden frames: Upholstered: Chairs: Other.” CBP has reviewed NY N289071 and has determined the ruling letter to be in error. It is now CBP’s position that reclining sofas are properly classified, in heading 9401, HTSUS, specifically in subheading 9401.61.60, HTSUS, which provides for “Other seats, with wood frames: Upholstered: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to modify NY N289071 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H290176, set forth as Attachment B to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

Before taking this action, consideration will be given to any written comments timely received.

Dated: April 4, 2019

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

N289071

August 25, 2017

CLA-2-94:OT:RR:NC:N4:433

CATEGORY: Classification

TARIFF NO.: 9401.61.4011

DENISE N. YAPP
TARIFF CLASSIFICATION SPECIALIST
ASHLEY FURNITURE INDUSTRIES, INC.
ONE ASHLEY WAY
ARCADIA, WI 54612

RE: The tariff classification of a recliner and reclining sofa from Vietnam.

DEAR Ms. YAPP:

In your letter dated August 8, 2017, you requested a tariff classification ruling. Description and illustrative literature were provided.

Ashely item number 4060025 is described, and depicted in photographs and drawings as a wood framed rocker recliner. The seat frame, back and arms are constructed of plywood and the reclining mechanism is of metal. The rocker recliner features a metal drop-in unitized seat-box for strength and durability that rests on the floor. This item will be completely upholstered in polyester fabric.

Ashley item number 4060088 is described, and depicted in photographs and drawings as a wood framed reclining sofa. The seat frame, back and arms are constructed of plywood and the reclining mechanism is of metal. The reclining sofa features a metal drop-in unitized seat-box for strength and durability that rests on the floor. This item will be completely upholstered in polyester fabric.

We find that the term “chair” is not defined in the text of Chapter 94 or its heading 9401 of the Harmonized Tariff Schedule of the United States (HTSUS), nor the Explanatory Notes (ENs) to the HTSUS. When terms are not defined in the Harmonized Tariff Schedule of the United States (HTSUS) or the Explanatory Notes (ENs) to the HTSUS, they are construed in accordance with their common and commercial meaning – *Nippon Kogasku (USA), Inc. v. United States*, 69 CCPA 89, 673 F.2d 380 (1982). Common and commercial meaning may be determined by consulting dictionaries, lexicons, scientific authorities and other reliable sources. *C.J. Tower & Sons v. United States*, 69 CCPA 128, 673 F.2d 1268 (1982).

Wikipedia defines a “chair” as a piece of furniture with a raised surface supported by legs, commonly used to seat a single person; a “loveseat” as an upholstered padded chair for two people; and a “couch, sofa or settee” as an upholstered, padded chair for more than two persons. Other online sources such as: American Heritage® Dictionary of the English Language, 2016, defines a “loveseat” as a small sofa or double chair that seats two people; Collins English Dictionary – Complete and Unabridged, 12th Edition, 2014, defines “loveseat” as (Furniture) an armchair for two people; and Merriam-Webster, defines a “loveseat” as a double chair, sofa or settee for two persons. By interpretation and extraction and formulation of the meanings for “chair,” from the cited reliable dictionary sources above, the rocker recliner and

reclining sofa both fall within the meaning of chair. Accordingly, the merchandise concerned is classified under the subheading of [chair] for tariff purposes.

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

Because subheadings 9401.61 and 9401.69 (seats with wooden frames), and 9401.71 and 9401.79 (seats with metal frames) of the HTSUS contain language in their greater subheadings based on their frames, there is no need to take into account the composite nature of the goods under GRI 3 (b), HTSUS. It is our opinion that the wood framed rocker recliner and the wood framed reclining sofa are classified under the principle of GRI 1 of the HTSUS, in that both articles meet the greater language of the subheading which reads for subheadings 9401.61 and 9401.69, "Other seats, with wooden frames."

The applicable subheading for the upholstered, wood framed rocker recliner and upholstered, wood framed reclining sofa, will be *9401.61.4011*, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other seats, with wooden frames: Upholstered: Chairs: Other; Other household." The rate of duty will be free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Neil H. Levy at neil.h.levy@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK

Director

National Commodity Specialist Division

Items per page:

ATTACHMENT B

HQ H290176
OT:RR:CTF:CPMM H290176 RGR
CATEGORY: Classification
TARIFF NO.: 9401.61.6011

DENISE N. YAPP
TARIFF CLASSIFICATION SPECIALIST
ASHLEY FURNITURE INDUSTRIES, INC.
ONE ASHLEY WAY
ARCADIA, WI 54612

RE: Modification of NY N289071; Tariff classification of reclining sofa from Vietnam

DEAR Ms. YAPP:

This is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered New York (“NY”) Ruling Letter N289071, dated August 25, 2017, regarding the classification under the Harmonized Tariff Schedule of the United States (“HTSUS”) of a recliner and sofa. The recliner and sofa were classified under subheading 9401.61.4011, HTSUSA (Annotated), as “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other seats, with wooden frames: Upholstered: Chairs: Other: Other household.” After reviewing this ruling in its entirety, we believe that it is partially in error. For the reasons set forth below, we hereby modify NY N289071 with respect to the classification of the sofa. The remaining analysis of NY N289071 remains unchanged.

FACTS:

In NY N289071, we described the recliner as follows:

Ashely (sic) item number 4060025 is described, and depicted in photographs and drawings as a wood framed rocker recliner. The seat frame, back and arms are constructed of plywood and the reclining mechanism is of metal. The rocker recliner features a metal drop-in utilized seat-box for strength and durability that rests on the floor. This item will be completely upholstered in polyester fabric.

In NY N289071, we described the sofa as follows:

Ashley item number 4060088 is described, and depicted in photographs and drawings as a wood framed reclining sofa. The seat frame, back and arms are constructed of plywood and the reclining mechanism is of metal. The reclining sofa features a metal drop-in utilized seat-box for strength and durability that rests on the floor. This item will be completely upholstered in polyester fabric.

ISSUE:

Whether sofas are classified under subheading 9401.61.4011, HTSUSA, as “[o]ther seats, with wooden frames: [c]hairs,” or under subheading 9401.61.6011, HTSUSA, as “[o]ther seats, with wooden frames: [o]ther.”

LAW AND ANALYSIS:

The classification of merchandise under the HTSUS is governed by the General Rules of Interpretation (“GRIs”). GRI 1 provides, in part, that “for legal purposes, classification shall be determined according to terms of the headings and any relative section or chapter notes...” In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied in order.

The HTSUS headings under consideration are as follows:

9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof:
	Other seats, with wooden frames:
9401.61	Upholstered:
	Chairs:
9401.61.40	Other:
9401.61.4011	Other household.
9401.61.60	Other:
9401.61.6011	Other household.
	* * * * *

The Harmonized Commodity Description and Coding System Explanatory Notes (EN) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of the headings. It is CBP’s practice to consult, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN 94.01 provides, in pertinent part, as follows:

Subject to the exclusions mentioned below, this heading covers all seats (including those for vehicles, provided that they comply with the conditions prescribed in Note 2 to this Chapter), for example:

Lounge chairs, arm chairs, folding chairs, deck chairs, infants’ high chairs and children’s seats designed to be hung on the back of other seats (including vehicle seats), grandfather chairs, benches, couches (including those with electrical heating), settees, sofas, ottomans and the like, stools (such as piano stools, draughtsmen’s stools, typists’ stools, and dual purpose stool steps), seats which incorporate a sound system and are suitable for use with video game consoles and machines, television or satellite receivers, as well as with DVD, music CD, MP3 or video cassette players.

* * * * *

Subheading 9401.60, HTSUS, provides for “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other seats, with wooden frames: Upholstered.” There is no dispute at the six-digit level that the subject reclining sofas and recliners are classified therein. Instead, the issue arises at the eight-digit subheading level as to whether or

not the subject reclining sofas and recliners are “chairs” of subheading 9401.61.40, HTSUS, or “other” of subheading 9401.61.60, HTSUS.

In NY N289071, CBP determined that the sofas and recliners were classified in subheading 9401.61.4011, HTSUSA, as “Other seats, with wooden frames: Upholstered: Chairs: Other: Other household.” However, in its reconsideration request, Ashley Furniture Industries, Inc. (“Ashley Furniture”) argues that the correct classification of the sofas is under subheading 9401.61.6011, HTSUSA, as “Other seats, with wood frames: Upholstered: Other: Other household.”

The term “chair” is not defined in the tariff schedule or in the ENs. When a tariff term is not defined by the HTSUS or its legislative history, “the term’s correct meaning is its common meaning.” *Mita Copystar Am. v. United States*, 21 F.3d 1079, 1082 (Fed. Cir. 1994). The common meaning of a term used in commerce is presumed to be the same as its commercial meaning. *Simod Am. Corp. v. United States*, 872 F.2d 1572, 1576 (Fed. Cir. 1989). To ascertain the common meaning of a term, CBP may consult “dictionaries, scientific authorities, and other reliable information sources” and “lexicographic and other materials.” *C.J. Tower & Sons v. United States*, 673 F.2d 1268, 1271 (C.C.P.A. 1982); *Simod*, 872 F.2d at 1576. The Oxford English Dictionary defines “chair” as “[a] seat for one person (always implying more or less of comfort and ease).” See Oxford English Dictionary, <http://www.oed.com> (last visited June 12, 2018). The Merriam-Webster Online Dictionary also defines “chair” as “a seat typically having four legs and a back for one person.” See Merriam-Webster, <https://www.merriam-webster.com/dictionary/chair> (last visited June 12, 2018). Unlike a chair for one person, the Merriam-Webster Online Dictionary defines a “sofa” as “a long upholstered seat usually with arms and a back and often convertible into a bed.” See Merriam-Webster, <https://www.merriam-webster.com/dictionary/chair> (last visited June 12, 2018). Similarly, the Oxford English Dictionary distinguishes a chair meant for one person from a sofa, which it defines as “[a] long, stuffed seat with a back and ends or end, used for reclining; a form of lounge or couch.” See Oxford English Dictionary, <http://www.oed.com> (last visited June 12, 2018). Therefore, in order for seats of heading 9401, HTSUS, to be classified as “chairs” of subheading 9401.61.40, HTSUS, they can only accommodate one person.

The subject merchandise consists of two different items: a wood framed rocker recliner and a wood framed sofa that reclines. As depicted in photographs and based on descriptions of the rocker recliner, this item seats only one person. Unlike the rocker recliner, photographs and descriptions of the sofa depict an item with three seat backs for seating three people. Both the rocker recliner and the sofa have seat frames, backs and arms constructed of plywood, a metal reclining mechanism, and polyester fabric upholstery.

In NY N007097, dated March 1, 2007; NY I85738, dated August 28, 2002; NY I82172, dated May 29, 2002; and NY A81799, dated April 30, 1996, we classified sofas and loveseats in subheading 9401.61.60, HTSUS. In those rulings, the items at issue were also upholstered sofas with wooden frames. The only difference was that those sofas were not reclining sofas. However, this detail is irrelevant as to whether the sofas are classified in subheading 9401.61.60, HTSUS, or in subheading 9401.61.40, HTSUS, as long as the merchandise, in its condition as imported, seats more than one person. For instance, in NY B85945, dated May 30, 1997, even though an item was described as a sofa, it was classified in subheading 9401.61.40, HTSUS, because it could only accommodate one person.

In NY N289071, the item described as a rocker recliner was correctly classified in subheading 9401.61.40, HTSUS, because it only accommodates one person.

HOLDING:

Pursuant to GRI 1, the subject sofas are classified in subheading 9401, HTSUS, specifically under subheading 9401.61.6011, HTSUSA, as “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other seats, with wooden frames: Upholstered: Other: Other household.” The 2018 column one general rate of duty is free.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompany duty rate are provided on the World Wide Web, at <http://www.usitc.gov/tata.hts/>.

EFFECT ON OTHER RULINGS:

NY N289071, dated August 25, 2017, is hereby MODIFIED as set forth above with regard to the classification of sofas described therein, but the classification of the rocker recliners remains in effect.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**PROPOSED MODIFICATION OF A RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
COUNTRY OF ORIGIN MARKING FOR MARKING
PURPOSES OF THE TEMS™ POCKET NETWORK TESTING
DEVICE**

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

ACTION: Notice of proposed modification of a ruling letter and revocation of treatment with respect to the country of origin marking determination of the TEMS™ Pocket network testing device.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to modify a ruling with respect to the country of origin marking determination, pursuant to 19 U.S.C. §1304, of the TEMS™ Pocket network testing device. Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before May 24, 2019.

ADDRESS: Written comments are to be addressed to the U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Anthony L. Shurn, Tariff Classification and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0218.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L.

103–182, 107 Stat. 2057) (“Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations.

Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is proposing to modify a ruling letter, with respect to the country of origin marking determination of the TEMS™ Pocket network testing device. Although in this notice, CBP is specifically referring to CBP Ruling Letter HQ H014068 (October 9, 2007) (Attachment A), this notice covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the country of origin marking determination of the TEMS™ Pocket network testing device subject to this notice should advise CBP during the notice period.

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

In HQ H014068, CBP ruled, pursuant to 19 U.S.C. §1304, that the country of origin for marking purposes of the TEMS™ Pocket network testing device is Sweden. CBP has reviewed HQ H014068 and has determined the ruling letter to be in error. It is now CBP's position that the country of origin for marking purposes of the TEMS™ Pocket network testing device is China or Malaysia or any other country of manufacture where an article recognizable as a mobile telephone is created.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to modify HQ H014068 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ H243924, set forth as Attachment B to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

Before taking this action, consideration will be given to any written comments timely received.

Dated: April 4, 2019

GREG CONNOR
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

HQ H014068

October 9, 2007

CLA-2 OT:RR:CTF:TCM H014068 HkP

CATEGORY: Classification

TARIFF NO.: 9030.40.0000

MS. MELISSA HOFFMAN
COMPLIANCE IMPORT SPECIALIST
ERICSSON, INC.
6300 LEGACY DRIVE
MAILSTOP EVW 1-B-5
PLANO, TX 75024

RE: Classification and Country of Origin of the “TEMS™ Pocket” device

DEAR MS. HOFFMAN:

This is in response to your request submitted on May 31, 2007, to the National Commodity Specialist Division of U.S. Customs and Border Protection (“CBP”) requesting a binding ruling on behalf of Ericsson, Inc. At issue is the proper classification and country of origin of the “TEMS™ Pocket” device under the Harmonized Tariff Schedule of the United States (“HTSUS”). Your request was forwarded to this office for a response. In reaching our decision we have taken into consideration additional information and the sample provided by you to this office in August 2007, as well as information provided during a teleconference on September 19, 2007.

FACTS:

TEMS™ is an Ericsson company which develops, markets, and sells testing equipment for wireless networks. TEMS is not an acronym.

The TEMS Pocket is a commercially available fully functional cellular phone onto which TEMS network testing software has been loaded. According to the information submitted, TEMS software allows a cellular phone to function as a testing tool for telecommunication networks. The TEMS Pocket is used by network engineers to verify, maintain and troubleshoot mobile networks as well as for basic cell planning tasks. Collected data can be stored in the handset for later transfer to a computer. The product literature lists some of the key features of the TEMS Pocket as:

Includes a Sony Ericsson K790i, K790a, K800i or Nokia N80 mobile phone

Measures WCDMA 2100 MHz and GSM/GPRS /EDGE 850/900/1800/1900 MHz

Records logfiles for later post-processing analysis

Generates network event notifications

Clearly presents essential network information on the mobile standby display. Also displays channel information and performance measurements during WAP browsing

Measures EGPRS and WCDMA data performance

Provides cell control options including locking on RAT, locking on cell, channel and band, and modifying cell barred behavior

Supports FTP for networking troubleshooting and logfile transfer

Automates call handling, logfile recording, and transfer to server via FTP

Allows data collection in places that are hard to reach with traditional drive-test tools and methods

The cellular phone handset is designed in Sweden and is typically assembled in China or Malaysia. The phone incorporates a camera, music and video player, and an FM radio, and can connect to the Internet. After assembly, the handset is shipped to Sweden where the TEMS software is loaded on to it and tested. According to Ericsson, the TEMS software adds approximately \$2500 worth of value to the phone. A sample of the TEMS Pocket has been provided for our review.

During our teleconference, Ericsson informed CBP that the TEMS Pocket connects to a cellular network as an ordinary phone and that this is the only way in which it can connect to the network to be tested. When the phone is turned on, technical information concerning the network is immediately displayed. CBP was also informed that some of the displayed information is calculated aggregated data. For example, information concerning signal strength for a particular channel is shown as a ratio of signal strength to interference. In order to use the TEMS Pocket as a cellular phone, the TEMS software has to be manually disabled.

According to the product literature, the TEMS Pocket has several data presentation views. Combined views display information valid for all radio access technology. For example, the PDP context view displays PDP addresses and PDP context settings for each address, including the NSAPI and APN. The WCDMA views display cell and network identity along with Universal Terrestrial Radio Access (UTRA) carrier RSSI (Received Signal Strength Indication). For example, the WCDMA Cells view displays UARFCN, cell status, scrambling code, RSCP, Ec/No and path loss for each cell in active set and serving/monitored cells. The GSM/GPRS views contain serving cell ARFCN, BSIC and RxLev, and cell and network identity in addition to other information listed in the literature.

In addition, the TEMS Pocket has several functions that allow the user to control the operation of the phone. According to the literature, these functions are essential for troubleshooting and verification in the field. From the Cell Control menu the user can select multiple actions such as:

- Lock to RAT (Off/WCDMA/GSM)
- Lock Cell WCDMA (Off/Set UARFCN/SC)
- Lock ARFCN GSM (Off/Set ARFCN)
- Lock to Band GSM (Off/850/900/1800/1900)
- Ignore cell barred (Off/On)
- Reset control settings to default off state

The TEMS Pocket is imported packaged together with a memory stick, battery and charger, USB cable, lanyard, hands free headset and software user guides.

Ericsson contends that the correct classification of the TEMS Pocket is subheading 9030.40.0000, HTSUSA, which provides for telecommunication testing equipment.

ISSUE:

What is the correct classification of the TEMS Pocket device under the HTSUS?

What is the country of origin of the TEMS Pocket device?

LAW AND ANALYSIS:

Classification

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

The HTSUS provisions under consideration are as follows:

8517 Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for the communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 8443, 8525, 8527 or 8528; parts thereof:

Telephone sets, including telephones for cellular networks or for other wireless networks:

* * *

8517.12.00 Telephone sets for cellular networks or for other wireless networks

9030 Oscilloscopes, spectrum analyzers and other instruments and apparatus for measuring or checking electrical quantities, excluding meters of heading 9028; ... :

* * *

9030.40.0000 Other instruments and apparatus, specially designed for telecommunications (for example, cross-talk meters, gain measuring instruments, distortion factor meters, psophometers)

Legal Note 3 to Chapter 90 provides that note 3 to Section XVI also apply to Chapter 90. Note 3 to Section XVI provides:

Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the HTSUS at the international level. While not legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89–80.

EN 90.30(B) explains, in relevant part, that heading 9030 “includes a wide range of electrical or electronic instruments used in radio-communications or telecommunications.” Included in this range are instruments and apparatus such as transmission level indicators, instruments for measuring interference, and cross-talk meters, which are used on telephone circuits for measuring various quantities.

It is your contention that principal function of this device is to test mobile networks. As such, you believe that it is properly classified in subheading *9030.40.0000*, HTSUSA, as instruments and apparatus for measuring or checking electrical quantities, specially designed for telecommunications, and not as a cellular phone.

We agree. The TEMS Pocket measures the performance of data and signal transmissions (EGPRS and WCDMA) and displays system data for cell access, selection and location, serving cell, ARFCN of traffic channel, used timeslots and coding schemes, along with uplink and downlink (logic link control) LLC and RLC (radio link control) performance, among other functions. In addition, through the operation of the TEMS software, certain functions of the phone can be turned off in order to assist in the testing process. For example, the TEMS Pocket can be instructed to “Lock to RAT”, that is, turn off or select WCDMA or GSM (data and signal transmissions) or to “Lock to Band GSM”, that is, turn off or select a certain GSM frequency band. Finally, although the TEMS Pocket is also a fully functional cellular phone, the phone’s principal function in this device is to enable the TEMS software to connect with the cellular network to be tested.

Based on the foregoing, we find that the TEMS Pocket meets the terms of heading 9030, HTSUS, as explained by EN 90.30(B), because it is a device used for measuring or checking electrical quantities, specifically in telecommunication networks. It is classified in subheading *9030.40.0000*, HTSUSA, as other instruments and apparatus specially designed for telecommunications.

The TEMS Pocket is imported packaged together with a memory stick, battery and charger, USB cable, lanyard, hands free headset and software user guides. GRI 3(b) provides that goods put up in sets for retail sale shall be classified as if they consisted of the material or component which gives them their essential character. EN (X) to GIR 3(b) explains:

For the purposes of this Rule, the term “goods put up in sets for retail sale” shall be taken to mean goods which:

- (a) Consist of at least two different articles which are, prima facie, classifiable in different headings. Therefore, for example, six fondue forks cannot be regarded as a set within the meaning of this Rule;
- (b) Consist of products or articles put up together to meet particular need or carry out a specific activity; and
- (c) Are put up in a manner suitable for sale directly to users without repacking (e.g., in boxes or cases or on boards).

EN (VIII) to GIR 3(b) explains that “the factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.”

All the items under consideration here are classifiable in different headings, are “put up together” to enable a user to conduct testing of telecommunication networks, and are offered for sale directly to users without repackaging. Consequently, the items may not be classified separately under their respective classifications. Furthermore, CBP finds that the item which imparts the essential character of this set is the TEMS Pocket. It is the dominant component, by use and cost in relation to the other constituent components of the set. It is also the reason why a consumer would purchase the set.

Country of Origin

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. §1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the United States shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the United States the English name of the country of origin of the article. Congressional intent in enacting 19 U.S.C. §1304 was “that the ultimate purchaser should be able to know by an inspection of the marking on the imported goods the country of which the goods is the product. The evident purpose is to mark the goods so that at the time of purchase the ultimate purchaser may, by knowing where the goods were produced, be able to buy or refuse to buy them, if such marking should influence his will.” *United States v. Friedlaender & Co.*, 27 CCPA 297, 302, C.A.D. 104 (1940). Part 134, U.S. Customs and Border Protection Regulations (19 C.F.R. §134) implements the country of origin marking requirements and exceptions of 19 U.S.C. §1304.

Section 134.1(b), CBP Regulations (19 C.F.R. § 134.1(b)), defines “country of origin” as “the country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the ‘country of origin’ within the meaning of [the marking laws and regulations].” For country of origin marking purposes, a substantial transformation of an article occurs when it is used in manufacture, which results in an article having a name, character, or use differing from that of the article before the processing. However, if the manufacturing or combining process is merely a minor one that leaves the identity of the article intact, a substantial transformation has not occurred. *Uniroyal, Inc. v. United States*, 3 CIT 220, 542 F. Supp. 1026, 1029 (1982), *aff’d*, 702 F.2d 1022 (Fed. Cir. 1983).

CBP has long held that the installation (downloading) of software onto a computer diskette amounted to substantial transformation of the diskette because the character of the diskette had changed from one of a blank storage medium to one with a predetermined electronic pattern encoded onto it. The use of the diskette had changed from a meaningless article of software to that of an encoded instruction guide that enabled a computer to perform various commands. See HQ 732087, February 7, 1990. See also, HQ 735027 (September 7, 1993) concerning the country of origin marking requirements for “MemoPlugs”, the hardware of which was imported into the U.S. and then programmed with anti-piracy software. See generally HQ 968000 (February 14, 2006) regarding substantial transformation of components of foreign origin used in the assembly of various electronic components.

As was stated in HQ 968000, 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, or use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, 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; however, no one factor is determinative.

After considering all the circumstances, we find that the installation in Sweden of the TEMS software into the pre-existing cellular phones assembled in China or Malaysia substantially transformed the use and function of these phones. Once the TEMS software was installed into the phones in Sweden the phones, although still operational as such, became devices that are substantially used to measure and check telecommunication networks. We note that the concept of substantial transformation does not mandate "absolute" transformation, but only that an article gain a new name, character and use as a result of processing. This was accomplished once the TEMS software was loaded onto the phones in Sweden. As a result, we find that the country of origin of the TEMS Pocket is Sweden.

HOLDING:

By application of GRI 3(b), Legal Note 3 to Chapter 90, we find that the TEMS Pocket is classified in heading 9030, HTSUS. It is specifically provided for in subheading 9030.40.0000, HTSUSA, which provides for: Oscilloscopes, spectrum analyzers and other instruments and apparatus for measuring or checking electrical quantities, excluding meters of heading 9028 ...: Other instruments and apparatus, specially designed for telecommunications (for example, cross-talk meters, gain measuring instruments, distortion factor meters, psophometers). The 2007 column one, general rate of duty is free.

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

Based on the facts of this case, we find that the country of origin of the TEMS Pocket for marking purposes is Sweden.

A copy of this ruling letter should be attached to entry documents filed at the time the goods are entered. If the documents have been filed without a copy, this ruling should be brought to the attention of the CBP officer handling the transaction.

Sincerely,

GAIL A. HAMILL,

Chief

Tariff Classification and Marking Branch

ATTACHMENT B

HQ H243924
OT:RR:CTF:TCM H243924 ALS
CATEGORY: Country of Origin Marking

MR. GEORGE ROWE
SUPPLY DIRECTOR
ASCOM TEMS
1943 ISAAC NEWTON SQUARE
RESTON, VIRGINIA 20190

RE: Country of Origin Marking; Mobile Telephone with Specialized Software; TEMS™ Pocket network testing device; 19 U.S.C. §1304; 19 CFR 134; Modification of HQ H014068

DEAR MR. ROWE:

This letter is a reconsideration of our October 9, 2007 ruling letter, CBP Ruling HQ H014068, to Ericsson, Inc., the previous owner and importer of the TEMS™ Pocket network testing device. Your company is receiving this letter because you and Ericsson have informed us that Ascom now owns the TEMS™ Pocket network testing device, it having been sold to Ascom in 2009. The reconsideration concerns the country of origin marking of the TEMS™ Pocket network testing device. Our decision is set forth below.

FACTS:

The facts as stated in H014068 are as follows:

The TEMS Pocket is a commercially available fully functional cellular phone onto which TEMS network testing software has been loaded. According to the information submitted, TEMS software allows a cellular phone to function as a testing tool for telecommunication networks. The TEMS Pocket is used by network engineers to verify, maintain and troubleshoot mobile networks as well as for basic cell planning tasks. Collected data can be stored in the handset for later transfer to a computer. The product literature lists some of the key features of the TEMS Pocket as:

Includes a Sony Ericsson K790i, K790a, K800i or Nokia N80 mobile phone. Measures WCDMA 2100 MHz and GSM/GPRS/EDGE 850/900/1800/19000 MHz. Records logfiles for later post-processing analysis. Generates network event notifications. Clearly presents essential network information on the mobile standby display. Also displays channel information and performance measurements during WAP browsing. Measures EGPRS and WCDMA data performance. Provides cell control options including locking on RAT, locking on cell, channel and band, and modifying cell barred behavior. Supports FTP for networking troubleshooting and logfile transfer. Automates call handling, logfile recording, and transfer to server via FTP. Allows data collection in places that are hard to reach with traditional drive-test tools and methods.

The cellular phone handset is designed in Sweden and is typically assembled in China or Malaysia. The phone incorporates a camera, music and video player, and an FM radio, and can connect to the Internet. After assembly, the handset is shipped to Sweden where the TEMS software is

loaded on to it and tested. According to Ericsson, the TEMS software adds approximately \$2500 worth of value to the phone. A sample of the TEMS Pocket has been provided for our review.

During our teleconference, Ericsson informed CBP that the TEMS Pocket connects to a cellular network as an ordinary phone and that this is the only way in which it can connect to the network to be tested. When the phone is turned on, technical information concerning the network is immediately displayed. CBP was also informed that some of the displayed information is calculated aggregated data. For example, information concerning signal strength for a particular channel is shown as a ratio of signal strength to interference. In order to use the TEMS Pocket as a cellular phone, the TEMS software has to be manually disabled.

According to the product literature, the TEMS Pocket has several data presentation views. Combined views display information valid for all radio access technology. For example, the PDP context view displays PDP addresses and PDP context settings for each address, including the NSAPI and APN. The WCDMA views display cell and network identity along with Universal Terrestrial Radio Access (UTRA) carrier RSSI (Received Signal Strength Indication). For example, the WCDMA Cells view displays UARFCN, cell status, scrambling code, RSCP, Ec/No and path loss for each cell in active set and serving/monitored cells. The GSM/GPRS views contain serving cell ARFCN, BSIC and RxLev, and cell and network identity in addition to other information listed in the literature.

In addition, the TEMS Pocket has several functions that allow the user to control the operation of the phone. According to the literature, these functions are essential for troubleshooting and verification in the field. From the Cell Control menu the user can select multiple actions such as:

- Lock to RAT (Off/WCDMA/GSM)
- Lock Cell WCDMA (Off/Set UARFCN/SC)
- Lock ARFCN GSM (Off/Set ARFCN)
- Lock to Band GSM (Off/850/900/1800/1900)
- Ignore cell barred (Off/On)
- Reset control settings to default off state

The TEMS Pocket is imported packaged together with a memory stick, battery and charger, USB cable, lanyard, hands free headset and software user guides.

In addition to the facts noted above, you have confirmed that the TEMS Pocket software was developed in Sweden.

ISSUE:

What is the country of origin of the TEMS™ Pocket network testing device for the purpose of marking in accordance with 19 U.S.C. §1304 and 19 CFR 134?

LAW AND ANALYSIS:

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. §1304), provides that, unless excepted, every article of foreign origin imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, in such a manner as to indicate to the ultimate purchaser in the United States the English name of the country of origin of the article. Congressional intent in enacting section 1304 was that the ultimate purchaser should be able to know by an inspection of the marking on the imported goods the country of origin of the goods. “The evident purpose is to mark the goods so that at the time of purchase the ultimate purchaser may, by knowing where the goods were produced, be able to buy or refuse to buy them, if such marking should influence his will.” *United States v. Friedlaender & Co.*, 27 C.C.P.A. 297 at 302 (1940).

Part 134, Customs and Border Protection (CBP) Regulations (19 CFR Part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. §1304. Section 134.1(b), CBP Regulations (19 CFR 134.1(b)), defines “country of origin” as “the country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the ‘country of origin’ within the meaning of [the marking laws and regulations].”

For country of origin marking purposes, a substantial transformation of an article occurs when it is used in manufacture, which results in an article having a name, character, or use differing from that of the article before the processing. However, if the manufacturing or combining process is merely a minor one that leaves the identity of the article intact, a substantial transformation has not occurred. *Uniroyal, Inc. v. United States*, 3 CIT 220, 542 F. Supp. 1026, 1029 (1982), aff’d, 702 F.2d 1022 (Fed. Cir. 1983).

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 C.S.D. 84–85, 18 Cust. B. & Dec. 1044, CBP stated:

We are of the opinion that the rationale of the court in the *Data General* case may be applied in the present case to support the principle that the essence of an integrated circuit memory storage device is established by programming; ... [W]e are of the opinion that the programming (or reprogramming) of an EPROM results in a new and different article of commerce which would be considered to be a product of the country where the programming or reprogramming takes place.

In *Data General v. United States*, 4 CIT 182 (1982), the court determined for purposes of determining eligibility under item 807.00, Tariff Schedules of the United States, the predecessor to subheading 9802.00.80, Harmonized Tariff Schedule of the United States (HTSUS), that the programming of a foreign PROM (Programmable Read-Only Memory chip) in the United States substantially transformed the PROM into a U.S. article. Accordingly, the programming of a device that defines its use generally constitutes substantial transformation.

As we stated in H014068, citing CBP Ruling HQ 968000 (February, 14, 2006),

...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, or use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, 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; however, no one factor is determinative.

Upon further review in consideration of all the circumstances of manufacture, we find that the installation of Swedish-developed TEMS software in Sweden into the pre-existing mobile telephones that were assembled in China or Malaysia did not substantially transform the use and function of the mobile telephones. Despite the fact that the TEMS software was developed in Sweden and subsequently installed into the mobile telephones in Sweden, the mobile telephones were manufactured in China or Malaysia and became identifiable as such in China or Malaysia. In fact, the mobile telephones were identifiable by their commercial names, Nokia N80 and Ericsson K790i, K790a, and K800i, upon assembly in China or Malaysia and before the TEMS software was installed. Furthermore, the development of the TEMS software in Sweden had no bearing on the manufacturing of the subject articles as mobile telephones.

The subject mobile devices' initial function remains intact and is only enhanced, not changed, to produce additional functions. The article in *Data General*, however, was substantially transformed from a non-programmed individual integrated circuit to a programmed integrated circuit with discrete and immutable functionality. In essence, the article in *Data General* did not become a programmed integrated circuit until it was transformed into such in the United States. It is only at that point when the article's use became defined, unlike the TEMS Pocket, whose use became defined upon its manufacture into a mobile telephone before the TEMS software was installed.

Thus, we find that the installation of the Swedish-developed TEMS software onto existing functioning mobile telephones represents an enhancement of the mobile telephones' functionality that does not substantially transform the mobile telephones into an article having a name, character, or use differing from that of the article before the software installation. Simply put, the subject articles are manufactured into mobile telephones before the software was installed in Sweden and irrespective of the software's development in Sweden, and they remained mobile telephones after the TEMS software was installed, albeit with more functionality. Therefore, the country of origin of the TEMS Pocket™ is China or Malaysia or any other country of manufacture where an article recognizable as a mobile telephone is created.

HOLDING:

The country of origin of the TEMS Pocket™ is, in accordance with 19 U.S.C. §1304 and 19 CFR 134, China or Malaysia or any other country of manufacture where an article recognizable as a mobile telephone is created.

EFFECT ON OTHER RULINGS:

CBP Ruling HQ H014068 (October 7, 2007) is hereby MODIFIED only with respect to the country of origin issue.

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

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

AGENCY INFORMATION COLLECTION ACTIVITIES:**Administrative Rulings**

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

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection 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 of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than June 7, 2019) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0085 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) Email. Submit comments to: *CBP_PRA@cbp.dhs.gov*.

(2) Mail. Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229-1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions

from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Administrative Rulings.

OMB Number: 1651-0085.

Abstract: The collection of information in 19 CFR part 177 is necessary in order to enable Customs and Border Protection (CBP) to respond to requests by importers and other interested persons for the issuance of administrative rulings. These rulings pertain to the interpretation of applicable laws related to prospective and current transactions involving classification, marking, and country of origin. The collection of information in Part 177 of the CBP Regulations is also necessary to enable CBP to make proper decisions regarding the issuance of binding rulings that modify or revoke prior CBP binding rulings. This collection of information is authorized by 19 U.S.C. 66, 1202, (General Note 3(i), Harmonized Tariff Schedule of the United States). The application to obtain an administrative ruling is accessible at: <https://apps.cbp.gov/erulings>.

Current Actions: CBP proposes to extend the expiration date of this information collection with no increase or decrease in the overall estimated burden hours. However there was a reduction in the Appeals respondent group and an increase in the Administrative Rulings respondent group due to updated agency estimates, in addition there was a decrease in the estimated time per response for the Appeals respondent group. There is no change to the information being collected

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 3,500.

Estimated Number of Responses per Respondent: 1.

Estimated Total Responses: 3,500.

Estimated Time per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 35,000.

Appeals

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 1.

Estimated Total Responses: 100.

Estimated Time per Respondent: 30 hours.

Estimated Total Annual Burden Hours: 3,000.

Dated: April 3, 2019.

SETH D. RENKEMA,
Branch Chief,
Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

[Published in the Federal Register, April 8, 2019 (84 FR 13948)]