

U.S. Customs and Border Protection



APPROVAL OF ALTOL PETROLEUM PRODUCTS SERVICES, INC. (PONCE, PR), AS A COMMERCIAL GAUGER

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

ACTION: Notice of approval of Altol Petroleum Products Services, Inc., as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Altol Petroleum Products Services, Inc. (Ponce, PR), has been approved to gauge petroleum and petroleum products for customs purposes for the next three years as of September 28, 2018.

DATES: Effective—Altol Petroleum Products Services, Inc., was approved as a commercial gauger as of September 28, 2018. The next triennial inspection date will be scheduled for September 2021.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Altol Petroleum Products Services, Inc., Parque Industrial Sabanetas, Edificio M-1380-01-02, Ponce, PR 00731, has been approved to gauge petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Altol Petroleum Products Services, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API Chapters	Title
1	Vocabulary.
3	Tank gauging.
7	Temperature Determination.

API Chapters	Title
8	Sampling.
11	Physical Properties Data.
12	Calculations.
17	Maritime Measurements.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories: <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: February 13, 2019.

PATRICIA HAWES COLEMAN,
*Acting Executive Director,
 Laboratories and Scientific
 Services Directorate.*

[Published in the Federal Register, February 22, 2019 (84 FR 5697)]

ACCREDITATION AND APPROVAL OF SGS NORTH AMERICA, INC. (ST. ROSE, LA), AS A COMMERCIAL GAUGER AND LABORATORY

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

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc. (St. Rose, LA), has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes for the next three years as of May 9, 2018.

DATES: Effective—SGS North America, Inc., was accredited and approved as a commercial gauger and laboratory as of May 9, 2018. The next triennial inspection date will be scheduled for May 2021.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Cassata, Laboratories and Scientific Services, U.S. Customs and

Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that SGS North America, Inc., 151 James Drive West, St Rose, LA 70087, has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. SGS North America, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging
5	Metering
7	Temperature Determination
8	Sampling
12	Calculations
17	Maritime Measurements

SGS North America, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01.....	D287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27-03.....	D4006	Standard Test Method for Water in Crude Oil by Distillation.
27-04.....	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27-05.....	D4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27-06.....	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-08.....	D86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.

CBPL No.	ASTM	Title
27-13.....	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27-14.....	D2622	Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27-46.....	D5002	Standard Test Method for density and relative density of crude oils by digital densitometer.
27-48.....	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-53.....	D2709	Standard Test method for water and sediment in middle distillate by the centrifuge method.
27-58.....	D5191	Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories: <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: February 13, 2019.

PATRICIA HAWES COLEMAN,
*Acting Executive Director,
 Laboratories and Scientific
 Services Directorate.*

[Published in the Federal Register, February 22, 2019 (84 FR 5699)]

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**ACCREDITATION AND APPROVAL OF SGS NORTH
 AMERICA, INC. (CORPUS, CHRISTI, TX), AS A
 COMMERCIAL GAUGER AND LABORATORY**

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

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc. (Corpus Christi, TX), has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes for the next three years as of August 8, 2018.

DATES: *Effective Dates:* SGS North America, Inc., was accredited and approved as a commercial gauger and laboratory as of August 8, 2018. The next triennial inspection date will be scheduled for August 2021.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that SGS North America, Inc., 925 Corn Products Road, Corpus Christi, TX 78409, has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. SGS North America, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Maritime Measurements.

SGS North America, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01.....	D287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).

CBPL No.	ASTM	Title
27-02.....	D1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27-03.....	D4006	Standard Test Method for Water in Crude Oil by Distillation.
27-04.....	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27-06.....	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-11.....	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27-13.....	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27-14.....	D2622	Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27-46.....	D5002	Standard Test Method for density and relative density of crude oils by digital densitometer.
27-48.....	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
N/A.....	D4007	Standard Test Method for water and sediment in crude oils by the Centrifuge Method.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories: <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: February 13, 2019.

PATRICIA HAWES COLEMAN,
*Acting Executive Director,
 Laboratories and Scientific
 Services Directorate.*

ACCREDITATION AND APPROVAL OF CAMIN CARGO CONTROL, INC. (RICHMOND, CA), AS A COMMERCIAL GAUGER AND LABORATORY

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

ACTION: Notice of accreditation and approval of Camin Cargo Control, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Camin Cargo Control, Inc. (Richmond, CA), has been approved to gauge and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of March 15, 2018.

DATES: Effective—Camin Cargo Control, Inc., was accredited and approved as a commercial gauger and laboratory as of March 15, 2018. The next triennial inspection date will be scheduled for March 2021.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Camin Cargo Control, Inc., 845 Marina Bay Parkway, STE 8, Richmond, CA 94804, has been approved to gauge and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Camin Cargo Control, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API Chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
11	Physical Properties Data.
12	Calculations.
17	Maritime Measurements.

Camin Cargo Control, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01	D287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27-02	D1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27-04	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27-05	D4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27-06	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-07	D4807	Standard Test Method for Sediment in Crude Oil by Membrane Filtration.
27-08	D86	Standard Test Method for Distillation of Petroleum Products.
27-11	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27-13	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27-20	D4057	Standard Practice for Manual Sampling of Petroleum and Petroleum Products.
27-21	D4177	Standard Practice for the Automatic Sampling of Petroleum and Petroleum Products.
27-46	D5002	Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer.
27-48	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-50	D93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27-54	D1796	Standard Test Method for Water and Sediment in Crude Oil by Centrifuge Method (Laboratory Procedure).
27-58	D5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

CBPL No.	ASTM	Title
N/A	D664	Standard Test Method for Acid Number of Petroleum Products by Potentiometric Titration.
N/A	D4530	Standard Test Method for Determination of Carbon Residue (Micro Method).
N/A	D5705	Standard Test Method for Measurement of Hydrogen Sulfide in the Vapor Phase Above Residual Fuel Oils.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for the current CBP Approved Gaugers and Accredited Laboratories List: <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: February 13, 2019.

PATRICIA HAWES COLEMAN,
*Acting Executive Director,
 Laboratories and Scientific
 Services Directorate.*

[Published in the Federal Register, February 22, 2019 (84 FR 5699)]

**ACCREDITATION AND APPROVAL OF CAMIN CARGO
 CONTROL, INC. (LINDEN, NJ), AS A COMMERCIAL
 GAUGER AND LABORATORY**

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

ACTION: Notice of accreditation and approval of Camin Cargo Control, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Camin Cargo Control, Inc. (Linden, NJ), has been approved to gauge and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 21, 2018.

DATES: Effective—Camin Cargo Control, Inc., was accredited and approved as a commercial gauger and laboratory as of August 21, 2018. The next triennial inspection date will be scheduled for August 2021.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Camin Cargo Control, Inc., 230 Marion Ave., Linden, NJ 07036, has been approved to gauge and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Camin Cargo Control, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API Chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Maritime Measurements.

Camin Cargo Control, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01.....	D287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27-02.....	D1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27-03.....	D4006	Standard Test Method for Water in Crude Oil by Distillation.
27-04.....	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.

CBPL No.	ASTM	Title
27-06.....	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-08.....	D86	Standard Test Method for Distillation of Petroleum Products.
27-13.....	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27-14.....	D2622	Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27-48.....	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-58.....	D5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).
N/A.....	D1319	Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption.
N/A.....	D2699	Standard Test Method for Research Octane Number of Spark-Ignition Engine Fuel.
N/A.....	D2700	Standard Test Method for Motor Octane Number of Spark-Ignition Engine Fuel.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for the current CBP Approved Gaugers and Accredited Laboratories List: <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: February 13, 2019.

PATRICIA HAWES COLEMAN,
*Acting Executive Director,
 Laboratories and Scientific
 Services Directorate.*

ACCREDITATION AND APPROVAL OF CAMIN CARGO CONTROL, INC. (CORPUS CHRISTI, TX), AS A COMMERCIAL GAUGER AND LABORATORY

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

ACTION: Notice of accreditation and approval of Camin Cargo Control, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Camin Cargo Control, Inc. (Corpus Christi, TX), has been approved to gauge and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 8, 2018.

DATES: Effective—Camin Cargo Control, Inc., was accredited and approved as a commercial gauger and laboratory as of August 8, 2018. The next triennial inspection date will be scheduled for August 2021.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Camin Cargo Control, Inc., 218 Centaurus St., Corpus Christi, TX 78405, has been approved to gauge and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Camin Cargo Control, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API Chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Maritime Measurements.

Camin Cargo Control, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01.....	D287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27-02.....	D1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27-03.....	D4006	Standard Test Method for Water in Crude Oil by Distillation.
27-04.....	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27-06.....	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-08.....	D86	Standard Test Method for Distillation of Petroleum Products.
27-11.....	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27-13.....	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27-14.....	D2622	Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27-48.....	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-54.....	D1796	Standard Test Method for Water and Sediment in Crude Oil by Centrifuge Method (Laboratory Procedure).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to

cbp.labhq@dhs.gov. Please reference the website listed below for the current CBP Approved Gaugers and Accredited Laboratories List: <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: February 13, 2019.

PATRICIA HAWES COLEMAN,
*Acting Executive Director,
Laboratories and Scientific
Services Directorate.*

[Published in the Federal Register, February 22, 2019 (84 FR 5704)]



**ACCREDITATION AND APPROVAL OF AMSPEC LLC
(SIGNAL HILL, CA) AS A COMMERCIAL GAUGER AND
LABORATORY**

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

ACTION: Notice of accreditation and approval of AmSpec LLC (Signal Hill, CA), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec LLC (Signal Hill, CA), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of October 11, 2018.

DATES: AmSpec LLC (Signal Hill, CA) was approved and accredited as a commercial gauger and laboratory as of October 11, 2018. The next triennial inspection date will be scheduled for October 2021.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that AmSpec LLC, 1980 Orizaba Ave., Signal Hill, CA 90755, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

AmSpec LLC (Signal Hill, CA) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
11	Physical Properties Data.
12	Calculations.
17	Maritime Measurement.

AmSpec LLC (Signal Hill, CA) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-05.....	D4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27-06.....	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-13.....	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27-46.....	D5002	Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer.
27-48.....	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to

CBPGaugersLabs@cbp.dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories: *<http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>*.

Dated: February 12, 2019.

PATRICIA HAWES COLEMAN,
Acting Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 22, 2019 (84 FR 5701)]

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**ACCREDITATION AND APPROVAL OF AMSPEC LLC
(SULPHUR, LA) AS A COMMERCIAL GAUGER AND
LABORATORY**

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

ACTION: Notice of accreditation and approval of AmSpec LLC (Sulphur, LA), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec LLC (Sulphur, LA), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 24, 2018.

DATES: AmSpec LLC (Sulphur, LA) was approved and accredited as a commercial gauger and laboratory as of August 24, 2018. The next triennial inspection date will be scheduled for August 2021.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that AmSpec LLC, 2308 East Burton St., Sulphur, LA 70663, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

AmSpec LLC (Sulphur, LA) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
11	Physical Properties Data.
12	Calculations.
17	Maritime Measurement.

AmSpec LLC (Sulphur, LA) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01.....	D287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27-03.....	D4006	Standard Test Method for Water in Crude Oil by Distillation.
27-04.....	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27-05.....	D4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27-06.....	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-08.....	D86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27-11.....	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27-13.....	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27-48.....	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-50.....	D93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27-54.....	D1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method.
27-58.....	D5191	Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to CBPGaugersLabs@cbp.dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: February 12, 2019.

PATRICIA HAWES COLEMAN,
Acting Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 22, 2019 (84 FR 5700)]



**ACCREDITATION AND APPROVAL OF AMSPEC LLC
(CONCORD, CA) AS A COMMERCIAL GAUGER AND
LABORATORY**

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

ACTION: Notice of accreditation and approval of AmSpec LLC (Concord, CA), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec LLC (Concord, CA), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of October 17, 2018.

DATES: AmSpec LLC (Concord, CA) was approved and accredited as a commercial gauger and laboratory as of October 17, 2018. The next triennial inspection date will be scheduled for October 2021.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that AmSpec LLC, 4075 Sprig Drive, Suite A, Concord, CA 94520, has been approved to

gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

AmSpec LLC (Concord, CA) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
1	Vocabulary.
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
11	Physical Properties Data.
12	Calculations.
17	Maritime Measurement.

AmSpec LLC (Concord, CA) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01.....	D287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27-02.....	D1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27-03.....	D4006	Standard Test Method for Water in Crude Oil by Distillation.
27-04.....	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27-05.....	D4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27-06.....	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-08.....	D86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.

CBPL No.	ASTM	Title
27-11.....	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27-13.....	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27-48.....	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-50.....	D93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27-53.....	D2709	Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge.
27-54.....	D1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method.
27-58.....	D5191	Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories: <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: February 12, 2019.

PATRICIA HAWES COLEMAN,
Acting Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 22, 2019 (84 FR 5698)]

ACCREDITATION OF ALTOL CHEMICAL AND ENVIRONMENTAL LABORATORY, INC. (PONCE, PR), AS A COMMERCIAL LABORATORY

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

ACTION: Notice of accreditation of Altol Chemical and Environmental Laboratory, Inc., as a commercial laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Altol Chemical and Environmental Laboratory, Inc. (Ponce, PR), has been accredited to test petroleum and petroleum products for customs purposes for the next three years as of September 27, 2018.

DATES: *Effective*—Altol Chemical and Environmental Laboratory, Inc., was accredited as a commercial laboratory as of September 27, 2018. The next triennial inspection date will be scheduled for September 2021.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12, that Altol Chemical and Environmental Laboratory, Inc., Sabanetas Industrial Park Building M-1380, Ponce, PR 00715, has been accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12. Altol Chemical and Environmental Laboratory, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01.....	D287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27-02.....	D1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27-11.....	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).

CBPL No.	ASTM	Title
27-13.....	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27-48.....	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-58.....	D5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses services should request and receive written assurances from the entity that it is accredited by the U.S. Customs and Border Protection to conduct the specific test requested. Alternatively, inquiries regarding the specific test this entity is accredited to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories: <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: February 13, 2019.

PATRICIA HAWES COLEMAN,
*Acting Executive Director,
 Laboratories and Scientific
 Services Directorate.*

[Published in the Federal Register, February 22, 2019 (84 FR 5697)]

**ACCREDITATION OF OIL TECHNOLOGIES SERVICES,
 INC. DBA SEAHAWK SERVICES (WEST DEPTFORD, NJ) AS
 A COMMERCIAL LABORATORY**

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

ACTION: Notice of accreditation of Oil Technologies Services, Inc. DBA Seahawk Services (West Deptford, NJ), as a commercial laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Oil Technologies Services, Inc. DBA Seahawk Services (West Deptford, NJ), has been accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of September 26, 2018.

DATES: Oil Technologies Services, Inc. DBA Seahawk Services (West Deptford, NJ) was accredited as a commercial laboratory as of September 26, 2018. The next triennial inspection date will be scheduled for September 2021.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12, that Seahawk Services, 1501 Grandview Ave., West Deptford, NJ 08066, has been approved to accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12.

Seahawk Services (West Deptford, NJ) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01.....	D287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27-02.....	D1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27-03.....	D4006	Standard Test Method for Water in Crude Oil by Distillation.
27-04.....	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27-06.....	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-08.....	D86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27-11.....	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27-13.....	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27-48.....	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories: *<http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>*.

Dated: February 12, 2019.

PATRICIA HAWES COLEMAN,
Acting Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 22, 2019 (84 FR 5702)]



NOTICE OF ISSUANCE OF FINAL DETERMINATION CONCERNING VARIOUS STIMULATING PROBES

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

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (“CBP”) has issued a final determination concerning the country of origin of various stimulating probes. Based upon the facts presented, CBP has concluded in the final determination that the United States is the country of origin of the stimulating probes for purposes of U.S. Government procurement.

DATES: The final determination was issued on February 20, 2019. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within April 1, 2019.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade (202-325-0046).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on 02/20/19, CBP issued a final determination concerning the country of origin of various stimulating probes for purposes of Title III of the Trade Agreements Act of 1979. This final determination,

HQ H300744, was issued at the request of Rhythmlink International, LLC, under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP has concluded that, based upon the facts presented, the processing that occurs in China does not substantially transform the stimulating probes from products of the United States to products of China. Therefore, the stimulating probes are products of the United States for purposes of U.S. Government procurement.

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

Dated: February 20, 2019.

ALICE A. KIPEL,
Executive Director,
Regulations and Rulings, Office of Trade.

HQ H300744

February 2, 2019

OT:RR:CTF:VS H300744 CMR

CATEGORY: Origin

DAVID S. ROBINSON, ESQ.
NEXSEN PRUET
4141 PARKLAKE AVENUE
SUITE 200
RALEIGH, NC 27612

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. § 2511); subpart B, Part 177, CBP Regulations; Various Stimulating Probes

DEAR MR. ROBINSON:

This is in response to your request of August 30, 2018, on behalf of your client, Rhythmlink International, LLC, (hereinafter, Rhythmlink) requesting a final determination concerning the country of origin of various stimulating probes for purposes of U.S. government procurement under Title III of the Trade Agreements Act of 1979 (TAA), as amended (19 U.S.C. § 2511 *et seq.*). Rhythmlink is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1), and is entitled to request this final determination under 19 C.F.R. § 177.23(a). In addition, you have requested a country of origin determination for marking purposes.

FACTS:

Rhythmlink manufactures and distributes medical devices and provides custom packaging, private labeling, custom products and contract manufacturing to its customers. It seeks a country of origin determination for purposes of government procurement under Title III of the TAA for six stimulating probes. These six probes are: the Standard Ball Tip Probe, the Tapered Ball Tip Probe, the Standard Monopolar Probe, the Extended Monopolar Probe, the Monopolar Stimulating Probe with Removable Handle, and the Slide Shaft Stimulating Probe.

The probes are produced in the United States from U.S. origin steel. You describe the processing in the United States as consisting of engineering and design work and manufacturing of the steel probes. The engineering and design work includes: research and development; design control; IP generation; regulatory clearances; specifications; engineering drawings; work instructions; tooling, fixtures, and equipment designs; functional verification testing; sterilization validation; packaging, sterile barrier, shelf life validation; and process validations. The manufacturing which occurs in the United States, by a third-party contract manufacturer, entails cutting raw stainless steel rods of 316 straight grade stainless steel to a specified length to meet specified tolerances. The stainless steel rods are cut by a precision mill or band saw. After cutting, the rods are ground to a precise diameter on a precision lathe. In addition, the lathe is used to create a taper on a portion of one end of the rod to narrow the diameter to half of the original diameter of the tip. The rods are centered precisely on the narrow rod tip and welded to a stainless steel ball to form a connection with a strength of greater than or equal to 36 pounds. The probes resulting from this manufacturing process are then subject to passivation which involves a process of cleaning the probes ultrasonically with an alkaline cleaning detergent, rinsing with deionized

water, placing in an acid solution, rinsing twice in separate deionized water tanks and drying. The steel probes are then packaged and shipped to China for further processing.

In China, the probes are attached to a leadwire of Korean origin using Chinese solder, and covered with a heat shrink from China, Japan, or the United States. The probes are attached to a hand grip consisting of a U.S.-origin handle insert and a Korean origin plastic handle. You indicate that the processing in China takes less than four minutes. The finished probes are inserted into a protective cover from the United States and packaged for shipment to the United States.

You indicate that there is an insulated stimulating probe with a removable handle. For the removable handle style probe, there are only two steps performed in China: maintaining an inventory and packaging. The removable handle probe consists of three functional components: an insulated stainless steel probe (United States), a wire with DIN 42–802 connectors on each end coiled tightly (Korea or Japan), and a removable plastic handle (United States). There is no protective cover for this probe as it is secured within a durable plastic tray with a lid which serves as protective packaging. You state that all parts are packed unattached, in a plastic tray, pouched and boxed.

Upon return to the United States, the probes are subjected to a 30-hour sterilization process and subjected to a randomized sampling and testing protocol.

ISSUE:

What is the country of origin of the stimulating probes described herein for U.S. government procurement purposes?

LAW AND ANALYSIS:

U.S. Customs and Border Protection (CBP) issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government, pursuant to subpart B of Part 177, 19 C.F.R. § 177.21 *et seq.*, which implements Title III, Trade Agreements Act of 1979, as amended (19 U.S.C. §§ 2511–2518).

The rule of origin set forth in 19 U.S.C. § 2518(4)(B) states:

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

See also 19 C.F.R. § 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with the Federal Procurement Regulations. *See* 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government’s purchase of products to U.S.-made or

designated country end products for acquisitions subject to the TAA. *See* 48 C.F.R. § 25.403(c)(1). The Federal Acquisition Regulations define “U.S.-made end product” as:

. . . an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

The regulations define a “designated country end product” as:

WTO GPA [World Trade Organization Government Procurement Agreement] country end product, an FTA [Free Trade Agreement] country end product, a least developed country end product, or a Caribbean Basin country end product.

A “WTO GPA country end product” is defined as an article that:

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

See 48 C.F.R. § 25.003.

China is not a WTO GPA country.

In *National Hand Tool Corp. v. United States* (“*National Hand Tool Corp.*”), 16 CIT 308 (1992), *aff’d*, 989 F.2d 1201 (Fed. Cir. 1993), the court considered the nature of “substantial transformation”. At issue were sockets and flex handles which were either cold formed or hot forged into their final shape prior to importation from Taiwan, speeder handles which were reshaped by a power press after importation, and the grip of flex handles which were knurled in the United States. The imported articles were then heat treated which strengthened the surface of the steel, and cleaned by sandblasting, tumbling, and/or chemical vibration before being electroplated. In certain instances, various components were assembled together which the court stated required some skill and dexterity. The court determined that the imported articles were not substantially transformed and that they remained products of Taiwan. In making its determination, the court focused on the fact that the components had been cold-formed or hot-forged “into their final shape before importation,” and that “the form of the components remained the same” after the assembly and heat-treatment processes performed in the United States. Although the court stated that a predetermined use would not necessarily preclude a finding of a substantial transformation, it noted that such determination must be based on the totality of the evidence. The court then concluded that no substantial change in name, character or use occurred as a result of the processing performed in the United States. *See also*, *Superior Wire v. United States*, 867 F.2d 1409 (Fed. Cir. 1989), regarding the origin of wire rod made into wire. CBP has recently discussed the applicability of these and similar court decisions to stainless steel drill bits and other various articles exported from the United States for finishing purposes. *See* Headquarters Ruling Letter (HQ) W968396, dated December 21, 2006.

In *Superior Wire v. United States*, 867 F.2d 1409 (Fed Cir. 1989), the court held that wire rod made into wire in Canada was not substantially transformed because there was no significant change in use or character. The court noted that the strength characteristic of the wire was “metallurgically predetermined” and the changes were primarily cosmetic. The court viewed the wire rod and wire as “different stages of the same product.”

In this case, U.S. steel is used in the United States to form the stimulating probes which are sent to China for further processing. We find the processing of the probes that occurs in China does not change the name, character or use of the probes. The probe with the removable handle, for instance, is packed with all parts unattached, in a plastic tray. In HQ H296072, dated July 13, 2018, CBP considered the processing of a Subdermal Needle Electrode. The processing was quite similar to the processing that the stimulating probes undergo in this case, and included soldering a leadwire to the needle electrode, adding a heat shrink and protective cover, and packaging. The stimulating probes are not substantially transformed by the processing that occurs in China. This case differs from HQ H296072 in that a handle is added to the stimulating probes.

In some cases, the attachment of a handle has been determined to be a substantial transformation, in other cases, it has not. See HQ 734521, dated September 17, 1992, for a discussion of various rulings involving the attachments of handles and the effect on the origin of the product. See also, HQ 559366, dated August 29, 1995; HQ 733804, dated November 9, 1990; and, HQ 561339, dated March 9, 2000. In this case, the handle on the stimulating probes is not necessary to the functioning of the probes, but adds to their ease of use. The stimulating probes are the essence of the products returned to the United States after processing in China. As such, we find the stimulating probes which are processed in China to attach a leadwire and hand grip, and covered with a heat shrink, are considered to be of United States origin for purposes of government procurement.

As for the insulated stimulating probe with a removable handle, which is only packaged in China, the individual parts retain their origin. Packaging of the components does not effectuate a substantial transformation.

With regard to your marking question, 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 container) will permit in such a manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. 19 C.F.R. Part 134 sets forth the regulations implementing the country of origin marking requirements and exceptions of 19 U.S.C. § 1304, along with certain marking provisions of the Harmonized Tariff Schedule of the United States (19 U.S.C. § 1202). “Country of origin” is defined, in relevant part, as: the country of manufacture, production, or growth of any article of foreign origin entering the United States. 19 C.F.R. § 134.1(b). 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 this part[.]” As we have determined that no substantial transformation occurs in China due to the processing of the stimulating probes, their origin for marking purposes remains the United States. With regard to the insulated stimulating probe with a removable handle, consisting of an insulated stainless steel probe (United

States), a wire with DIN 42–802 connectors on each end coiled tightly (Korea or Japan), and a removable plastic handle (United States), each component retains its individual country of origin for marking purposes. *See* HQ 556451, dated January 28, 1992; and, HQ 561454, dated December 14, 1999.

For purposes of marking, the stimulating probes which are processed in China are products of the United States. Because the stimulating probes are products of the United States that are exported and returned without undergoing a substantial transformation, they are excepted from country of origin marking requirements pursuant to 19 C.F.R. 134.32(m). With regard to the insulated stimulating probe that is merely packaged in China with a handle and wire connect, the origin of each component must be identified. Please note that if you wish to mark the stimulating probes, the insulated stimulating probe, or the packaging containing these products to indicate that they are “Made in the USA”, the marking must comply with the requirements of the Federal Trade Commission (FTC). We suggest that you direct any questions on this issue to the FTC.

HOLDING:

Based on the information provided, with the exception of the insulated stimulating probe with a removable handle, the country of origin of the stimulating probes is the United States. With regard to the insulated stimulating probe with a removable handle, which is only packaged in China, the country of origin of the individual packaged components remains unchanged.

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

Sincerely,

ALICE A. KIPPEL,

Executive Director,

Regulations and Rulings, Office of Trade.

[Published in the Federal Register, February 28, 2019 (84 FR 6808)]

AGENCY INFORMATION COLLECTION ACTIVITIES:**Exportation of Used Self-Propelled Vehicles**

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 April 26, 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 1651-0054 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: Exportation of Used Self-Propelled Vehicles.

OMB Number: 1651-0054.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Individuals and Businesses.

Abstract: CBP regulations require an individual attempting to export a used self-propelled vehicle to furnish to CBP, at the port of export, the vehicle and documentation describing the vehicle, which includes the Vehicle Identification Number (VIN), or if the vehicle does not have a VIN, the product identification number. Exportation of a vehicle will be permitted only upon compliance with these requirements. This requirement does not apply to vehicles that were entered into the United States under an in-bond procedure, a carnet, or temporary importation bond. The required documentation includes, but is not limited to, a Certificate of Title or a Salvage Title, the VIN, a Manufacturer's Statement of Origin, etc. CBP will accept originals or certified copies of Certificate of Title. The purpose of this information is to help ensure that stolen vehicles or vehicles associated with other criminal activity are not exported.

Collection of this information is authorized by 19 U.S.C.1627a, which provides CBP with authority to impose export reporting requirements on all used self-propelled vehicles, and by Title IV, Section 401 of the Anti-Car Theft Act of 1992, 19 U.S.C. 1646c, which requires all persons exporting a used self-propelled vehicle to provide to CBP,

at least 72 hours prior to export, the VIN and proof of ownership of each automobile. This information collection is provided for by 19 CFR part 192. Further guidance regarding these requirements is provided at: <https://www.cbp.gov/trade/basic-importexport/export-docs/motor-vehicle>.

Estimated Number of Respondents: 750,000.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 750,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 125,000.

Dated: February 19, 2019.

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

[Published in the Federal Register, February 25, 2019 (84 FR 6017)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Protest

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 April 26, 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 1651-0017 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: Protest.

OMB Number: 1651–0017.

Form Number: CBP Form 19.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: CBP Form 19, *Protest*, is filed to seek the review of a decision of an appropriate CBP officer. This review may be conducted by a CBP officer who participated directly in the underlying decision. This form is also used to request “Further Review,” which means a request for review of the protest to be performed by a CBP officer who did not participate directly in the protested decision, or by the Commissioner, or his designee as provided in the CBP regulations.

The matters that may be protested include: the appraised value of merchandise; the classification and rate and amount of duties chargeable; all charges within the jurisdiction of the U.S. Department of Homeland Security; exclusion of merchandise from entry or delivery, or demand for redelivery; the liquidation or reliquidation of an entry; and the refusal to pay a claim for drawback.

The parties who may file a protest or application for further review include: The importer or consignee shown on the entry papers, or their sureties; any person paying any charge or exaction; any person seeking entry or delivery, or upon whom a demand for redelivery has been made; any person filing a claim for drawback; or any authorized agent of any of the persons described above.

CBP Form 19 collects information such as the name and address of the protesting party, information about the entry, detailed reasons for the protest, and justification for applying for further review.

The information collected on CBP Form 19 is authorized by Sections 514 and 514(a) of the Tariff Act of 1930 and provided for by 19 CFR part 174. This form is accessible at <https://www.cbp.gov/newsroom/publications/forms?title=19>.

Estimated Number of Respondents: 3,750.

Estimated Number of Responses per Respondent: 12.

Estimated Number of Total Annual Responses: 45,000.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 45,000.

Dated: February 19, 2019.

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

**AGENCY INFORMATION COLLECTION ACTIVITIES:
Holders or Containers Which Enter the United States
Duty Free**

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 April 29, 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 1651-0035 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 Reduc-

tion 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: Holders or Containers Which Enter the United States Duty Free.

OMB Number: 1651-0035.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (with no change).

Affected Public: Businesses.

Abstract: Items 9801.00.10 and 9803.00.50 under the Harmonized Tariff Schedules of the United States (HTSUS), codified as 19 U.S.C. 1202, provides for the duty-free entry of substantial holders or containers of foreign manufacture if duty had been paid upon a previous importation pursuant to the provisions of 19 CFR 10.41b.

19 CFR 10.41b provides that substantial holders or containers are to have prescribed markings in clear and conspicuous letters of such a size that they will be easily discernable. Section 10.41b of the CBP regulations eliminates the need for an importer to file entry documents by instead requiring the marking of the containers or holders to indicate the HTSUS numbers that provide for duty free treatment of the containers or holders.

In order to comply with 19 CFR 10.41b in the case of serially numbered holders or containers of United States manufacture for which free clearance under 9801.00.10 HTSUS is claimed, the owner

of the holder or container is required to place the markings on a metal tag or plate containing the following information: 9801.00.10, HTSUS; the name of the owner; and the serial number assigned by the owner. In the case of serially numbered holders or containers of foreign manufacture for which free clearance under 9803.00.50 HTSUS is claimed, the owner must place markings containing the following information: 9803.00.50 HTSUS; the port code numbers of the port of entry; the entry number; the last two digits of the fiscal year of entry covering the importation of the holders and containers on which duty was paid; the name of the owner; and the serial number assigned by the owner.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 18.

Estimated Number of Total Annual Responses: 360.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 90.

Dated: February 20, 2019.

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

[Published in the Federal Register, February 26, 2019 (84 FR 6156)]



AGENCY INFORMATION COLLECTION ACTIVITIES:

Importers of Merchandise Subject to Actual Use Provisions

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 April 29, 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 1651-0032 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: Importers of Merchandise Subject to Actual Use Provisions.

OMB Number: 1651-0032.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: In accordance with 19 CFR 10.137, importers of goods subject to the actual use provisions of the Harmonized Tariff Schedule of the United States (HTSUS) are required to maintain detailed records to establish that these goods were actually used as contemplated by the law, and to support the importer's claim for a free or reduced rate of duty. The importer shall maintain records of use or disposition for a period of three years from the date of liquidation of the entry, and the records shall be available at all times for examination by CBP.

Estimated Number of Respondents: 12,000.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 12,000.

Estimated Time per Response: 65 minutes.

Estimated Total Annual Burden Hours: 13,000.

Dated: February 20, 2019.

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

[Published in the Federal Register, February 26, 2019 (84 FR 6155)]

**19 CFR PART 177****REVOCAION OF ONE RULING LETTER AND
REVOCAION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF ELECTRONIC FLASHING
BUTTONS**

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

ACTION: Notice of revocation of one ruling letter, and of revocation of treatment relating to the tariff classification of electronic flashing buttons.

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) is revoking one ruling letter concerning tariff classification of electronic flashing buttons under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 52, No. 40, on October 3, 2018. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after May 13, 2019.

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), a notice was published in the *Customs Bulletin*, Vol. 52, No. 40, on October 8, 2018, proposing to revoke one ruling letter pertaining to the tariff classification of electronic flashing buttons. 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 have advised CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical

transactions. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this notice.

In New York Ruling Letter ("NY") N020891, dated January 9, 2008, CBP classified electronic flashing buttons in heading 8543, HTSUS, specifically in subheading 8543.70.96, HTSUS, which provides for "Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other." CBP has reviewed NY N020891 and has determined the ruling letter to be in error. It is now CBP's position that electronic flashing buttons are properly classified, in heading 7117, HTSUS, specifically in subheading 7117.90.75, HTSUS, which provides for "Imitation jewelry: Other: Valued over 20 cents per dozen pieces or parts: Other: Of plastics."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N020891 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H281923, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: November 30, 2018

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H281923
CLA-2 OT:RR:CTF:CPMM H281923 RGR
CATEGORY: Classification
TARIFF NO.: 7117.90.7500

BARBARA J. HILL
MANAGER OF SYSTEM OPERATIONS
THE DIPLOMA MILL INC.
11585 E. 53RD AVENUE, UNIT D
DENVER, CO 80239

Re: Revocation of NY N020891; Tariff classification of an “Electronic Flashing Button”

DEAR MS. HILL:

This is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered New York (“NY”) Ruling Letter N020891, dated January 9, 2008, regarding the classification under the Harmonized Tariff Schedule of the United States (“HTSUS”) of an item referred to as an “Electronic Flashing Button” from China. The electronic flashing button was classified under subheading 8543.70.9650, HTSUSA (Annotated), as “Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other.”¹

We have reviewed NY N020891 and determined that the classification of the electronic flashing button in subheading 8543.70.9650, HTSUSA, was incorrect.

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Volume 52, No. 40 on October 3, 2018, proposing to modify NY N020891, and any treatment accorded to substantially similar transactions. No comments were received in response to this notice.

FACTS:

In NY N020891, we described the merchandise as follows:

The item concerned is referred to as an “Electronic Flashing Button”. This item is a circular piece of hard plastic with a pin or clip mounted on the back. Within the plastic housing there is an expression or saying such as “Happy Birthday”, “The Greatest”, “I made It”, etc. The button incorporates four rapidly flashing LED lights which draw attention to, and illuminate, the decorative expression. The item is battery-operated and has an on/off switch located on the back.

The button can be worn on a lapel or shirt. It is a novelty item which is to be worn on festive occasions. The flashing button is intended for ages four years and up.

¹ We note that subheading 8543.70.96, which provides for “Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other,” no longer exists. In the 2018 edition of the HTSUS, that provision was moved to subheading 8543.70.99, HTSUS, which provides for “Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other.”

ISSUE:

Whether the electronic flashing button is classified in heading 7117, HTSUS, which provides for “imitation jewelry,” in heading 9505, HTSUS, which provides for “festive, carnival or other entertainment articles,” or in heading 8543, HTSUS, which provides for “electrical machines and apparatus.”

LAW AND ANALYSIS:

Classification under the HTSUS is governed by the General Rules of Interpretation (“GRI”). 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 following provisions of the HTSUS are under consideration:

7117 Imitation jewelry

* * * *

8543 Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof

* * * *

9505 Festive, carnival or other entertainment articles, including magic tricks, and practical joke articles; parts and articles thereof

* * * *

Note 9 to Chapter 71 states as follows:

9. For the purposes of heading 7113, the expression “*articles of jewelry*” means:

(a) Any small objects of personal adornment (for examples, rings, bracelets, necklaces, brooches, earrings, watch chains, fobs, pendants, tie pins, cuff links, dress studs, religious or other medals and insignia); and

(b) Articles of personal use of a kind normally carried in the pocket, in the handbag or on the person (for example, cigar or cigarette cases, snuff boxes, cachou or pill boxes, powder boxes, chain purses or prayer beads).

These articles may be combined or set, for example, with natural or cultured pearls, precious or semiprecious stones, synthetic or reconstructed precious or semiprecious stones, tortoise shell, mother-of-pearl, ivory, natural or reconstituted amber, jet or coral.

* * * *

Note 11 to Chapter 71 states as follows:

11. For the purposes of heading 7117, the expression “*imitation jewelry*” means articles of jewelry within the meaning of paragraph (a) of note 9 above (but not including buttons or other articles of heading 9606, or dress combs, hair slides or the like, or hairpins, of heading 9615), not incorporating natural or cultured pearls, precious or semiprecious stones (natural, synthetic or reconstructed) nor (except as plating or as minor constituents) precious metal or metal clad with precious metal.

* * * *

Note 1(p) to section XVI (chapters 84–85), states that:

1. This section does not cover:

* * * *

(p) Articles of chapter 95.

* * * *

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

The EN to 85.43 states, in relevant part:

This heading covers all electrical appliances and apparatus, **not falling** in any other heading of this Chapter, **nor covered more specifically** by a heading of any other Chapter of the Nomenclature.

The EN to 95.05 states, in relevant part:

This heading covers :

(A) **Festive, carnival or other entertainment articles**, which in view of their intended use are generally made of non-durable material. They include:

* * *

(3) Articles of fancy dress, e.g., masks, false ears and noses, wigs, false beards and moustaches (**not being** articles of postiche - **heading 67.04**), and paper hats. However, the heading **excludes** fancy dress of textile materials, of **Chapter 61** or **62**.

* * * *

In NY N020891, CBP classified electronic flashing buttons under heading 8543, HTSUS, as electrical apparatus not covered more specifically by a heading of any other chapter of the HTSUS. However, pursuant to the EN to 85.43, if the merchandise is covered more specifically by a heading of any other chapter of the HTSUS, then it would not be classified in heading 8543, HTSUS.

Heading 7117, HTSUS, provides for imitation jewelry. Note 11 to chapter 71 states that imitation jewelry means “articles of jewelry” within the meaning of note 9(a) to chapter 71, which do not consist of cultured pearls, precious/semiprecious stones or precious metal. Note 9(a) states that, for the purposes of heading 7113, HTSUS, “articles of jewelry” are small articles of adornment, such as bracelets, necklaces, brooches, earrings, etc. The electronic flashing buttons at issue are most akin to the brooches set forth in note 9(a) to chapter 71. The Merriam-Webster Online Dictionary defines a “brooch” as “an ornament that is held by a pin or clasp and is worn at or near the neck.” Brooch Definition, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/brooch> (last visited Apr. 19, 2018). It is also defined in the *Jeweler’s Dictionary*, 3rd Ed. 1976, as: “[a] piece of jewelry to be worn pinned to clothing, as at the neck or shoulder, on the breast or hat, or in the hair.”

Turning to the instant merchandise, we note that the electronic flashing button, consisting of hard plastic with a pin or clip mounted on the back and worn on a lapel or shirt, is similar to a brooch, which is among the listed exemplars of articles of jewelry in note 9(a) to chapter 71. *See, e.g., Russ Berrie & Co. v. United States*, 381 F.3d 1334 (Fed. Cir. 2004) (finding that inexpensive lapel pins similar to the exemplars in note 9(a) of chapter 71, which contain Christmas themes, are classified in heading 7117, HTSUS, as imitation jewelry). In addition, the electronic flashing button does not include pearls, precious stones or precious metal. We further note that in past rulings, we have classified novelty badges/buttons with light-up features or that depict recognized festive motifs under heading 7117, HTSUS. *See, e.g., Headquarters Ruling Letter (“HQ”) 087960*, dated January 4, 1991 (classifying a Christmas corsage pin in heading 7117, HTSUS, as imitation jewelry); HQ 087109, dated August 16, 1990 (classifying a dancing Halloween skeleton pin in heading 7117, HTSUS, as imitation jewelry); HQ 086630, dated July 3, 1990 (classifying light-up buttons with Christmas and Halloween themes in heading 7117, HTSUS, as imitation jewelry); NY N121916, dated September 21, 2010 (classifying a St. Patrick’s Day LED flashing button pin in heading 7117, HTSUS, as imitation jewelry); and NY L82750, dated March 8, 2005 (classifying a light up flashing badge in the shape of a pumpkin, skull head, ghost or bat, attached to a card that states “Halloween Flashing Pin,” in heading 7117, HTSUS, as imitation jewelry). Here, the subject electronic flashing button features a pin or clip upon which the button is mounted, and is of a type of pin or clip that is routinely affixed to jewelry pins or brooches that are worn on a lapel or shirt. Therefore, the electronic flashing buttons are *prima facie* classifiable in heading 7117, HTSUS, as imitation jewelry. As stated in the EN to 85.43, heading 8543, HTSUS, only covers electrical apparatus not covered more specifically by a heading of any other chapter. As the electronic flashing buttons are more specifically provided for in heading 7117, HTSUS, we find that the buttons in NY N020891 were improperly classified in heading 8543, HTSUS.

While the subject merchandise is classifiable in heading 7117, HTSUS, heading 9505, HTSUS, must also be considered. In *Midwest of Cannon Falls, Inc. v. United States (Midwest)*, 122 F.3d 1423, 1429 (Fed. Cir. 1997), the Court of Appeals for the Federal Circuit (“CAFC”) held that classification of merchandise as “festive articles” under chapter 95 requires that the article satisfy two criteria: (1) it must be closely associated with a festive occasion, and (2) it must be used or displayed principally during that festive occasion. Additionally, the item must be “closely associated with a festive occasion” to the degree that “the physical appearance of an article is so intrinsically linked to a festive occasion that its use during other time periods would be aberrant.” *Park B. Smith, Ltd. v. United States*, 347 F.3d 922, 927 (Fed. Cir. 2003) (quoting *Park B. Smith, Ltd. v. United States*, 25 CIT 506, 509 (2001)). Hence, the courts have established a 2-prong test to determine whether an article is “festive,” and have not said that heading 9505, HTSUS is a “principal use” provision. *See HQ H258442*, dated August 18, 2016.

Under the 2-prong test set forth in *Midwest* and *Park B. Smith, Ltd.*, an article’s physical appearance and the court’s examination of such is part of the determination of whether an article is *prima facie* classifiable as a “festive article.” “Festive occasions” are not limited to recognized holidays but can

also include “special occasions and events such as weddings, anniversaries, and birthdays.” *Wilton Industries, Inc. v. United States*, 31 CIT 863, 890 (2007). Accordingly, merchandise classifiable under the 2-prong test in heading 9505, HTSUS, includes articles associated with a birthday celebration.

As the electronic flashing buttons printed with the expression “Happy Birthday” are classifiable in heading 7117, HTSUS, and heading 9505, HTSUS, we must turn to GRI 3(a), which states, in pertinent part, that “when...goods are, *prima facie*, classifiable under two or more headings,...[t]he heading which provides the most specific description shall be preferred to headings providing a more general description.” The EN to GRI 3(a) further states that “[a] description by name is more specific than a description by class,” and that “if the goods answer to a description which more clearly identifies them, that description is more specific than one where identification is less complete.” The CAFC explained that “[u]nder this so-called rule of relative specificity, we look to the provision with requirements that are more difficult to satisfy and that describe the article with the greatest degree of accuracy and certainty.” *Russ Berrie & Co.*, 381 F.3d at 1337 (citing *Orlando Food Corp. v. United States*, 140 F.3d 1437, 1441 (Fed. Cir. 1998)). Accordingly, a comparison of the terms in heading 7117 and heading 9505 is in order. In *Russ Berrie & Co.*, the CAFC compared heading 7117 and heading 9505 for purposes of GRI 3(a). There, the CAFC explained that

the “imitation jewelry” heading is more specific than the “festive articles” heading because it covers a narrower set of items. “Imitation jewelry” is limited to small items of personal adornment that do not contain an appreciable amount of precious or semiprecious stones or metal....“Festive articles,” however, need only to be closely associated with and used or displayed during a festive occasion....Because heading 9505 covers a far broader range of items than heading 7117, the latter is more specific than the former. It is also more specific because it describes the item by name (“imitation jewelry”) rather than by class (“festive articles”). It therefore follows that the imported merchandise is classifiable under heading 7117 rather than under heading 9505.

Russ Berrie & Co., 381 F.3d at 1338.

Applying GRI 3(a) and the reasoning of the CAFC in *Russ Berrie & Co.*, even if the electronic flashing buttons were described by the terms of heading 9505, HTSUS, they are more specifically described in heading 7117, HTSUS, as “imitation jewelry.” Therefore, the flashing buttons are properly classified in heading 7117, HTSUS.

HOLDING:

By application of GRIs 1 and 3(a), the electronic flashing buttons are classified in heading 7117, HTSUS, specifically in subheading 7117.90.7500, HTSUSA (Annotated), which provides for “Imitation jewelry: Other: Valued over 20 cents per dozen pieces or parts: Other: Of plastics.” The 2018 column one, general rate of duty is Free.

EFFECT ON OTHER RULINGS:

NY N020891, dated January 9, 2008, is revoked.

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

Sincerely,
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

19 CFR PART 177**REVOCAION OF ONE RULING LETTER AND
REVOCAION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF DIAMOND WIRE**

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

ACTION: Notice of revocation of one ruling letter and of revocation of treatment relating to the tariff classification of diamond wire.

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) is revoking one ruling letter concerning tariff classification of diamond wire under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 52, No. 39, on September 26, 2018. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after May 13, 2019.

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), a notice was published in the *Customs Bulletin*, Vol. 52, No. 39, on September 26, 2018, proposing to revoke one ruling letter pertaining to the tariff classification of diamond wire. 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 have advised CBP during the comment period.

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

In New York Ruling Letter ("NY") 876359, dated July 27, 1992, CBP classified diamond wire in heading 8202, HTSUS, specifically in subheading 8202.99.00, HTSUS, which provides for "Handsaws, and metal parts thereof; blades for saws of all kinds (including slitting, slotting or toothless saw blades), and base metal parts thereof." CBP has reviewed NY 876359 and has determined the ruling letter to be in error. It is now CBP's position that diamond wire is properly classified, in heading 6804, HTSUS, specifically in subheading 6804.21.00, HTSUS, which provides for "Millstones, grindstones, grinding wheels and the like, without frameworks, for grinding, sharpening, polishing, trueing or cutting, hand sharpening or polishing stones, and parts thereof, of natural stone, of agglomerated natural or artificial abrasives, or of ceramics, with or without parts of other materials: Other millstones, grindstones, grinding wheels and the like: Of agglomerated synthetic or natural diamond."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY 876359 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H277235, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: November 30, 2018

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H277235

November 30, 2018

OT:RR:CTF:CPMM H277235 RGR

CATEGORY: Classification

TARIFF NO.: 6804.21.0080

MR. MASSOUD BESHARAT
IMEX INTERNATIONAL INC.
BOWMAN HWY.
P.O. BOX 7
ELBERTON, GA 30635

Re: Revocation of NY 876359; Tariff classification of diamond wire from Italy

DEAR MR. BESHARAT:

This letter is in reference to a ruling issued to you, by U.S. Customs and Border Protection (“CBP”), concerning the classification under the Harmonized Tariff Schedule of the United States (“HTSUS”), of diamond wire. Specifically, in New York Ruling Letter (“NY”) 876359, dated July 27, 1992, CBP classified diamond wire in subheading 8202.99.00, HTSUS. We have reviewed NY 876359 and found it to be in error. For the reasons set forth below, we are revoking NY 876359.

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Volume 52, No. 39 on September 26, 2018, proposing to revoke NY 876359, and any treatment accorded to substantially similar transactions. No comments were received in response to this notice.

FACTS:

In NY 876359, CBP described the merchandise as follows:

Diamond wires are used with diamond wire saws. They are inserted into them and cut through stone. These saw blades are made of a stainless steel wire interior, rings of synthetic diamond mixed with metallic powder and a plastic coating.

Diamond wires like those in NY 876359 are generally used within an electrically powered wire saw machine, which, by means of the diamond wire, is capable of cutting through construction materials ranging from heavily reinforced concrete to meter-thick masonry.¹ Diamond wire consists of a flexible steel wire that acts as a base upon which other components are permanently affixed. These components include steel spring, rubber or plastic, and multiple “beads.” Each bead is made up of diamond powder mixed with metallic powders. The hardness of the diamond abrasive on the beads ensures that this method of cutting is effective on any material that is softer than diamond. When a diamond wire saw machine is operated with the fitted diamond wire, the diamond wire is passed around a work-piece such as a slab of concrete in a continuous loop and then reeved through the various pulleys within the machine. The wire saw machine then provides the power that

¹ See, e.g., GENERAL TOOL, http://www.gtdiamond.com/wp-content/themes/general-tool/GT_catalog.pdf (last visited May 31, 2018).

pulls the diamond wire along the path to be cut. Through friction and abrasion, the beads on the wire cut through the work-piece.²

ISSUE:

Whether the subject diamond wire is classified in heading 6804, HTSUS, as “millstones, grindstones, grinding wheels and the like...for grinding, sharpening, polishing, trueing or cutting, hand sharpening or polishing stones, and parts thereof...of agglomerated natural or artificial abrasives,” or in heading 8202, HTSUS as “blades for saws of all kinds (including slitting, slotting or toothless saw blades), and base metal parts thereof.”

LAW AND ANALYSIS:

Classification under the HTSUS is governed by the General Rules of Interpretation (“GRI”). 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 following provisions of the HTSUS are under consideration:

6804 Millstones, grindstones, grinding wheels and the like, without frameworks, for grinding, sharpening, polishing, trueing or cutting, hand sharpening or polishing stones, and parts thereof, of natural stone, of agglomerated natural or artificial abrasives, or of ceramics, with or without parts of other materials:

* * * *

8202 Handsaws, and metal parts thereof; blades for saws of all kinds (including slitting, slotting or toothless saw blades), and base metal parts thereof:

* * * *

Note 1(d) to Chapter 82 provides as follows:

1. Apart from blow torches and similar self-contained torches, portable forges, grinding wheels with frameworks, manicure or pedicure sets and goods of heading 8209, this chapter covers only articles with a blade, working edge, working surface or other working part of:

(d) Abrasive materials on a support of base metal, provided that the articles have cutting teeth, flutes, grooves or the like, of base metal, which retain their identity and function after the application of the abrasive.

In interpreting the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) may be utilized. The ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized

² See, e.g., GENERAL TOOL, http://gtdiamond.com/wp-content/themes/general-tool/GT_catalog.pdf (last visited May 31, 2018); MIRAGE PORTABLE PERFORMANCE, <https://blog.miragemachines.com/how-diamond-wire-saws-work> (last visited May 31, 2018); HUSQVARNA, <https://www.husqvarnacp.com/us/machines/wire-saws/> (last visited May 31, 2018).

System at the international level. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug, 23, 1989).

* * * *

EN 68.04 provides as follows:

(3) **Grinding wheels, heads, discs, points, etc.**, as used on machine-tools, electro-mechanical or pneumatic hand tools, for the trimming, polishing, sharpening, truing or sometimes for the cutting of metals, stone, glass, plastics, ceramics, rubber, leather, mother of pearl, ivory, etc.

Except for some cutting discs, which may be of considerable diameter, these goods are usually much smaller than those described above, and they may be of any shape, (e.g., flat, conical, spherical, dished, ring-shaped, recessed or stepped); they may also be planed or profiled at the edges.

The heading covers such tools not only when they are predominantly of abrasive materials, but also when they consist of only a very small abrasive head on a metal shank, or of a centre or core of rigid material (metal, wood, plastics, cork, etc.) on to which compact layers of agglomerated abrasive have been permanently bonded (e.g., cutting discs of metal, etc., fitted with rims or with a series of peripheral inserts of abrasive material). The heading also covers abrasive elements for hones, whether or not they are mounted in the carriers required for their fixation in the body of the hone.

It should, however, be noted that certain abrasive tools are **excluded** and fall in **Chapter 82**. The latter Chapter, however, covers **only** those tools with cutting teeth, flutes, grooves, etc., which retain their identity and function even after the application of the abrasive materials (i.e., tools which, unlike those of this heading, could be put to use even if the abrasive had not been applied). Saws with cutting teeth covered with abrasive therefore remain in heading 82.02. Similarly crown drills as used for cutting discs from sheets of glass, quartz, etc., are classified in this heading if the working edge is smooth apart from the abrasive coating, but in heading 82.07 if toothed (whether or not coated with abrasive).

* * * *

EN 82.02 provides as follows:

Saw blades may have integral teeth, or be fitted with inserted teeth or segments (such as some circular saws). The teeth may be wholly of base metal, or of base metal fitted or covered with metal carbides, diamond (black diamonds in particular) or, in some cases, with abrasive powders. In some saws the teeth may be replaced by diamonds or by elements of metal carbides set around the periphery of the disc.

Toothless discs fitted with abrasive rims (e.g., for cutting marble, quartz or glass) or with a series of peripheral inserts are, however, excluded, (see the Explanatory Note to heading 68.04).

* * * *

Heading 8202, HTSUS, provides for “blades for saws of all kinds.” However, the term “blade” is not defined in the HTSUS or the ENs. It is well-established that when a tariff term is not defined by the HTSUS or its legislative history, its correct meaning is its common or commercial meaning, which can be ascertained by reference to “dictionaries, scientific authorities, and other reliable information sources” and “lexicographic and other materials.” *Rocknel Fastener, Inc. v. United States*, 267 F.3d 1354, 1356–57 (Fed. Cir. 2001). The term “blade” connotes the flat cutting edge of a knife, saw or other tool or weapon; or the thin cutting part of an edged tool or weapon.³ Pursuant to note 1(d) to chapter 82, the diamond wire must have cutting teeth in order to be classified in that chapter. The description of the diamond wire in NY 876359 does not include any reference to flat cutting edges or cutting parts, but instead describes merchandise consisting of a stainless steel wire interior and rings of synthetic diamond mixed with metallic powder and a plastic coating. Pictures of similar diamond wire currently sold by the requester in NY 876359 match the description of the diamond wire in that ruling (see below):⁴



Based on pictures of diamond wire currently sold by the requester in NY 876359, the description of the product in that ruling, and online research into similar diamond wire products sold by other manufacturers⁵, the subject merchandise appears to be a round-shaped instrument, which is not sharp to the touch and has no cutting teeth. Accordingly, the merchandise in NY 876359 is not within the common or commercial meaning of the term “blade”

³ See MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/blade> (last visited Mar. 28, 2018) and OXFORD ENGLISH DICTIONARY, <http://www.oed.com> (last visited Mar. 28, 2018).

⁴ IMEX INDUSTRIES, <http://www.imexindustries.com/technowire> (last visited Mar. 28, 2018).

⁵ See, e.g., HUSQVARNA, <https://www.husqvarnacp.com/us/diamond-tools/wire-saws/> (last visited Mar. 28, 2018); DIXIE DIAMOND MANUFACTURING, <https://dixiediamond.com/diamond-wire.php> (last visited Mar. 28, 2018); PLATTNER GMBH, <http://www.plattnergembh.com/en/products/#bearbeitungSaegeblaetter> (last visited Mar. 28, 2018); DIABU DIAMANTWERKZEUGE DIAMOND TOOLS, http://www.diabue.com/download/diabue_catalogue_2013_en_k1.pdf (last visited Mar. 28, 2018).

and does not have cutting or inserted teeth as described in note 1(d) of chapter 82 and in the ENs to 82.02. Therefore, the subject diamond wire is not a product of heading, 8202, HTSUS.⁶

Rather than operating as a “blade” or saw with cutting teeth of heading 8202, HTSUS, the diamond wire is comprised of beads that are permanently affixed to a flexible steel cable. The beads are made up of diamond abrasive mixed with metallic powder. The beads containing the diamond abrasive perform the cutting function while the steel cable does not contain any abrasive materials. The diamond wire is imported in rolls of various lengths. After importation, the diamond wire is cut to size and installed in a diamond wire saw machine.⁷

In past rulings, we have classified tools consisting of a center or core of rigid material onto which layers of agglomerated abrasive have been permanently bonded for cutting or grinding construction materials in heading 6804, HTSUS. For example, in HQ 952587, dated January 26, 1993, we classified in heading 6804, HTSUS, sawing wire beads made of synthetic diamond fragments and agglomerated in a metallic matrix that was wrapped around an internally threaded metal tubular bearing section that contained no diamonds. In holding as such, we explained that the ENs to 68.04 state that such goods may be of any shape, including spherical or ring-shaped. The ENs to 68.04 further provide that the heading includes not only articles predominantly of abrasive materials, but also those that consist of a small abrasive head on a center or core of rigid material, such as metal, onto which compact layers of agglomerated abrasive have been permanently bonded. Based on the description in the ENs of merchandise of heading 6804, we concluded that the sawing wire beads in HQ 952587 were properly classified in subheading 6804.21.00, HTSUS. In addition, in HQ H284143, dated December 28, 2017, we classified diamond circular saw blades without cutting teeth in subheading 6804.21.00, HTSUS. In concluding as such, we noted that the steel cores upon which the diamond abrasive was bonded had no ability to cut before the addition of the abrasive material.

The subject diamond wire incorporates wire beads identical to those in HQ 952587. The ENs to 68.04 provide that the heading covers tools consisting of

⁶ Although the diamond wire saw machine in which the diamond wire is used is classified in heading 8479, HTSUS, the diamond wire is not a “part” of that machine or machines of any other heading. The courts have consistently held that “an imported article is to be classified according to its condition as imported. . .” *XTC Products, Inc. v. United States*, 771 F.Supp.401, 405 (1991); *Simod Am. Corp. v. United States*, 872 F.2d 1572, 1577 (Fed. Cir. 1989); *Carrington Co. v. United States*, 61 C.C.P.A. 77, (C.C.P.A. 1974). The courts also addressed the issue of parts vs. materials for classification purposes in *Baxter Healthcare Corporation of Puerto Rico v. United States*, 182 F.3d 1333 (Fed. Cir. 1999), where the Court of Appeals for the Federal Circuit found that certain polypropylene filaments imported on spools were properly classified as synthetic monofilaments rather than as parts of an oxygenator because individual parts were not identifiable or fixed at the time of import. Here, the subject diamond wire is imported separately from the diamond wire machine, and is cut to the proper length to be rigged with a drive motor in a diamond wire saw machine. These lengths are not pre-determined or indicated on the imported rolls of diamond wire and the diamond wire is not imported directly for use with the machine. Where the diamond wire bears no markings to indicate where it is to be cut to fit a customer’s specifications within a diamond wire machine, it is not considered a “part” of that machine. Accordingly, the diamond wire is not classifiable as a part of a machine of heading 8479, HTSUS, or a part of any other machine.

⁷ As the merchandise is imported in material lengths, it cannot be considered a part of the machine or apparatus into which it is ultimately reeved. See *Baxter*, 182 F. 3d 1333.

only a very small abrasive head on a metal shank, or of a center or core of rigid material, such as metal, onto which layers of agglomerated abrasive have been permanently bonded. As described in the EN to 68.04, the beads that are part of the diamond wire are small, ring-shaped goods that are permanently bonded to a center flexible metal wire. As such, the beads, an agglomerated abrasive, fused to wire, are analogous to a series of inserts of abrasive material on a metal substrate. Furthermore, the beads, together with the wire, are analogous to the circular saw blades in HQ H284143. Both contain agglomerated, cutting diamond material on a metal base. Here, the beads are not teeth, and hence, do not meet the terms of note 1(d) to chapter 82. Accordingly, pursuant to the legal text as explained in EN 68.04, the subject diamond wire is classified in heading 6804, HTSUS.

Based on the foregoing, we find that the subject diamond wire is classified in heading 6804, HTSUS, as “Millstones, grindstones, grinding wheels and the like, without frameworks, for grinding, sharpening, polishing, trueing or cutting, hand sharpening or polishing stones, and parts thereof, of natural stone, of agglomerated natural or artificial abrasives, or of ceramics, with or without parts of other materials.”

HOLDING:

By application of GRIs 1 and 6, the instant diamond wire is classified in heading 6804, HTSUS, specifically under subheading 6804.21.0080, HTSUSA (Annotated), which provides for “Millstones, grindstones, grinding wheels and the like, without frameworks, for grinding, sharpening, polishing, trueing or cutting, hand sharpening or polishing stones, and parts thereof, of natural stone, of agglomerated natural or artificial abrasives, or of ceramics, with or without parts of other materials: Other millstones, grindstones, grinding wheels and the like: Of agglomerated synthetic or natural diamond: Other.” The 2018 column one, general rate of duty is Free.

EFFECT ON OTHER RULINGS:

NY 876359, dated July 27, 1992, is revoked.

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

Sincerely,

ALLYSON MATTANAH

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

19 CFR PART 177**REVOCAION OF TWO RULING LETTERS AND
REVOCAION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF RAFFIA HANDBAGS**

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

ACTION: Notice of revocation of two ruling letters, and revocation of treatment relating to the tariff classification of raffia handbags.

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) is revoking two ruling letters concerning tariff classification of raffia handbags under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 52, No. 39, on September 26, 2018. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after May 13, 2019.

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), a notice was published in the *Customs Bulletin*, Vol. 52, No. 39, on September 26, 2018, proposing to revoke two ruling letters pertaining to the tariff classification of raffia handbags. 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 have advised CBP during the comment period.

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

In New York Ruling Letter ("NY") N261630, dated March 10, 2015, and NY N261223, dated February 23, 2015, CBP classified raffia handbags in heading 4602, HTSUS, specifically in subheading 4602.19.2620, HTSUSA (Annotated), which provides for "Basketwork, wickerwork and other articles, made directly to shape from plaiting materials or made up from articles of heading 4601; articles of loofah: Of vegetable materials: Other: Luggage, handbags and flatgoods, whether or not lined: Other: Handbags." CBP has reviewed NY N261630 and NY N261223 and has determined the ruling letters to be in error. It is now CBP's position that raffia handbags are properly classified, in heading 4602, HTSUS, specifically in subheading 4602.19.2500, HTSUSA (Annotated), which provides for "Basketwork, wickerwork and other articles, made directly to shape from plaiting materials or made up from articles of heading 4601; articles of loofah: Of vegetable materials: Other: Luggage, handbags and flatgoods, whether or not lined: Of palm leaf: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N261630 and NY N261223 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H284742, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: November 30, 2018

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H284742

November 30, 2018

OT:RR:CTF:CPMM H284742 RGR

CATEGORY: Classification

TARIFF NO.: 4602.19.2500

MS. JUDY L. SUCHARITAKUL
PERRYMAN MOJOINER COMPANY
9710 S. LA CIENEGA BLVD.
INGLEWOOD, CA 90301

Re: Revocation of NY N261630 and NY N261223; Tariff classification of handbags from China

DEAR MS. SUCHARITAKUL:

This letter is in reference to two rulings issued by U.S. Customs and Border Protection ("CBP") concerning the classification under the Harmonized Tariff Schedule of the United States ("HTSUS") of handbags from China. Specifically, in New York Ruling Letter ("NY") N261630, dated March 10, 2015, and NY N261223, dated February 23, 2015, CBP classified raffia handbags in subheading 4602.19.2920, HTSUSA (Annotated). We have reviewed NY N261630 and NY N261223 and found them to be in error. For the reasons set forth below, we are revoking NY N261630 and NY N261223.

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Volume 52, No. 39 on September 26, 2018, proposing to revoke NY N261630 and NY N261223, and any treatment accorded to substantially similar transactions. No comments were received in response to this notice.

FACTS:

In NY N261630, CBP described the merchandise as follows:

Style H7273X is described as "Ara Beaded Raffia Tote". It is constructed with an outer surface of raffia with an imitation gemstone and bead design on the front. It is designed to provide storage, protection, portability, and organization to personal effects during travel. It has a textile-lined storage compartment with a zippered pocket and two open pockets on one side of the interior wall. The bag has a top opening with a magnetic closure and two carrying handles. The bag measures approximately 17½ (W)" x 11 (H) " x 6 " (D).

In NY N261223, CBP described the merchandise as follows:

Style H7264X is described as "Bali Straw Shoulder Bag". It is a handbag constructed with an outer surface of raffia. The bag is designed and sized to contain the small personal effects that would normally be carried on a daily basis. It has a textile-lined storage compartment with a zippered pocket on one side of the interior wall and two open pockets on the other side. The bag has a top opening with a snap closure and one carrying handle. There is a 3½" tassel hanging on the front of the bag. The bag measures approximately 11½" (W) x 8½" (H) x ½" (D).

Style H2769X is described as "Lyric Raffia Bucket." It is constructed with an outer surface of raffia. It is designed to provide, storage, protection, portability, and organization to personal effects during travel. It has a textile-lined storage compartment with a zippered pocket and two open pockets on one side of the interior wall and one zippered pocket on the

other. The bag has a top opening with a magnetic closure and one carrying handle. The bag measures approximately 13½" (W) x 13" (H) x 3" (D).

Style H2720X is described as "Joplin Raffia Zip Tote". It is constructed with an outer surface of raffia. It is designed to provide storage, protection, portability, and organization to personal effects during travel. It has a textile-lined storage compartment with a zippered pocket and two open pockets on one side of the interior wall and one zippered pocket on the other. The bag has a top opening with one zipper closure and two carrying handles. The bag measures approximately 13½" (W) x 9 ¼" (H) x 4" (D).

Style H7276X is described as "Floridabunda Raffia Tote". It is constructed with an outer surface of raffia. It is designed to provide storage, protection, portability, and organization to personal effects during travel. It has a textile-lined storage compartment with zippered pocket and two open pockets on one side of the interior wall and one zippered pocket on the other. The bag has a top opening with a magnetic closure and two carrying handles. The bag measures approximately 14½" (W) x 10½" (H) x 7½" (D).

Style H7274X is described as "Solana Raffia Tote". It is constructed with an outer surface of raffia. It is designed to provide storage, protection, portability, and organization to personal effects during travel. It has a textile-lined storage compartment with a zippered pocket and two open pockets on one side of the interior wall and one zippered pocket on the other. The bag has a top opening with a magnetic closure and two carrying handles. The bag measure approximately 15½" (W) x 12" (H) x 5½" (D).

ISSUE:

Whether the subject handbags are classified in subheading 4602.19.2920, HTSUSA, as luggage, handbags or flatgoods not of willow or palm leaf, or in subheading 4602.19.2500, HTSUSA, as luggage, handbags or flatgoods of palm leaf

LAW AND ANALYSIS:

Classification under the HTSUS is governed by the General Rules of Interpretation ("GRI"). 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 following provisions of the HTSUS are under consideration:

4602	Basketwork, wickerwork and other articles, made directly to shape from plaiting materials or made up from articles of heading 4601; articles of loofah:
	Of vegetable materials:
4602.19	Other:
	Luggage, handbags and flatgoods, whether or not lined:

4602.19.2200	Of willow:
	Of palm leaf:
4602.19.2300	Articles of a kind normally carried in the pocket or in the handbag:
4602.19.2500	Other.
4602.19.29	Other
4602.19.2920	Handbags.

* * * *

Heading 4602 provides for “Basketwork, wickerwork and other articles, made directly to shape from plaiting materials or made up from articles of heading 4601; articles of loofah.” There is no dispute that the handbags in NY N261630 and NY N261223 are classified therein. The issue arises at the eight-digit subheading level.

As described in NY N261630 and NY N261223, the subject handbags are made of raffia. According to the Merriam-Webster Online Dictionary, raffia is “the fiber of the raffia palm used especially as cord for tying and weaving.” See <https://www.merriam-webster.com/dictionary/raffia> (last visited April 23, 2018). The Oxford English Dictionary defines raffia as “a palm of the large-leaved tropical genus *Rapha*, esp. one of those whose young leaves yield the fibre known as raffia.” See <https://www.oed.com> (last visited Apr. 23, 2018). Thus, raffia is, in fact, a palm. As the subject raffia handbags (of palm leaf) were classified in subheading 4602.19.2920, HTSUSA, which covers handbags of vegetable materials that are not palm leaf or willow, we find that they were improperly classified.

Because the subject handbags are made of raffia, a type of palm leaf, they are properly classified in subheading 4602.19.2500, HTSUSA, as “luggage, handbags and flatgoods, whether or not lined: of palm leaf.” This classification is in line with many of our previous rulings where we classified raffia handbags as handbags of palm leaf. See, e.g., NY N092447, dated February 10, 2010; NY N090788, dated February 8, 2010; NY N019188, dated November 29, 2007; NY L86037, dated July 18, 2005; NY K80823, dated December 29, 2003; NY G85714, dated January 24, 2001; NY G83517, dated November 9, 2000; NY F80776, dated January 6, 2000; NY D86063, dated January 13, 1999; and NY C80557, dated November 6, 1997.¹

Based on the foregoing, we find that the subject raffia handbags in NY N261630 and NY N261223 are properly classified in subheading 4602.19.2500, HTSUSA, as “Basketwork, wickerwork and other articles, made directly to shape from plaiting materials or made up from articles of heading 4601; articles of loofah: Of vegetable materials: Other: Luggage, handbags and flatgoods, whether or not lined: Of palm leaf: Other.”

¹ Prior to 2007, handbags of raffia were classified in subheading 4602.10.2500, HTSUSA, as “Basketwork, wickerwork and other articles, made directly to shape from plaiting materials or made up from articles of heading 4601; articles of loofah: Of vegetable materials: Luggage, handbags and flatgoods, whether or not lined: of rattan or of palm leaf: Other.” For purposes of classifying handbags of raffia, the language in the older tariff provision corresponds with the language in the present subheading at 4602.19.2500, HTSUSA, except for the deletion of rattan from the present version of the subheading.

HOLDING:

By application of GRI 1, the subject handbags are classified in heading 4602, HTSUS, specifically under subheading 4602.19.2500, HTSUSA, which provides for “Basketwork, wickerwork and other articles, made directly to shape from plaiting materials or made up from articles of heading 4601; articles of loofah: Of vegetable materials: Other: Luggage, handbags and flatgoods, whether or not lined: Of palm leaf: Other.” The 2018 column one, general rate of duty is 18% *ad valorem*.

EFFECT ON OTHER RULINGS:

NY N261630, dated March 10, 2015, and NY N261223, dated February 23, 2015, are revoked.

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

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**REVOCAION OF ONE RULING LETTER AND
REVOCAION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF TWISTABLE COLORED
PENCILS**

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

ACTION: Notice of revocation of one ruling letter and of revocation of treatment relating to the tariff classification of twistable colored pencils.

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) is revoking New York Ruling Letter (NY) R00817 concerning the tariff classification of twistable colored pencils under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 52, No. 46, on November 14, 2018. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after May 13, 2019.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Chemicals, Petroleum Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325-0024.

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), a notice was published in the Customs Bulletin, Vol. 52, No. 46, on November 14, 2018, proposing to revoke one ruling letter pertaining to the tariff classification of twistable colored pencils. 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 have advised CBP during the comment period.

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

In NY R00817, CBP classified Crayola twistable colored pencils in heading 9609, HTSUS, specifically in subheading 9609.10.00, HTSUS, which provides for "Pencils (other than those pencils of heading 9608), crayons, pencil leads, pastels, drawing charcoals, writing or drawing chalks and tailors' chalks: Pencils and crayons, with leads encased in a rigid sheath." CBP has reviewed NY R00817 and has determined the ruling letter to be in error. It is now CBP's position that the Crayola twistable colored pencils are properly classified in heading 9608, HTSUS, specifically in subheading 9608.40.40, HTSUS, which provides for "Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating stylos; propelling or sliding pencils; pen-holders, pencil-holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 96.09: Propelling or sliding pencils: With a mechanical action for extending, or for extending and retracting, the lead."

Pursuant to 19 U.S.C. § 1625(c)(1), CSP is revoking NY R00817 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H293295, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: February 19, 2019

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H293295

February 19, 2019

CLA-2 OT:RR:CTF:CPM H293295 CkG

CATEGORY: Classification

TARIFF NO.: 9608.40.80

WANDA HABRIAL
 BINNEY & SMITH, INC.
 1100 CHURCH LANE
 EASTON PA 18043

Re: Revocation of NY R00817; classification of twistable colored pencils

DEAR MS. HABRIAL:

This is in reference to New York Ruling Letter (NY) R00817, issued to you on September 16, 2004, concerning the classification of Crayola twistable colored pencils. For the reasons set forth below, we have determined that the classification of the colored pencils in heading 9609, HTSUS, was incorrect.

FACTS:

In NY R00817, the subject merchandise was described as follows:

The merchandise consists of twistable colored pencils. The pencils are composed of a clear plastic barrel with a colored lead inserted that is refreshed by twisting the end of the barrel.

The mechanism of action consists of a spring that encircles the writing core and holds it in place; as the end of the barrel is twisted, the spring moves forward, carrying the writing core with it. When twisting in the other direction, the movement is reversed.

ISSUE:

Whether the instant articles are classified as propelling pencils in heading 9608, HTSUS, or in heading 9609, HTSUS, as crayons or as pencils other than those of heading 9608, HTSUS.

LAW AND ANALYSIS:

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings or notes do not require otherwise, the remaining GRIs 2 through 6 may be applied.

The HTSUS provisions under consideration are as follows:

- 9608: Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating stylos; propelling or sliding pencils; pen-holders, pencil-holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 96.09.
- 9608.40: Propelling or sliding pencils:
- 9608.40.40: With a mechanical action for extending, or for extending and retracting, the lead...

9608.40.80:	Other...
9609:	Pencils (other than those pencils of heading 9608), crayons, pencil leads, pastels, drawing charcoals, writing or drawing chalks and tailors' chalks:
9609.10.00:	Pencils and crayons, with leads encased in a rigid sheath...

* * * *

The Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") constitute the official interpretation of the Harmonized System at the international level. While neither 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 (August 23, 1989).

EN 96.08 provides, in pertinent part, as follows:

This heading covers :

...

- (5) **Propelling pencils or sliding pencils**, single or multilead type; including the spare leads normally contained therein.

EN 96.09 provides, in pertinent part, as follows:

The articles of this heading are of two types :

- (A) Those without any covering or simply covered with a protective band of paper (e.g., chalks, drawing charcoals, pencil leads, certain crayons, pastels, and slate pencils).
- (B) Pencils and crayons, with leads encased in wood or plastics or in some cases in a sheath composed of layers of paper.

The heading includes :

- (1) **Slate pencils** of natural or agglomerated slate.

...

- (5) **Crayons and pastels**, usually made of a mixture of chalk or clay, colouring matter, shellac or wax, spirit and turpentine.
- (6) **Pencils and crayons**, with leads encased in a rigid sheath.

* * * *

In NY R00817, CBP classified twistable colored pencils in heading 9609, HTSUS, which provides for "Pencils (other than pencils of heading 96.08), crayons, pencil leads, pastels, drawing charcoals, writing or drawing chalks and tailors' chalks." By the terms of the heading, pencils can only be classified in heading 9609 if they are not otherwise provided for in heading 9608, HTSUS. Heading 9608, in turn, provides for, inter alia, "propelling or sliding pencils". Thus, we must first consider whether the instant articles are classified in heading 9608, HTSUS; if so, then they cannot be classified in heading 9609, HTSUS.

Crayons are classified in heading 9609, HTSUS; colored pencils are classified in heading 9608, HTSUS, if mechanical (i.e., "propelling pencils"), and in heading 9609, HTSUS, if they have no mechanical features. None of the terms "pencil", "crayon" or "propelling pencil" are defined in the HTSUS or the ENs. In cases where tariff terms are undefined, they are to be construed in accordance with their common and commercial meanings which are

presumed to be the same (*Nippon Kogaku, Inc. v. United States*, 69 CCPA 89, 92, 673 F.2d 380 (1982); see also *Nylos Trading Company v. United States*, 37 CCPA 71, 73, C.A.D. 423 (1949), and *Winter-Wolff, Inc., v. United States*, CIT Slip Op. 98–15 (Customs Bulletin and Decisions, March 25, 1998, vol. 32, no. 12, 71, at 74, “When, however, a tariff term is not clearly defined by the statute or its legislative history, it is also fundamental that the correct meaning of the tariff term is ‘presumed to be the same as its common or dictionary meaning in the absence of evidence to the contrary’”).

“Pencil” is variously defined as “an instrument for writing or drawing, consisting of a thin stick of graphite or a similar substance enclosed in a long thin piece of wood or fixed in a metal or plastic case”¹, or “an implement for writing, drawing, or marking consisting of or containing a slender cylinder or strip of a solid marking substance.”²

“Propelling pencil”, in turn, is chiefly a British term synonymous with “mechanical pencil” in U.S. usage. See e.g., Macmillan Dictionary Online (“pencil made from plastic or metal rather than wood that is always sharp and ready to write with. The British word is propelling pencil.”)³; see also Cambridge English Dictionary Online:

“*noun* [C] UK /prə.pel.ɪŋ ˈpen.səl/ US /prə.pel.ɪŋ ˈpen.səl/ uk us **mechanical pencil**”⁴ (emphasis added). A “propelling” or “mechanical” pencil is simply “a pencil made of metal or plastic with a lead that is moved forward by a mechanical device”⁵, or “a pencil in which the lead is pushed out by turning or pressing a part of the pencil.”⁶ Mechanical pencils are also sometimes described as having replaceable or refillable lead. See e.g., Oxford English Dictionary Online (“a pencil with a plastic or metal case and a thin replaceable lead that may be extended as the point is worn away by twisting the outer casing”⁷). The common element of all definitions of “propelling” or “mechanical” pencil, however, is that lead is “propelled” forward via mechanical action. The inability to replace or refill the lead in a pencil using mechanical action to propel the lead forward therefore does not, in our estimation, preclude classification in heading 9608, HTSUS.

“Crayon” is only vaguely defined, as “a stick of white or colored chalk or of colored wax used for writing or drawing”⁸, or “[a] pointed stick or pencil of

¹ Oxford English Dictionary Online, available at http://www.oed.com/search?searchType=dictionary&q=pencil&_searchBtn=Search (last visited January 10, 2018)

² Merriam Webster Dictionary Online, available at <https://www.merriam-webster.com/dictionary/pencil> (last visited January 10, 2018)

³ <http://www.macmillandictionary.com/dictionary/american/mechanical-pencil> (last visited January 10, 2018)

⁴ <https://dictionary.cambridge.org/dictionary/english/propelling-pencil> (last visited January 10, 2018)

⁵ See Merriam-Webster Dictionary Online at <https://www.merriamwebster.com/dictionary/mechanical%20pencil> (last visited January 10, 2018).

⁶ See Cambridge English Dictionary Online, available at <https://dictionary.cambridge.org/dictionary/english/propelling-pencil> (last visited January 10, 2018)

⁷ https://en.oxforddictionaries.com/definition/us/mechanical_pencil (last visited January 10, 2018).

⁸ Merriam Webster Dictionary Online, available at <https://www.merriam-webster.com/dictionary/crayon> (last visited January 10, 2018)

coloured chalk or other material, for drawing.”⁹ Products marketed and known in the channels of trade as “crayons” are blunt, thick sticks of colored wax used for drawing or coloring. The terms of heading 9609, specifically subheading 9609.10.00, HTSUS, further provide for, *inter alia*, crayons enclosed in a rigid sheath.

In addition, we note that Crayola’s colored pencils are made by mixing extenders, binder, pigment and water, which after mixing, are rolled into flat sheets, and pressed into cylinder shapes called cartridges. The cartridges are extruded and cut to size to create the pencil lead.¹⁰ Crayola crayons, on the other hand, are made from paraffin wax, pigment, and small amounts of other ingredients, which are poured into a mold until solidified.¹¹

The Crayola twistable colored pencils are writing or drawing instruments consisting of a solid marking substance enclosed in a rigid sheath; they therefore fall squarely within the definitions of “pencil” set out above. We further note that, in contrast to Crayola’s twistable crayons¹², the instant articles are marketed and advertised as pencils.¹³ The instant articles are therefore pencils made of plastic with a lead¹⁴ that is moved forward by a mechanical device—specifically, by twisting the bottom of the pencil, which moves the attached spring forward, carrying the core with it. This mechanical action places the instant pencils squarely in the “twist”¹⁵ category of mechanical/propelling pencils, classified in heading 9608, HTSUS, specifically subheading 9608.40.40, HTSUS.

As the instant articles are *prima facie* classifiable as pencils of heading 9608, HTSUS, it is unnecessary to further consider whether they could also be considered crayons of heading 9609, HTSUS; by the terms of headings 9608 and 9609, any article which could conceivably be described in both headings must be classified in heading 9608, HTSUS, at GRI 1.

In contrast, we note that articles such as Crayola’s twistable crayons, which are too thick to be used in the manner of a pencil—i.e., for detailed drawing, writing or coloring—are correctly classified in heading 9609,

⁹ Oxford English Dictionary Online, available at http://www.oed.com/search?searchType=dictionary&q=crayon&_searchBtn=Search (last visited January 11, 2018)

¹⁰ See <http://www.crayola.com/faq/your-business/can-you-tell-me-how-crayola-colored-pencils-are-made/>

¹¹ See e.g., <https://www.wired.com/2014/09/how-to-make-crayons/>.

¹² See <http://shop.crayola.com/color-and-draw/crayons/mini-twistable-crayons-10-ct.-5297150003.html>.

¹³ See <http://shop.crayola.com/color-and-draw/colored-pencils/twistables-colored-pencils-18-ct.-6874180007.html>; <http://shop.crayola.com/spotlight/coloring-and-sticker-books-and-crayons/art-with-edge-24-ct.-color-twist-shading-pencils-6874240000.html>.

¹⁴ We note that cores of pencils, colored or mechanical or otherwise, are not actually lead. Writing pencils typically have a core of graphite, whereas colored pencils have cores made up of a range of materials, generally consisting of a wax or oil base, a specific pigment and binding agents. To date, this has never resulted in colored pencils being considered other than pencils. See also EN 96.09, which refers to colored pencil “leads”, “consisting of metallic oxides or other mineral pigments combined with clay, chalk or wax; indelible or copying leads, composed of clay tinted with a dye, such as aniline or fuchsine.”

¹⁵ “Twist” mechanisms which advance and retract the lead with a turn of a knob are common in older mechanical pencils. See e.g., <https://www.jetpens.com/blog/guide-to-mechanical-pencils/pt/809> (last visited January 11, 2018); <https://www.cultpens.com/pencyclopedia/guide-to-mechanical-pencils> (last visited January 11, 2018).

HTSUS, because they do not meet the terms of heading 9608, HTSUS. See NY J81304, dated February 20, 2003, classifying Crayola twistable crayons in heading 9609, HTSUS.

HOLDING:

The twistable colored pencils are classified in heading 9608, HTSUS, specifically subheading 9608.40.40, HTSUS, which provides for “Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating stylos; propelling or sliding pencils; pen-holders, pencil-holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 96.09: Propelling or sliding pencils: With a mechanical action for extending, or for extending and retracting, the lead.” The 2018 column one, general rate of duty is 6.6% *ad valorem*.

EFFECT ON OTHER RULINGS:

NY R00817, dated September 16, 2004, is hereby revoked.

Sincerely,

ALLYSON MATTANAH

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

19 CFR PART 177**REVOCAION OF ONE RULING LETTER AND
REVOCAION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF METASMART DRY**

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

ACTION: Notice of revocation of one ruling letter and of revocation of treatment relating to the tariff classification of MetaSmart Dry.

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) is revoking HQ H262551, dated May 9, 2016, concerning the tariff classification of MetaSmart Dry under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 52, No. 48, on November 28, 2018. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after May 13, 2019.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Chemicals, Petroleum, Metals and Miscellaneous Branch, Regulations and Rulings, Office of Trade, at (202) 325–0024.

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), a notice was published in the *Customs Bulletin*, Vol. 52 No. 48, on November 28, 2018, proposing to revoke one ruling letter pertaining to the tariff classification of MetaSmart Dry. 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 have advised CBP during the comment period.

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

In HQ H262551, dated May 9, 2016, CBP classified MetaSmart Dry in heading 2930, HTSUS, specifically in subheading 2930.90.91, HTSUS, which provides for, "Organo-sulfur compounds: Other: Other: Other." CBP has reviewed HQ H262551 and has determined the ruling letter to be in error. It is now CBP's position that MetaSmart Dry is properly classified in heading 2309, HTSUS, specifically subheading 2309.90.95, HTSUS, which provides for "Preparations of a kind used in animal feeding: Other: Other: Other: Other: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking HQ H262551 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H284810, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: February 19, 2019

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H284810

February 19, 2019

CLA-2 OT:RR:CTF:TCM H284810 CkG

CATEGORY: Classification

TARIFF NO: 2309.90.95

PORT DIRECTOR
PORT OF SAN FRANCISCO
U.S. CUSTOMS AND BORDER PROTECTION
555 BATTERY STREET, SUITE 228
SAN FRANCISCO, CA 94111

Attn: Tom Chan, Import Specialist

Re: Revocation of HQ H262551, dated May 9, 2016; classification of
MetaSmart Dry

DEAR PORT DIRECTOR:

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered Headquarters Ruling Letter (HQ) H262551, dated May 09, 2016, in which we granted Protest No. 2809–14–100777, filed on behalf of Adisseo USA, Inc., concerning the classification of MetaSmart Dry under the Harmonized Tariff Schedule of the United States (HTSUS).

In HQ H262551, we classified MetaSmart Dry in heading 2930, HTSUS, which provides for “Organo-sulfur compounds.” We have reviewed HQ H262551 and found it to be incorrect with respect to the classification of MetaSmart Dry. For the reasons set forth below, we are revoking this ruling.

As an initial matter, we note that under *San Francisco Newspaper Printing Co. v. United States*, 620 F. Supp. 738 (Ct. Int’l Trade 1985), the decision on the merchandise which was the subject of Protest No. 2809–14–100777 was final and binding on both the protestant and CBP. Therefore, while we may review the law and analysis of HQ H262551, any decision taken herein would not impact the entries subject to that ruling.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke HQ H262551 was published on November 28, 2018, in Volume 52, Number 48, of the *Customs Bulletin*. No comments were received in response to this Notice.

FACTS:

The subject merchandise was described in HQ H262551 as follows:

The subject merchandise is described as an isopropyl ester of 2-hydroxy-4-methylthiobutanoic acid. MetaSmart is not itself methionine, rather, it is the isopropyl ester of the acid *dl*-Hydroxy analogue of *dl*-methionine. It is referred to as HMBi for short and its CAS number is 57296–04–5. The acid form of the analog is *dl*-2-hydroxy-4-(methylmercapto) butyric acid, and it is also known as 2-Hydroxy-4-(methylthio) butyric (or butanoic) acid, or HMB or HMBa. The International Non-Proprietary Names (INN) of HMBa is imported and sold by Adisseo under the trade name Rhodimet AT88, and the CAS registry number of the product is 583–91–5.

In layman’s terms, when HMB (whether acid or ester) is ingested by a ruminant animal, in the instant case, that is a dairy cow, a chemical

conversion occurs in the animal's body whereby, *in vivo*, an amino group is substituted for the hydroxyl group of each form of HMB. Each undergoes a conversion and becomes identical to methionine. This results in an increased production of protein and also milk production of the dairy cow.

To make the instant product, the HMBi is adsorbed onto silicon dioxide (silica). Silica has a CAS number 7631-86-9. Adsorption is a process, whereby the molecules of a gas or liquid adhere to the surface of a solid. This process creates a film of the adsorbate on the surface of the adsorbent. This process differs from absorption, in which a fluid permeates or is dissolved by a liquid or solid.

In its meeting with CBP, Adisseo stated that an adsorption process was chosen to manufacture MetaSmart Dry because the HMBi molecules adhere to the surface of the silica without changing the chemical properties of the HMBi. In other words, the adsorption process does not change the chemical nature of HMBi, or the effect it has in the animal, but it will change the HMBi's physical state from a liquid into a free-flowing powder. In the adsorption process the silica is referred to as a "carrier" or the adsorbent. The HMBi is the adsorbate. Silica is very commonly chosen as a carrier or adsorbent¹. MetaSmart Dry is 57-60% HMBi and approximately 40% silica. Adisseo stated that this ratio was chosen to ensure the product remains a free-flowing powder mixture. However, this ratio also ensures that the HMBi is completely adsorbed onto the silica and no extraneous HMBi molecules break free of the carrier and crystallize. HMBi crystallizes at a very high temperature, approximately 54 degrees Fahrenheit (12 degrees Celsius). If more than 60% of the HMBi were present, then the extra HMBi molecules would crystallize and/or solidify and cake and become difficult to use. If much less than 60% of the HMBi were used, then the product would not be as effective in the animal, or, the animal would need higher doses of the product.

MetaSmart Dry is mixed into cattle feed products, and the desired chemical reaction (protein building resulting in increased milk production) occurs in the cow's digestive tract. Adisseo stated that dairy cow farms operating in consistently colder climates (such as the upper-mid-west of the United States) may prefer to use the dry version over the liquid version because the dry powder will not crystallize and become difficult or impossible to use.

Adisseo also stated in its meeting that HMBi has no uses outside of animal feed, specifically feed for dairy cows. It was designed specially to react in a dairy cow's stomach because ruminant animals have multiple chambers². Adisseo also stated that silica was chosen as the carrier because it is an effective adsorbent and while the silica is not promoted as a nutritional component, it has been shown to provide some peripheral nutritional benefit, such as bone growth, in the animal.

¹ See The International Adsorption Society, available at: <http://ias.vub.ac.be/What%20is%20adsorption.html>

² See U.S. Patent No. 20150080468A1, (filed September 13, 2013).

ISSUE:

Whether the subject merchandise is classified in heading 2309, HTSUS, as a preparation of a kind used in animal feeding; heading 2930, HTSUS, as an organo-sulfur compound; or in heading 3824, HTSUS, as a chemical preparation not elsewhere specified or included.

LAW AND ANALYSIS:

Classification of goods under the HTSUS is governed by the General Rules of Interpretation (GRI). GRI 1 provides that classification 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 at issue are as follows:

2309: Preparations of a kind used in animal feeding:

2930: Organo-sulfur compounds:

3824: Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included:

* * * * *

Note 1 to Chapter 23, HTSUS, provides as follows:

Heading 2309 includes products of a kind used in animal feeding, not elsewhere specified or included, obtained by processing vegetable or animal materials to such an extent that they have lost the essential characteristics of the original material, other than vegetable waste, vegetable residues and byproducts of such processing.

Note 1 to Chapter 29 provides:

1. Except where the context otherwise requires, the headings of this Chapter apply only to:

(a) Separate chemically defined organic compounds, whether or not containing impurities;

....

(f) The products mentioned in (a), (b), (c), (d) or (e) above with an added stabiliser (including an anti-caking agent) necessary for their preservation or transport;

* * * * *

The Harmonized Commodity Description and Coding System (HS) Explanatory Notes (“ENs”) constitute the official interpretation of the HS. While not legally binding or dispositive, the ENs provide a commentary on the scope of each heading of the HS at the international level, and are generally indicative of the proper interpretation of these headings. See T.D. 89–80, 54 Fed. Reg. 35127 (August 23, 1989).

EN 23.09 provides, in pertinent part, as follows:

This heading covers sweetened forage and prepared animal feeding stuffs consisting of a mixture of several nutrients designed :

- (1) to provide the animal with a rational and balanced daily diet (complete feed);
- (2) to achieve a suitable daily diet by supplementing the basic farmproduced feed with organic or inorganic substances (supplementary feed); or
- (3) for use in making complete or supplementary feeds.

...

(II) OTHER PREPARATIONS

(A) PREPARATIONS DESIGNED TO PROVIDE THE ANIMAL WITH ALL THE NUTRIENT ELEMENTS REQUIRED TO ENSURE A RATIONAL AND BALANCED DAILY DIET (COMPLETE FEEDS)

...

(B) PREPARATIONS FOR SUPPLEMENTING (BALANCING) FARM-PRODUCED FEED (FEED SUPPLEMENTS)

...

(C) PREPARATIONS FOR USE IN MAKING THE COMPLETE FEEDS OR SUPPLEMENTARY FEEDS DESCRIBED IN (A) AND (B) ABOVE

These preparations, known in trade as “ premixes ”, are, generally speaking, compound compositions consisting of a number of substances (sometimes called additives) the nature and proportions of which vary according to the animal production required. These substances are of three types:

- (1) Those which improve digestion and, more generally, ensure that the animal makes good use of the feeds and safeguard its health: vitamins or provitamins, aminoacids, antibiotics, coccidiostats, trace elements, emulsifiers, flavourings and appetisers, etc.
- (2) Those designed to preserve the feeding stuffs (particularly the fatty components) until consumption by the animal: stabilisers, antioxidants, etc.
- (3) Those which serve as carriers and which may consist either of one or more organic nutritive substances (manioc or soya flour or meal, middlings, yeast, various residues of the food industries, etc.) or of inorganic substances (e.g., magnesite, chalk, kaolin, salt, phosphates).

The concentration of the substances described in (1) above and the nature of the carrier are determined so as to ensure, in particular, homogeneous dispersion and mixing of these substances in the compound feeds to which the preparations are added

Provided they are of a kind used in animal feeding, this group also includes :

- (a) Preparations consisting of several mineral substances.
- (b) Preparations consisting of an active substance of the type described in (1) **above with a carrier, for example products of the antibiotics manufacturing process obtained by simply drying the mass, i.e. the entire contents of the fermentation vessel (essentially mycelium, the culture medium and the antibiotic)...**

* * * *

The General EN to Chapter 29 provides, in pertinent part, as follows:

GENERAL

As a general rule, this Chapter is restricted to separate chemically defined compounds, subject to the provisions of Note 1 to the Chapter.

(A) Chemically defined compounds

A separate chemically defined compound is a substance which consists of one molecular species (e.g., covalent or ionic) whose composition is defined by a constant ratio of elements and can be represented by a definitive structural diagram. In a crystal lattice, the molecular species corresponds to the repeating unit cell.

Separate chemically defined compounds containing other substances deliberately added during or after their manufacture (including purification) are excluded from this Chapter. Accordingly, a product consisting of saccharin mixed with lactose, for example, to render the product suitable for use as a sweetening agent is excluded (see Explanatory Note to heading 29.25).

The separate chemically defined compounds of this Chapter may contain impurities (Note 1 (a)). An exception to this rule is created by the wording of heading 29.40 which, with regard to sugars, restricts the scope of the heading to chemically pure sugars.

The term "impurities" applies exclusively to substances whose presence in the single chemical compound results solely and directly from the manufacturing process (including purification). These substances may result from any of the factors involved in the process and are principally the following :

- (a) Unconverted starting materials.
- (b) Impurities present in the starting materials.
- (c) Reagents used in the manufacturing process (including purification).
- (d) By-products.

It should be noted, however, that such substances are not in all cases regarded as "impurities" permitted under Note 1 (a). When such substances are deliberately left in the product with a view to rendering it particularly suitable for specific use rather than for general use, they are not regarded as permissible impurities. For example, a product consisting of methyl acetate with methanol deliberately left in with a view to improving its suitability as a solvent is excluded (heading 38.14). For certain

compounds (e.g., ethane, benzene, phenol, pyridine), there are specific purity criteria, indicated in Explanatory Notes to headings 29.01, 29.02, 29.07 and 29.33.

* * * *

The EN to heading 2930 provides, in pertinent part:

(C) **SULPHIDES (OR THIOETHERS)***

These may be regarded as ethers in which the oxygen atom is replaced by one of sulphur

(ROR ¹).....	(RSR ¹)
ether	sulphide

- (1) **Methionine***. White platelets or powder. An amino acid. Essential component in human nutrition, not synthesised by the body.

* * * *

In HQ H262551, CBP determined that the subject merchandise was classified in heading 2930, HTSUS, as an organo-sulfur compound. In so holding, CBP concluded that the 40% of silica in the MetaSmart Dry did not alter the character of the product as a source of methionine for ruminant animals, and that it was therefore a permissible stabilizer pursuant to Note 1 to Chapter 29.

Heading 2930, HTSUS, covers the merchandise only if its composition is within the scope of Note 1 to Chapter 29. Like methionine, HMBi is an organo-sulfur compound classifiable in heading 2930. The issue is whether a product which contains only 60 % HMBi, with the remainder consisting of a silica adsorbent, is still a separately defined compound for the purposes of Note 1 to Chapter 29.

As stated in the General EN to Chapter 29, Chapter 29 is restricted to separate chemically defined compounds, subject to the provisions of Note 1 to the Chapter. Note 1(f) to Chapter 29, in turn, states that “stabilizers” are a permissible additive and do not alter the tariff classification, so long as the stabilizer is necessary for the preservation or transport of the product.

Contrary to our conclusion in H262551, the silica encapsulation of the Metasmart Dry is not a stabilizer necessary for the preservation or transport of the HMBi. At cooler temperatures, the HMBi crystallizes into a solid; however, it reverts back to a liquid state when heated, and it is not in any way rendered unusable by crystallization. To the contrary, the MetaSmart User’s Guide specifically indicates that “[t]he physical, chemical and nutritional characteristics of MetaSmart are not affected by crystallization.” The User’s Guide further states that simply reheating the MetaSmart Dry will return it to the liquid phase if it does crystallize. Pursuant to Adisseo’s submissions to CBP in connection with H262551, the encapsulation of the HMBi was simply a more cost-effective option than investing in a heated room to store the HMBi above 52 degrees. We further note that MetaSmart is also sold directly in liquid form, with no apparent drawbacks to the liquid form as regards transport, handling or administration (“there is a savings of 25% when the liquid form of MetaSmart is used, making it the least-cost source of metabolizable methionine for ruminants... Adding MetaSmart Liquid to the mixer is achieved by using an injection system ... Tests have confirmed that liquid and

dry forms of MetaSmart mix equally well, delivering similar Coefficient of Variation (CV) with MetaSmart Liquid delivering the added benefit of dust control.”³)

Thus, the silica adsorbent allows for ease and convenience in handling and transport, but it is not necessary for either. It also follows that the silica is not acting as an anti-caking or anti-dusting agent in this case; as HMBi is a liquid under normal conditions, it is not subject to caking or creating dust.

In HQ H262551, CBP also relied on *Roche Vitamins, Inc. v. United States*, 772 F.3d 728 (Fed. Cir. 2014), in concluding that the MetaSmart Dry was classified in heading 2930 because the silica adsorbent did not alter the character of the good beyond the scope of the heading at issue and did not render the product particularly suitable for specific use rather than for general use.

However, we find that in the instant case, the silica adsorbent does render the HMBi suitable only for specific use as an animal feed, particularly dry feed. The dry formulation of MetaSmart is designed for incorporation into animal feeds “where liquid dispersion is not a feasible option.”⁴ It is also designed to be metabolized in a specific manner, where 50% of the MetaSmart is absorbed through the rumen wall to be hydrolyzed into methionine by the liver, and 50% remains in the rumen for utilization therein, “which promotes increased numbers of protozoa, increased forage and fiber digestion and promotes rumen bacterial protein synthesis and efficiency.”⁵

Pursuant to the above discussion, MetaSmart Dry is precluded from classification in Chapter 29 by Note 1 to that Chapter, and is therefore not classified in heading 2930, HTSUS.

As an alternative to classification in heading 2930, Protestant requests classification of the MetaSmart Dry in heading 2309, HTSUS, as a preparation of a kind used in animal feeding. In *Group Italglass U.S.A. v. United States*, 17 C.I.T. 226, 228 (1993), the CIT held that “the language in heading 7010 ‘of a kind used for’ explicitly invokes use as a criterion for classification”. Classification under such a provision is controlled by the principal use of goods of that class or kind to which the imported goods belong in the United States at or immediately prior to the date of the importation. A tariff classification controlled by use, other than actual use, is to be determined by the principal use in the United States at, or immediately prior to, the date of importation, of goods of the same class or kind of merchandise. See Additional U.S. Rule of Interpretation 1(a). In other words, the actual use of the specific product at issue is not controlling. In determining the principal use of a product, CBP considers a variety of factors including general physical characteristics, the expectation of the ultimate purchaser, channels of trade, and the environment of sale (accompanying accessories, manner of advertisement and display). See *United States v. Carborundum Company*, 63 C.C.P.A. 98, C.A.D. 1172, 536 F.2d 373 (1976), cert. denied, 429 U.S. 979.

We agree that the principal use of the MetaSmart Dry preparation is as an animal feed. Adisseo itself provides only products and services related to animal feed and nutrition MetaSmart is marketed, advertised, sold and used as an animal feed. The MetaSmart User’s Guide instructs customers on the incorporation of MetaSmart into complete feeds for ruminants, and Adisseo

³ http://www.adisseo.biz/EM/adv/metasmart/da_metasmart_qa_08.htm

⁴ http://www.adisseo.biz/EM/adv/metasmart/da_metasmart_qa_03.htm

⁵ http://www.adisseo.biz/EM/adv/metasmart/da_metasmart_qa_12.htm

further provided a letter from the Director of the Division of Animal Feeds of the FDA defining HMBi as “a product...for use as a source of methionine activity in cattle diets.”

Preparations of heading 2309, HTSUS, fall into several categories: complete feeds, supplementary feeds and premixes. Supplementary feeds consist of proteins, minerals or vitamins plus additional energy feeds (carbohydrates) which serve as a carrier for the other ingredients. Supplementary feeds have much the same composition as complete feeds, but they are distinguished by a relatively high content of one particular nutrient. Premixes include preparations consisting of an active substance such as vitamins or provitamins, aminoacids, antibiotics, etc., with a carrier. MetaSmart Dry is described as a premix by Adisseo.

Classification in heading 2309, HTSUS, generally requires that products of that heading consist of a mixture of several nutrients. See EN 23.09; HQ 966456, dated October 25, 2004; HQ 966679, dated September 15, 2003; HQ 964944, dated February 08, 2002; HQ 964600, dated June 21, 2001; NY L89318, dated January 17, 2006; and NY I83322, dated June 19, 2002. However, we note that EN 23.09 specifically covers premixes which consist of “either of one or more organic nutritive substances”, and includes “preparations consisting of an active substance with a carrier”. EN 23.09 further describes merchandise tantamount to Metasmart Dry. EN 23.09 includes in the heading compounds which “ensure that the animal makes good use of the feeds and safeguards its health.” Methionine is an amino acid essential to the health of the cow and the ability to produce milk. It is an active substance, which is combined with one other ingredient, suitable for use only as a premix for animal feed. We consider these to constitute specific exceptions to the general requirement that feed preparations must consist of a mixture of several nutrients.

A nutrient is a food substance that is utilized or consumed by the body to create tissue or energy. See e.g., HQ 966456, dated October 25, 2004. Methionine is an essential amino acid for all animals, but it is not naturally produced in the body; it must be ingested. Among other functions, methionine is necessary for metabolism in the body, and plays a role in the growth of new blood vessels. Methionine is thus unquestionably a nutrient. As the HMBi is converted into methionine in the body, HMBi will play the same nutritional role as methionine. Silicon dioxide itself potentially has nutritional value for animals. In general, silicon plays an important role in skeletal formation and the growth of connective tissue. While silicon dioxide was thought to be an inert substance that could not be used by the body as a bioavailable source of silicon, studies suggest that silicon dioxide may be hydrolyzed in the digestive tract to release orthosilicic acid, the most bioavailable form of silicon.⁶

⁶ See e.g., J.P. Bellia et. al, *Beer, a dietary source of silicon*, The Lancet, Vol. 343 No. 8891 (Jan. 1994), available at <https://www.sciencedirect.com/science/article/pii/S0140673694910197> (“Silicon exists most commonly as the mineral silica, SiO₂. When exposed to water, silicates liberate orthosilicic acid Si(OH)₄...It is in this form that silicon is bioavailable...for absorption in the gastrointestinal tract.”). See also European Food Safety Authority, *Calcium silicate and silicon dioxide / silicic acid gel added for nutritional purposes to food supplements*, EFSA Journal (2009) 1132, 2–24 (“given the conversion of silicon dioxide/silicic acid to orthosilicic acid upon hydration, and the bioavailability of silicon from orthosilicic acid, the Panel considers that silicon from silicon dioxide/silicic acid gel is bioavailable”).

See also S. T. Tran, M. E. Bowman, T. K. Smith; Effects of a silica-based feed supplement on performance, health, and litter quality of growing turkeys, *Poultry Science*, Volume 94,

Pursuant to the above analysis, MetaSmart Dry is classifiable as premixes in heading 2309, HTSUS, as a preparation consisting of one or more nutritive substances for use in animal feed.

HOLDING:

By application of GRIs 1 and 6, the subject MetaSmart Dry is classified in heading 2309, HTSUS, specifically subheading 2309.90.95, HTSUS, which provides for “Preparations of a kind used in animal feeding: Other: Other: Other: Other: Other.” The 2018 column one, general rate of duty is 1.4% *ad valorem*.

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 at *www.usitc.gov*.

EFFECT ON OTHER RULLINGS:

HQ H262551, dated May 09, 2016, is hereby revoked.

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

Sincerely,

ALLYSON MATTANAH

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

19 CFR PART 177**REVOCAION OF ONE RULING LETTER AND
REVOCAION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF A CLOTHES STEAMER**

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

ACTION: Notice of revocation of one ruling letter and of revocation of treatment relating to the tariff classification of a clothes steamer.

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) is revoking one ruling letter concerning tariff classification of a clothes steamer under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 52, No. 42, on October 17, 2018. One comment was received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after May 13, 2019.

FOR FURTHER INFORMATION CONTACT: Patricia Fogle, Electronics, Machinery, Automotive and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0061.

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), a notice was published in the *Customs Bulletin*, Vol. 52, No. 42, on October 17, 2018, proposing to revoke one ruling letter pertaining to the tariff classification of a clothes steamer. 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 have advised CBP during the comment period.

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

In New York Ruling Letter ("NY") N258858, dated November 21, 2014, CBP classified a clothes steamer in heading 8516, HTSUS, specifically in subheading 8516.10.00, HTSUS, which provides for "Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof: Electric instantaneous or storage water heaters and immersion heaters." CBP has reviewed NY N258858 and has determined the ruling letter to be in error. It is now CBP's position that the clothes steamer is properly classified, in heading 8516, HTSUS, specifically in subheading 8516.79.00, HTSUS, which provides for "Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof: Other electrothermic appliances: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N258858 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H300545, set forth as an attachment to this notice. Addition-

ally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: December 20, 2018

GREG CONNOR

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachment

HQ H300545

December 20, 2018

CLA-2 OT:RR:CTF:EMAIN H300545 PF

CATEGORY: Classification

TARIFF NO.: 8516.79.00

MR. SCOTT LEONARD
HSN
P.O. BOX 9090
CLEARWATER, FL 33758

Re: Revocation of NY N258858; tariff classification of a clothes steamer

DEAR MR. LEONARD:

On November 21, 2014, U.S. Customs and Border Protection (“CBP”) issued to you New York Ruling Letter (“NY”) N258858. It concerned the tariff classification of the Joy Mangano My Little Steamer (“clothes steamer”) under the Harmonized Tariff Schedule of the United States (“HTSUS”). We have reviewed NY N258858 and determined that it is incorrect. For the reasons set forth below, we are revoking that ruling.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed action was published in the Customs Bulletin, Vol. 52, No. 42, on October 17, 2018. One comment opposing the proposed action was received and is addressed below.

FACTS:

In NY N258858, the subject clothes steamer was described as follows:

The sample under consideration is the Joy Mangano My Little Steamer w/Storage Bag, HSN Item Number 357–752. This product is an electric hand-held clothes steamer with a water reservoir and a cap with ten steam outlet holes. The steamer has an 8-foot retractable power cord with a two-prong plug, designed for a standard 120-volt polarized AC outlet. The steamer is intended for steaming fabrics only. It is powered by a 900 watt immersion heating element and produces steam within 2–3 minutes. The body of the steamer is made of plastic material, and measures approximately 12 inches high. The steamer is recommended for home and travel use. A drawstring bag is included for the convenience of storage and travel. The sample will be returned as requested.

In that ruling, CBP classified the subject clothes steamer in subheading 8516.10.00, HTSUS, which provides for “Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof: Electric instantaneous or storage water heaters and immersion heaters.”

Online marketing materials for the clothes steamer describes the device as a “lightweight, compact, steamer that gets the job done without the ironing board.”¹ In addition, a website selling the clothes steamer notes that the

¹ <http://joymangano.com/shop/care-for-your-clothes/> (last visited September 6, 2018).

device “[u]ses the power of steam to easily remove wrinkles” and that it is a “[g]reat alternative to ironing.”² Moreover, another website that markets the clothes steamer also states that the device “easily remove[s] wrinkles and leave[s] your favorite garments looking fresh.”³

ISSUE:

Whether the subject clothes steamer is classified in subheading 8516.10.00, HTSUS, as an immersion heater or in subheading 8516.79.00, HTSUS, as an other electrothermic appliances of a kind used for domestic purposes.

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States (“HTSUS”) is made in accordance with the General Rules of Interpretation (“GRI”). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The HTSUS provisions under consideration are as follows:

8516 Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof.

8516.10 Electric instantaneous or storage water heaters and immersion heaters
Other electrothermic appliances:

8516.79 Other.

Additional U.S. Rules of Interpretation 1 (“AUSR1”), HTSUS, provides, in part:

In the absence of special language or context which otherwise requires:

- (a) a tariff classification controlled by use (other than actual use) is to be determined in accordance with the use in the United States at, or immediately prior to, the date of importation, of goods of that class or kind to which the imported goods belong, and the controlling use is the principal use[.]

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While neither 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 (August 23, 1989).

² <https://www.amazon.com/Joy-Mangano-900-Watt-Little-Steamer/dp/B0024W9SUU> (last visited September 6, 2018).

³ <https://www.hsn.com/products/joy-supreme-steam-my-little-steamer-and-go-mini-set/8056984> (last visited September 6, 2018).

The EN to heading 8516, HTSUS, state, in relevant part:

(A) ELECTRIC INSTANTANEOUS OR STORAGE WATER HEATERS AND IMMERSION HEATERS

This group includes:

(5) **Immersion heaters** of different shapes and forms depending on their use, are generally used in tanks, vats, etc., for heating liquids, semi-fluid (other than solid) substances or gases. They are also designed to be used in pots, pans, tumblers, cups, baths, beakers, etc., usually with a heat-insulated handle and a hook for hanging the heater in the vessel.

They have a reinforced protective sheath which is highly resistant to mechanical stress and to seepage from liquids, semi-fluid (other than solid) substances and gases. A powder (usually magnesium oxide) with good dielectric and thermal properties holds the wire resistor (resistance) in place within the sheath and insulates it electrically.

Assemblies consisting of immersion heaters permanently incorporated in a tank, vat or other vessel are classified in **heading 84.19** unless they are designed for water heating only or for domestic use, in which case they remain in this heading. Solar water heaters are also classified in heading 84.19.

* * *

(E) OTHER ELECTRO-THERMIC APPLIANCES OF A KIND USED FOR DOMESTIC PURPOSES

This group includes all electro-thermic machines and appliances **provided** they are **normally used in the household**.

* * *

Within Chapter 85, HTSUS, heading 8516, in pertinent part, provides for other electrothermic appliances of a kind used for domestic purposes. The Section and Chapter Notes and the ENs do not provide a clear definition of the term “electro-thermic appliances of the kind used for domestic purposes.” However, CBP has previously defined the term “electrothermal” as “[o]f or relating to the production of heat by electricity.” See HQ 965863, dated December 3, 2002 (citing the *Webster’s II New Riverside Dictionary* 423 (1988)). CBP has also defined the term “domestic” as “of or pertaining to the family or household.” See HQ 965861, dated January 7, 2003 (citing the *Merriam-Webster Collegiate Dictionary*, 10th ed., pg. 344 (1999)). Accordingly, goods of the heading must be the kind of electrically-heated good that are used in the household.

Our initial determination that the subject clothes steamer was classified in heading 8516, HTSUS, was correct because this device is an electrothermic appliance used for domestic purposes. Specifically, it is used in the household and powered by electricity to heat water and produces steam, which is then applied to clothing or other fabric to reduce the occurrence of wrinkles. See *United States v. Carborundum Co.*, 63 C.C.P.A. 98, 102, 536 F.2d 373, 377 (1976). Therefore, the issue in this case is the proper classification at the subheading level. As a result, GRI 6 applies.

We originally determined that the subject clothes steamer was classified in subheading 8516.10.00, HTSUS, which provides for, *inter alia*, “Electric instantaneous or storage water heaters and immersion heaters.” While the

clothes steamer contains an immersion element that heats water to produce steam, we are of the view that the clothes steamer as a whole is not within the scope of subheading 8516.10, HTSUS, because it is not used as a water or immersion heater.

The commenter contends that the clothes steamer meets the description in EN (A)(5) to heading 8516, HTSUS, because it is designed to be placed inside a tank, vat or other vessel for direct-contact heating of liquids, semi-fluids or gases. However, while we recognize that the clothes steamer contains a heating element that is immersed directly in the water to be heated and that the heated water produces steam, the clothes steamer is not just an immersion heater.

The clothes steamer directs the steam produced by the heated water to a specific, useful and separate purpose of removing wrinkles from fabric. The clothes steamer features a number of components, including a water reservoir and a cap with ten steam outlet holes that together produce and direct steam for this purpose. Our conclusion is also supported by the online marketing materials for the clothes steamer which describe the device as a “lightweight, compact, steamer that gets the job done without the ironing board.”⁴ In addition, a website selling the clothes steamer notes that the device “[u]ses the power of steam to easily remove wrinkles” and that it is a “[g]reat alternative to ironing.”⁵ Moreover, another website that markets the clothes steamer also states that the device “easily remove[s] wrinkles and leave[s] your favorite garments looking fresh.”⁶ Therefore, since the primary function of the clothes steamer is the application of steam to fabric and not the heating of water, we find that the clothes steamer is not a water or immersion heater, and cannot be classified in subheading 8516.10.00, HTSUS.

Because the function and design of the clothes steamer is not fully described by the terms of subheading 8516.10.00, HTSUS, it is properly classified as another electrothermic appliance in 8516.79.00, HTSUS, which provides for in relevant part, “[O]ther electrothermic appliances of a kind used for domestic purposes; . . . Other electrothermic appliances: Other.”

CBP has classified electric steam cleaners under subheading 8516.79.00, HTSUS, in NY K84905, dated April 23, 2004, NY L82254, dated February 16, 2005 and NY N168881, dated June 24, 2011. In NY K84905, CBP described the merchandise as a clothes steamer with a water reservoir with a plastic cap or nozzle with five steam outlet holes whose function was to steam wrinkles from hanging fabrics, such as clothing or curtains. In NY L82254, CBP described the subject merchandise as a hand-held, pressurized steam cleaner with attachments that was designed to steam clean surfaces. The attachments included a jet nozzle, scrub brush, squeegee, angled head, fabric steamer and cloth, flexible extension hose, and a measuring cup for water. Moreover, in NY N168881, CBP classified a steam cleaner which had a boiler that heated water from the reservoir to create steam to clean and sanitize surfaces, windows, and clothing under subheading 8516.79.00, HTSUS. Similar to the fabric steamers in NY K84905, NY L82254, and NY N168881, the

⁴ <http://joymangano.com/shop/care-for-your-clothes/> (last visited September 6, 2018).

⁵ <https://www.amazon.com/Joy-Mangano-900-Watt-Little-Steamer/dp/B0024W9SUU> (last visited September 6, 2018).]

⁶ <https://www.hsn.com/products/joy-supreme-steam-my-little-steamer-and-go-mini-set/8056984> (last visited September 6, 2018).

subject clothes steamer has a number of components, whose principal use is applying steam to fabric. Therefore, we find that the clothes steamer is properly classified under subheading 8516.79.00, HTSUS.

HOLDING:

By application of GRIs 1 (U.S. Additional Rule of Interpretation 1(a)) and 6, the clothes steamer is classified in heading 8516, specifically subheading 8516.79.00, HTSUS, which provides, in relevant part, for: “Other electrothermic appliances of a kind used for domestic purposes; . . . : Other electrothermic appliances: Other.” The 2018 column one, general rate of duty is 2.7 percent *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY N258858, dated November 21, 2014, is REVOKED.

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

Sincerely,

GREG CONNOR

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division