

U.S. Customs and Border Protection

19 CFR PARTS 4, 7, 10, 12, 18, 19, 24, 54, 102, 113, 123, 125,
128, 132, 134, 141, 142, 143, 144, 145, 146, 148, 151, 152, 158,
163, 174, 181, AND 191

CBP DEC. NO. 15-14

RIN 1515-AE03

AUTOMATED COMMERCIAL ENVIRONMENT (ACE) FILINGS FOR ELECTRONIC ENTRY/ENTRY SUMMARY (CARGO RELEASE AND RELATED ENTRY)

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

ACTION: Interim final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect that on November 1, 2015, the Automated Commercial Environment (ACE) will be a CBP-authorized Electronic Data Interchange (EDI) System. This regulatory document informs the public that the Automated Commercial System (ACS) is being phased out as a CBP-authorized EDI System for the processing electronic entry and entry summary filings (also known as entry filings). ACE will replace the Automated Commercial System (ACS) as the CBP-authorized EDI system for processing commercial trade data. This document also announces the conclusion of the ACE *Cargo Release* and the *Entry Summary, Accounts and Revenue* tests with regard to the entry and entry summary requirements that are now part of the CBP regulations.

EFFECTIVE DATE: This interim final rule is effective on November 1, 2015. Written comments must be submitted on or before November 12, 2015.

ADDRESSES: You may submit comments, identified by docket number USCBP- 2015-0045, by *one* of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

Instructions: All submissions received must include the agency name and docket title for this rulemaking, and must reference docket number USCBP– 2015–0045 . All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of the document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during business days between the hours of 9:00 a.m. and 4:30 p.m. at the Office of International Trade, Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: For policy questions related to ACE, contact Josephine Baiamonte, Director, Business Transformation, ACE Business Office, Office of International Trade, at josephine.baiamonte@cbp.dhs.gov. For technical questions, contact Steven Zaccaro, Client Representative Branch, ACE Business Office, Office of International Trade, at steven.j.zaccaro@cbp.dhs.gov. For legal questions, contact Robert Altneu, Chief, Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, at robert.f.altneu@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim rule. Comments that will provide the most assistance to CBP in finalizing these regulations will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESSES** above for information on how to submit comments.

I. Background

A. *Statutory Authority*

Section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), establishes the requirement for importers of record to make entry for merchandise to be imported into the customs territory of the United States. Customs entry information is used by CBP and partner government agencies to determine whether merchandise may be released from CBP custody.

The customs entry requirements were amended by Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, December 8, 1993), commonly known as the Customs Modernization Act, or Mod Act. In particular, section 637 of the Mod Act amended section 484(a)(1)(A) of the Tariff Act (19 U.S.C. 1484(a)(1)(A)) by revising the requirement to make and complete customs entry by submitting documentation to CBP, to also allow in the alternative, the transmission of entry information electronically pursuant to a CBP-authorized electronic data interchange system. Further, section 634 of the Mod Act amended section 401 of the Tariff Act (19 U.S.C. 1401) to add definitions related to the electronic filing of the entry and entry summary. The term “electronic entry” is defined as the electronic transmission to CBP of entry information required for the entry of merchandise, and entry summary information required for the classification and appraisement of the merchandise, the verification of statistical information, and the determination of compliance with applicable law. The term “electronic transmission” is defined as the transfer of data or information through an authorized electronic data interchange system consisting of, but not limited to, computer modems and computer networks. The term “electronic data interchange system” is defined as any established mechanism approved by the CBP Commissioner through which information can be transferred electronically.

To implement the Mod Act, CBP has been modernizing the business processes essential to securing U.S. borders, facilitating the flow of legitimate shipments, and targeting illicit goods. The key automated system behind these initiatives is the Automated Commercial Environment (ACE). ACE is the backbone of CBP trade data processing and risk management activities and provides a single, centralized access point to connect CBP, other International Trade Data System (ITDS) agencies, and the trade community.

B. Executive Order 13659

On February 19, 2014, President Obama issued Executive Order (EO) 13659, *Streamlining the Export/Import Process for America's Businesses*, in order to reduce unnecessary procedural requirements to commerce while continuing to protect our national security, public health and safety, the environment, and natural resources. See 79 FR 10657 (February 25, 2014). Pursuant to EO 13659, participating Federal agencies shall have capabilities, agreements, and other requirements in place to utilize the International Trade Data System (ITDS) and supporting systems, such as the Automated Commercial Environment, as the primary means of receiving from users the standard set of data and other relevant documentation (exclusive of applications for permits, licenses, or certifications) required for the release of imported cargo and clearance of cargo for export no later than by December 31, 2016.

CBP will complete the development of core trade processing capabilities in ACE and decommission corresponding capabilities in legacy systems by the end of 2016. At that time, ACE will provide a Single Window for processing trade data, and become the primary system through which the international trade community will submit import and export data and the Government will determine admissibility.

C. Current Regulations

CBP established the specific requirements and procedures for the electronic filing of entry and entry summary data for imported merchandise through the Automated Broker Interface (ABI), originally a module of the Automated Commercial System (ACS), in a final rule (T.D. 90– 92) published in the **Federal Register**. See 55 FR 49879 (December 3, 1990). The CBP regulations, in Subparts A and D of part 143 in Title 19 of the Code of Federal Regulations (CFR), allow for electronic filing of customs entry and entry summary information through the ABI. ABI is defined as a module of the Automated Commercial System (ACS) that allows entry filers to transmit immediate delivery, entry, and entry summary data to CBP and to receive electronic messages. ACS is defined as CBP's integrated comprehensive tracking system for the acquisition, processing and distribution of import data. See 19 CFR 143.32.

D. Transitioning ABI From ACS to ACE

CBP has been developing and testing ACE over the last several years as the successor EDI system to ACS. CBP has provided significant public outreach through events and on-line information to help ensure that the international trade community is fully engaged in the

transition from ACS to ACE as the system authorized by the Commissioner for processing entry and entry summary information. CBP has conducted numerous tests of the filing of entries and entry summaries through ACE. *See* Section E below.

During the transition from ACS to ACE, filers have continued to use the ABI functionality to transmit entry and entry summary information both to the ACS and ACE EDI systems. In this document, CBP is announcing, consistent with 19 U.S.C. 1401, that, with the conclusion of National Customs Automation Program (NCAP) tests discussed below, ACE will be an authorized electronic data interchange system authorized by the Commissioner to which entry and entry summary filings (also known as entry filings) can be transmitted electronically. It should be noted that Reconciliation entries are not affected by this change. *See* 63 FR 6257 (February 6, 1998). Reconciliation entries will continue to be filed under the procedures, terms and conditions governing Reconciliation.

E. National Customs Automation Program

As part of the transition from ACS to ACE, CBP has been conducting tests of ACE under the NCAP. The NCAP was established by Subtitle B of the Mod Act. *See* 19 U.S.C. 1411. The two tests relevant to the regulatory amendments included in this document are the *Cargo Release* test and the *Entry Summary, Accounts and Revenue, or ESAR*, test.

1. ACE Cargo Release Test

On November 9, 2011, CBP published a general notice in the **Federal Register** (76 FR 69755) announcing an NCAP test concerning *ACE Simplified Entry* to simplify the entry process by eliminating the submission of redundant data elements required to obtain release for cargo imported by air. This test does not eliminate the submission of unique data elements. In a general notice titled “Modification of National Customs Automation Program Test Concerning Automated Commercial Environment (ACE) Cargo Release” published in the **Federal Register** (78 FR 66039) on November 4, 2013, CBP modified the *ACE Simplified Entry* test and renamed it the *ACE Cargo Release* test. The *Cargo Release* Test provided more capabilities to test participants and eliminated the requirement that test participants join the Customs-Trade Partnership Against Terrorism (C-TPAT) in order to increase participation. CBP modified the *Cargo Release* Test in a general notice published in the **Federal Register** (79 FR 6210) on February 3, 2014, to include the ocean and rail modes of transporta-

tion, and again in a general notice published in the **Federal Register** (80 FR 7487) on February 10, 2015, to change the name of one data element and allow authorized importers and licensed customs brokers to submit the *Cargo Release* entry and the Importer Security Filing (ISF) in a combined transmission to CBP. In addition, on March 27, 2015, CBP published a general notice in the **Federal Register** (80 FR 16414) to further modify the *Cargo Release* test to allow importers and customs brokers to file type 03 entries (*i.e.*, entries for merchandise subject to countervailing or antidumping duties) for all modes of transportation and to file, for cargo transported in the truck mode, entries for split shipments or partial shipments, and entry on cargo which has been moved in-bond from the first U.S. port of unloading.

2. Entry Summary, Accounts and Revenue (ESAR) Test

CBP has published several notices announcing ACE tests related to the *Entry Summary, Accounts and Revenue (ESAR)* capabilities. The first of these test notices (*ESAR I*), published by CBP in the **Federal Register** on October 18, 2007 (72 FR 59105), provided for enhanced account management functions for ACE Portal Accounts and expanded the universe of ACE account types. On August 26, 2008, CBP published a General Notice in the **Federal Register** (73 FR 50337) announcing the *ESAR II* test that concerned new Portal and EDI capabilities specific to entry summary filing and processing of consumption and informal entries. That notice stated that functionality will include ABI Census Warning Overrides and issuance of CBP requests for information and notices of action through the ACE Portal, and that new functionality will enhance Portal Account Management and allow for ACE Secure Data Portal reporting. On March 6, 2009, CBP published the *ESAR III* test notice in the **Federal Register** (74 FR 9826) that announced the port-by-port phased deployment strategy for the *ESAR II* functionality. On June 24, 2011, CBP announced the *ESAR IV* test in the **Federal Register** (76 FR 37136). That test permitted importers to file post-summary corrections (PSCs) of certain ACE entry summaries using ABI.

F. Amendments to the CBP Regulations

The Cargo Release and ESAR Tests will terminate only with regard to requirements directly related to automated entry and entry summary that do not involve data from other ITDS agencies upon the effective date of this rule. Test participants may continue to participate in the test until that date.

As a result of the two tests discussed above having been successful, CBP is amending its regulations to provide that ACE is a CBP-authorized electronic data interchange (EDI) system for processing

electronic entry and entry summary filings with CBP. As of the end of February 2016, CBP anticipates that ACE will be fully functional for filing entry and entry summary so that ACS will no longer be available for entry filings. CBP encourages filers to adjust their business practices by filing in ACE as of the effective date of this rule.

This rule amends sections 12.140, 24.23, 128.11, 128.23, 141.57, 141.58, 143.1, 143.31, 143.32, and 174.12 to replace references to the Automated Commercial System, or ACS, each place it appears in these sections with the phrase “ACE or any other CBP-authorized electronic data interchange system.” In section 24.23(a)(4)(i), regarding the Merchandise Processing Fee (MPF), we are retaining the reference to ACS, because that system will continue to be used to process payments, including MPF. We are adding the words “or any other CBP-authorized electronic data interchange system” to enable CBP to transition the payment processing functions to ACE at a later date.

This rule further amends certain definitions concerning the entry of merchandise in 19 CFR 141.0a to reflect that ACE is the CBP-authorized EDI system for processing trade data. In particular, the definitions for the following terms are revised to indicate filers may also submit required entry information electronically to ACE, as well as by paper, to CBP: “entry,” “entry summary,” “submission,” “filing,” “entered for consumption,” “entered for warehouse,” and “entered temporarily under bond.” Similarly, this rule amends the definitions related to the special entry procedures in 19 CFR 143.32 to replace reference to ACS with reference to ACE. Specifically, this rule also revises in 19 CFR 143.32 the definitions of the terms “ABI,” “electronic immediate delivery,” and “statement processing,” and adds a definition of the term “authorized electronic data interchange system,” to indicate that ACS is will no longer be the only CBP-authorized EDI system.

As the Automated Broker Interface, or ABI, continues to be the functionality that allows entry filers to transmit immediate delivery, entry and entry summary data to CBP, and to receive transmissions from CBP, there is no need to amend references to that term. However, this rule amends 19 CFR 143.32 to correct the definition of ABI which currently defines ABI as a module of ACS. This definition is inaccurate because ABI is a functionality that operates separately from ACS.

This rule further amends the document filing procedures within 19 CFR parts 4, 7, 10, 12, 18–19, 24, 54, 102, 113, 123, 125, 128, 132, 134, 141–146, 148, 151–152, 158, 163, 174, 181, and 191 by providing filers with the option of transmitting electronic data to CBP. Specifi-

cally, this rule amends these parts to allow filers, in the alternative, to submit the electronic equivalent of CBP Forms (including CBP Forms 28, 29, 247, 434, 3229, 3289, 3299, 3311, 3461, 4315, 4455, 4457, 4647, 7501, 7533, and 7552) and other documents that may be required by CBP or other government agencies at the time of entry. These documents include the records and information required for the entry of merchandise listed in the Appendix to part 163 (commonly referred to as the “(a)(1)(A)” list). This amendment does not mean that an electronic equivalent exists, but merely that an electronic equivalent may be used when such an equivalent exists. Lastly, this rule makes technical corrections to the nomenclature of “Customs” or “Customs Service” to “CBP” in some existing regulatory text, and updates some text to comply with the Plain English initiative in regulatory drafting.

In consideration of the business process changes that may be necessary to achieve full compliance and to provide members of the trade community with sufficient time to transition from ACS to ACE, filers are encouraged to adjust their business practices at the current time so that they can file in ACE before the end of February of 2016 when it is anticipated that ACS will no longer be supported for entry and entry summary. Filers who have technical questions should contact their assigned client representative. Filers without an assigned client representative should contact Steven Zaccaro, Client Representative Branch, ACE Business Office, Office of International Trade, at steven.j.zaccaro@cbp.dhs.gov. Additional information regarding the automation of the entry and entry summary processes is available on the following Web page: <http://www.cbp.gov/trade/automated>.

Filers interested in participating in these tests should review the notices published in the **Federal Register**. See e.g., *National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Environmental Protection Agency and the Food Safety and Inspection Service Using the Partner Government Agency Message Set Through the Automated Commercial Environment (ACE)*, 78 FR 75931 (December 13, 2013); *Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Document Image System (DIS) Relating to Animal and Plant Health Inspection Service (APHIS) Document Submissions*, 80 FR 5126 (January 30, 2015); and *Modification of National Customs Automation Program (NCAP) Test Concerning the Use of Partner Government Agency Message Set through the Automated Commercial Environment (ACE) for the Submission of Certain Data Required by the Environmental Protection*

Agency (EPA), 80 FR 6098 (February 4, 2015). *Importation of Distilled Spirits, Wine, Beer, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes; Availability of Pilot Program and Filing Instructions to Test the Collection of Import Data for Implementation of the International Trade Data System*, 80 FR 47558 (August 7, 2015).

G. Conclusion of Cargo Release and ESAR Tests

This document announces the conclusion of the *Cargo Release* and the *Entry Summary, Accounts and Revenue* tests only with regard to the entry and entry summary requirements that are now part of the CBP regulations. All other aspects of the *Cargo Release* and the *Entry Summary, Accounts and Revenue* tests remain on-going until ended by announcement in a subsequent **Federal Register** notice.

H. Proposal To Eliminate Hybrid Filing

Importers currently can file required forms electronically to a CBP-authorized electronic data interchange system, by paper, or a combination of both (hybrid filing). When importers file a paper or hybrid entry, they fill out the required documents on their computer, print the documents, and then send the documents to their broker or to the port of entry by either mail or a courier. CBP is considering proposing a rule to require importers to choose between submitting the required entry and entry summary documentation (including ITDS Agency documents) entirely electronically or entirely by paper. CBP would no longer accept any hybrid filings, except in limited circumstances. This would mean that if an importer files one paper document not covered by the limited exceptions, the entire filing, including the report to CBP, must be on paper.

While CBP is considering this proposal, comments are invited on all aspects of a policy to eliminate hybrid filings, including economic, operational, and feasibility of implementation. In particular, CBP is interested in data and views on the following:

1. Assessments of costs of implementing the proposal, including IT, training, and compliance. Comments should include a discussion about how the requirement to file all on paper or all in electronic form, if adopted, would affect business operations, cost to government of processing paper, and impact on health, safety, and the environment when enforcement and compliance agencies may see electronic data reduced.

2. Assessment of net benefits that may include processing enhancements, savings in processing time, and other perceived quantitative and qualitative benefits.

3. Estimates of time needed to comply with the proposal, if adopted.
4. Suggestions for including regulatory flexibilities such as phased-in compliance dates, exceptions, and safe harbors that will ease compliance for filers, especially those filers that are small entities.
5. Suggestions as to documentation and data that should be exempted from the proposed policy and supporting information to explain the appropriateness of the exception.

II. Statutory and Regulatory Requirements

A. *Inapplicability of Notice*

Pursuant to 5 U.S.C. 553(b)(3), public notice is inapplicable to these interim regulations because they concern matters relating to agency procedure and practice inasmuch as the changes involve updates to the format of the electronic submission of data to CBP's proprietary electronic data interchange (EDI) system from ACS to ACE for persons filing required information related to the importation of merchandise pursuant to 19 U.S.C. 1401 and 1484. Further, good cause exists pursuant to 5 U.S.C. 553(d) and 808(2), to issue these regulations without a delay in effective date. The transition from ACS to ACE does not substantively alter the underlying rights or interests of importers or filers, only the manner in which they present required information to the agency. By shifting to a modified electronic format for the submission of required data, CBP will be able to more efficiently determine whether merchandise presented for importation is admissible into the United States. In addition, although this interim rule will be codified on November 1, 2015, CBP anticipates that filers can continue to file in ACS or ACE until February 2016, when ACE will be fully functional for filing entry and entry summary. Accordingly, CBP and Treasury have determined that the requirements for prior notice and a delay in effective date are inapplicable, however the agencies are soliciting comments in this interim rule and will consider all comments received before issuing a final rule.

B. *Executive Orders 13563 and 12866*

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flex-

ibility. OMB believes that this rule is an “economically significant regulatory action,” under section 3(f) of Executive Order 12866.

When importing to the United States, importers may file the required entry and entry summary documents to CBP in two ways: By paper or electronically through the Automated Broker Interface (ABI). The technical requirements to file in ABI are spelled out in the CBP and Trade Automated Interface Requirements (the CATAIR), which is available to the public on CBP’s Web page.¹ The CATAIR is updated frequently due to changing technical specifications.

If the importer chooses to file electronically, it submits the required data in ABI and the data then gets transmitted from ABI to a CBP system for processing. Originally, ABI transmitted the data to only the Automated Commercial System (ACS). Currently, the data can be transmitted to either ACS or the Automated Commercial Environment (ACE), depending on whether the importer has met the relevant CATAIR requirements.

The existing regulations set forth the requirements for how filers interact with CBP through ABI. In doing so, the regulations make reference to ACS several times. This rule replaces the ACS references in the regulations with “ACE or any other CBP-authorized EDI system.” This regulation also corrects the definition of ABI, which is currently defined as a module of ACS. This is an erroneous definition since ABI exists separately from ACS and is simply a functionality by which importers can file entries with CBP. With this rule, importers will continue to be able to file their entries electronically via ABI, which will now transmit all the entry data to ACE.

CBP acknowledges that importers and software developers who have not already made the changes required to transmit their entry information from ABI to ACE rather than to ACS will need to make these changes to comply with the ABI CATAIR specifications. The change in technical specifications for ABI filing is independent from this regulatory change. (Technical specifications change frequently and are done independently of any regulatory action.) What follows is a short analysis of the costs of the systems changes, some portion of which may be attributable to this rule.

Based on conversations with members of the trade community on CBP’s Technical Advisory Group,² the costs of making the required systems changes to meet the CATAIR specifications to use ABI to transmit entries to ACE rather than to ACS are rather small. Accord-

¹ See <http://www.cbp.gov/trade/acs/catair> and <http://www.cbp.gov/trade/ace/catair>.

² The Technical Advisory Group advises CBP on ACE from the perspective of the Trade. It is made up of representatives of the trade community who are involved in the entry process, including importers, brokers, and software developers.

ing to CBP's ACE Business Office, approximately 95 percent of importers who file entries electronically purchase software licenses from third-party software developers to more easily file entries in ABI. These software developers, and a small number of importers who file directly with CBP, would need to make programming changes to their software to make it compatible with ACE, if they have not already done so. Software developers charge an annual fee for the use of their software, which covers the cost of software updates, maintenance, and training. The developers do not anticipate raising rates as a result of making changes to ACE.

The cost of making software compatible with ACE will fall on the software developers and the 5 percent of importers who do not purchase a software product, because they develop their own software. CBP's ACE Business Office estimates that 150 businesses will need to make software modifications, including 112 importers who self-file and 38 software developers. According to the Technical Advisory Group, the cost of making these changes is covered by the existing fees software developers charge to their users. Many of these parties have already made the changes to take advantage of the added functionality available in ACE. According to CBP's ACE Business Office, of the 38 software developers that provide software to facilitate the filing of entries, 36 have already modified their systems to allow for filing in ACE. CBP does not know how many of the 112 self-filers have already modified their systems, but it is likely that many of these self-filers have already made the necessary changes. According to CBP data, as of April 2015, 53 percent of entries were filed in ABI in an ACE-compatible format. According to an estimate from a member of the Technical Advisory Group, it can cost from \$25,000 to \$90,000 to make the change to ACE formatting, including systems costs and training. This estimate also includes all the costs of converting to ACE, not just the cost of making the changes necessary to file entries in ACE format, so the actual costs necessary to file entries in ACE format is likely to be lower. Based on the range of costs to convert to ACE formatting, we estimate that it will cost our estimated 112 software vendors and 38 self-filers between \$3.75 million and \$13.5 million to file in ACE format. These estimates assume that all 150 software vendors and self-filers will incur costs to convert to ACE, which we previously noted is unlikely given that many of these parties have already made the change to take advantage of ACE's additional functionality. We invite comments on these estimates of system costs and on other transition costs.

This rule benefits the public by clarifying the information presented in the regulations regarding how importers interact with CBP via

ABI. The broader regulatory and non-regulatory shift from ACS to ACE has substantial benefits to federal agencies and the public. Transitioning to ACE will expedite cargo processing; improve compliance with CBP and other government agency regulations; provide greater efficiency in receiving, processing, and sharing import data which will increase the effectiveness of federal agencies; and reduce redundant information requirements for the importing community. We note that these benefits of the transition to ACE are characterized by the same analytic difficulty as the costs; it is not clear what portion is attributable to this rule as opposed to other regulatory and non-regulatory actions. We invite comments that would allow for reasonable attribution of effects across these various actions.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Since a general notice of proposed rulemaking is not necessary for this rule, CBP is not required to prepare a regulatory flexibility analysis for this rule.

D. Paperwork Reduction Act

As there is no collection of information proposed in this document, the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) are inapplicable.

Signing Authority

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

List of Subjects

19 CFR Part 4

Customs duties and inspection, Entry, Exports, Freight, Harbors, Imports, Maritime carriers, Pollution, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 7

American Samoa, Coffee, Customs duties and inspection, Guam, Guantanamo Bay, Imports, Insular possessions, Johnston Islands, Kingman Reef, Liquor, Midway Islands, Puerto Rico, Reporting and recordkeeping requirements, Wake Island, Wine.

19 CFR Part 10

Caribbean Basin initiative, Customs duties and inspection, Entry of merchandise, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 12

Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 18

Baggage, Bonds, Common carriers, Customs duties and inspection, Exports, Explosives, Foreign trade statistics, Freight, Imports, Merchandise in transit, Penalties, Prohibited merchandise, Railroad, Reporting and recordkeeping requirements, Restricted merchandise, Surety bonds, Transportation in bond, Vehicles, Vessels.

19 CFR Part 19

Customs duties and inspection, Exports, Freight, Imports, Reporting and recordkeeping requirements, Surety bonds, Warehouses, Wheat.

19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Harbors, Imports, Reporting and recordkeeping requirements, Taxes.

19 CFR Part 54

Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 102

Canada, Customs duties and inspection, Exports, Imports, Mexico, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 113

Common carriers, Customs duties and inspection, Exports, Freight, Laboratories, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 123

Administrative practice and procedure, Aircraft, Aliens, Baggage, Canada, Common carriers, Customs duties and inspection, Entry of merchandise, Fees, Forms (Written agreement), Freight, Immigration, Imports, International boundaries (Land border), International traffic, Mexico, Motor carriers, Railroads, Repairs, Reporting and recordkeeping requirements, Test programs, Trade agreements, Treaties, Vehicles, Vessels.

19 CFR Part 125

Customs duties and inspection, Freight, Government contracts, Harbors, Reporting and recordkeeping requirements.

19 CFR Part 128

Administrative practice and procedure, Customs duties and inspection, Entry, Express consignments, Freight, Imports, Reporting and recordkeeping requirements.

19 CFR Part 132

Agriculture and agricultural products, Customs duties and inspection, Quotas, Reporting and recordkeeping requirements.

19 CFR Part 134

Canada, Country of origin, Customs duties and inspection, Imports, Labeling, Marking, Mexico, Packaging and containers, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 141

Customs duties and inspection, Entry of merchandise, Reporting and recordkeeping requirements.

19 CFR Part 142

Canada, Customs duties and inspection, Mexico, Reporting and recordkeeping requirements.

19 CFR Part 143

Customs duties and inspection, Entry of merchandise, Reporting and recordkeeping requirements.

19 CFR Part 144

Customs duties and inspection, Reporting and recordkeeping requirements, Warehouses.

19 CFR Part 145

Customs duties and inspection, Exports, Lotteries, Reporting and recordkeeping requirements.

19 CFR Part 146

Administrative practice and procedure, Customs duties and inspection, Exports, Foreign trade zones, Imports, Penalties, Petroleum, Reporting and recordkeeping requirements.

19 CFR Part 148

Airmen, Aliens, Baggage, Crewmembers, Customs duties and inspection, Declarations, Foreign officials, Government employees, International organizations, Privileges and immunities, Reporting and recordkeeping requirements, Seamen, Taxes, Trade agreements (U.S.-Canada Free-Trade Agreement).

19 CFR Part 151

Cigars and cigarettes, Cotton, Customs duties and inspection, Fruit juices, Laboratories, Metals, Imports, Reporting and recordkeeping requirements, Sugar, Wool.

19 CFR Part 152

Appraisalment, Classification, Customs duties and inspection, Valuation.

19 CFR Part 158

Computer technology, Customs duties and inspection, Exports, Freight, Merchandise (lost, damaged, abandoned, exported), Reporting and recordkeeping requirements.

19 CFR Part 163

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

19 CFR Part 174

Administrative practice and procedure, Customs duties and inspection, Protests, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 181

Administrative practice and procedure, Canada, Customs duties and inspection, Exports, Imports, Mexico, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 191

Alcohol and alcoholic beverages, Claims, Customs duties and inspection, Exports, Foreign trade zones, Guantanamo Bay Naval Station, Cuba, Packaging and containers, Reporting and recordkeeping requirements, Trade agreements.

Amendments to the CBP Regulations

For the reasons stated above in the preamble, CBP amends parts 4, 7, 10, 12, 18, 19, 24, 54, 102, 113, 123, 125, 128, 132, 134, 141, 142, 143, 144, 145, 146, 148, 151, 152, 158, 163, 174, 181, and 191 of title 19 of the Code of Federal Regulations (19 CFR parts 4, 7, 10, 12, 18, 19, 24, 54, 102, 113, 123, 125, 128, 132, 134, 141, 142, 143, 144, 145, 146, 148, 151, 152, 158, 163, 174, 181, and 191) to read as follows:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

■ 1. The general authority citation for Part 4 continues to read as follows:

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

* * * * *

■ 2. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

Section	Words	Add
4.41(a)	Form 7501,	or its electronic equivalent,
4.94a	Form 7501	, or its electronic equivalent

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

■ 3. The authority citation for Part 7 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624; 48 U.S.C. 1406i.

■ 4. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

Section	Words	Add
7.3(f)	Form 3229	, or its electronic equivalent,

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 5. The general authority citation for Part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

■ 6. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

Section	Words	Add
10.1(g)(1)	Form 3311	, or its electronic equivalent,
10.1(g)(2) introductory text	Form 3311	, or its electronic equivalent,
10.1(g)(3)	Form 3311	, or its electronic equivalent,
10.1(h)(1) introductory text	Form 3311	, or its electronic equivalent,
10.1(h)(2)	Form 3311	, or its electronic equivalent,
10.1(h)(3) introductory text	Form 3311	, or its electronic equivalent,
10.1(h)(5)	Form 3311	, or its electronic equivalent,
10.1(i)	Form 3311	, or its electronic equivalent,
10.1(j)(2)	Form 7501	, or its electronic equivalent,
10.1(j)(2)	Form 3311	, or its electronic equivalent,
10.5(d)	Form 4455	, or its electronic equivalent
10.5(e)	CF 4455	, or its electronic equivalent
10.5(f)	Form 4455	, or its electronic equivalent
10.5(g)	Form 4455	, or its electronic equivalent
10.6	Form 4455	, or its electronic equivalent,
10.31(a)(1)	Form 3461 or 7501	, or their electronic equivalents
10.31(a)(2)	Form 7501	, or its electronic equivalent,

Section	Words	Add
10.31(a)(2)	Form 3461	, or its electronic equivalent,
10.48(b)	A declaration	, or its electronic equivalent,
10.49(a)	a declaration	, or its electronic equivalent,
10.53(a)	face of the entry	, or its electronic equivalent,
10.53(e)(5)	USFWS Form 3–177	, or its electronic equivalent
10.59(e)	Form 7501	, or its electronic equivalent,
10.60(a)	Form 7501	, or its electronic equivalent.
10.60(d)	Form 7501	, or its electronic equivalent,
10.61	Form 7501	, or its electronic equivalent,
10.62(a) introductory text	Form 7501	, or its electronic equivalent,
10.62(b)	Form 7501	, or its electronic equivalent,
10.62(c)(2)	Form 7501	, or its electronic equivalent,
10.62a(a)	Form 7501	, or its electronic equivalent,
10.62a(b)	Form 7501	, or its electronic equivalent
10.66(a)(1)	Form 3311	, or its electronic equivalent
10.66(a)(2)	Form 4455	, or its electronic equivalent,
10.66(c)(1) introductory text	Form 4455	, or its electronic equivalent,
10.66(c)(2)	Form 4455	, or its electronic equivalent,
10.67(a)(1)	Form 3311	, or its electronic equivalent
10.67(a)(2)	A declaration	, or its electronic equivalent,
10.67(a)(3)	A declaration of the ultimate consignee	, or its electronic equivalent,
10.67(c)	Form 4455	, or its electronic equivalent,
10.68(a)	Form 3299	, or its electronic equivalent
10.68(a)	Form 4455	, or its electronic equivalent,
10.68(c)	Form 4455	, or its electronic equivalent,
10.69	Descriptive lists	, or their electronic equivalents,
10.70(a)	Department of Agriculture a certificate	, or its electronic equivalent,
10.70(a)	certificates of pedigree and transfer of ownership	, or their electronic equivalents,
10.70(a)	such certificates and transfers	, or their electronic equivalents
10.71(a)	a certificate of pure breeding	, or its electronic equivalent,
10.80	Form 7501	, or its electronic equivalent.
10.81(b)	Form 7501	, or its electronic equivalent,
10.84(b)(1)	a certificate	, or its electronic equivalent,
10.84(b)(2)	a certificate	, or its electronic equivalent,

Section	Words	Add
10.84(b)(3)	a certificate	, or its electronic equivalent,
10.84(b)(4)	of this section	, or their electronic equivalents,
10.84(b)(6)(i)	bill of lading	, or the electronic equivalent,
10.84(b)(6)(ii)	The certificate	, or its electronic equivalent,
10.90(b)	The invoice	. or its electronic equivalent,
10.90(b)	statement of the cost of production	, or its electronic equivalent
10.98(c)	a declaration of the importer	, or its electronic equivalent,
10.99(a)	a declaration	, or its electronic equivalent,
10.101(b)	Form 3461	, or its electronic equivalent,
10.102(a)	or bill	, or their electronic equivalents,
10.102(a)	pro forma invoice	, or its electronic equivalent,
10.102(b)	The certificates may be	submitted electronically,
10.102(b)	Form 7501	, or its electronic equivalent
10.104	Form 7501	, or its electronic equivalent
10.107(a)(1)	a report	, or its electronic equivalent,
10.121(a)	U.S. Department of State	, or its electronic equivalent,
10.179(a)	certificate from the importer	, or its electronic equivalent,
10.180(a)	meat-inspection certificate	, or its electronic equivalent,

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 7. The general authority citation for Part 12 and the sectional authority citation for § 12.140 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Section 12.140 also issued under 19 U.S.C. 1484, 2416(a), 2171;

* * * * *

■ 8. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

Section	Words	Add
12.6(a)(1)	An affidavit	, or its electronic equivalent
12.6(a)(2)	An affidavit	, or its electronic equivalent
12.7(a)	a valid permit	, or its electronic equivalent,
12.11(a)	a notice of arrival	, or its electronic equivalent,
12.11(a)	form	, or its electronic equivalent,
12.11(a)	the notice of arrival	, or its electronic equivalent,
12.34(b)	country of manufac- ture	, or its electronic equivalent,
12.34(e)	declaration	, or its electronic equivalent,
12.41(a)	Form 3311	, or its electronic equivalent,
12.43(a)	certificate of origin	, or its electronic equivalent,
12.43(a)	an additional certifi- cate	, or its electronic equivalent,
12.43(b)	a statement	, or its electronic equivalent,
12.43(c)	of this section	, or their electronic equiva- lents,
12.80(e)(2)	Form 4647	, or its electronic equivalent
12.85(c)(1)	declaration	, or its electronic equivalent,
12.85(c)(2)	Declaration	, or its electronic equivalent,
12.85(c)(2)	A copy of the exemp- tion	, or its electronic equivalent
12.85(c)(3)	declaration	, or its electronic equivalent,
12.85(c)(4)	declaration	, or its electronic equivalent,
12.85(c)(5)	declaration	, or its electronic equivalent,
12.85(c)(6)	declaration	, or its electronic equivalent,
12.85(d)(1)	Form CG-5096	, or its electronic equivalent
12.91(d)	Form 4647	, or its electronic equivalent
12.99(a) introductory text	a declaration	, or its electronic equivalent
12.99(b)	the declaration	, or its electronic equivalent,
12.99(b)	copy of the contract	, or its electronic equivalent,
12.104c(a)	A certificate	, its electronic equivalent
12.104c(a)	or permit	, or their electronic equiva- lents,
12.104c(d)(1)(i) intro- ductory text	declarations under oath	, or their electronic equiva- lents,
12.104c(d)(1)(ii)	A statement	, or its electronic equivalent,
12.104c(d)(2)(i)	declarations under oath	, or their electronic equiva- lents,
12.104c(d)(2)(ii)	A statement	, or its electronic equivalent,
12.104d	or evidence	, or the electronic equivalent,
12.104e(a) introduc- tory text	or evidence	, or the electronic equivalent,

Section	Words	Add
12.107(a)	A certificate	, or its electronic equivalent
12.140(b) introductory text	Form 7501	, or its electronic equivalent
12.140(b)(2)(ii)	Form 7501	, or its electronic equivalent
12.142(c)(1) introductory text	Form 7501	, or its electronic equivalent

§ 12.140 [Amended]

■ 9. Amend § 12.140, in paragraph (b)(1) by removing the words “Automated Commercial System” and adding in their place the words “Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system”.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

■ 10. The general authority citation for Part 18 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (general Note 3(i), Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1623, 1624.

* * * * *

■ 11. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

18.6(b)	Form 4647	, or its electronic equivalent
---------------	-----------	--------------------------------

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

■ 12. The general authority citation for Part 19 continues to read as follows:

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

* * * * *

■ 13. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

19.6(d)(2)	Form 7501	, or its electronic equivalent,
19.6(d)(5)	Form 7501	, or its electronic equivalent
19.9(c)	7501	, or its electronic equivalent
19.9(c)	Form 3461	, or its electronic equivalent,
19.11(b)	Form 7501	, or its electronic equivalent,
19.11(g)	Form 7501	, or its electronic equivalent,
19.14(a)	Form 7501	, or its electronic equivalent,
19.15(b)	Form 7501	, or its electronic equivalent,
19.15(d)	Form 7501	, or its electronic equivalent,

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

■ 14. The general authority citation for Part 24 and the sectional authority for § 24.23 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 3717, 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

* * * * *

Section 24.23 also issued under 19 U.S.C. 3332;

* * * * *

■ 15. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

24.5(d)	Form 7501	, or its electronic equivalent,
24.5(e)	Form 7501	, or its electronic equivalent,
24.24(e)(2)(ii)	Form 7501	, or its electronic equivalent

§ 24.23 [Amended]

■ 16. Amend § 24.23, in paragraph (a)(4)(i) by adding after the words “Automated Commercial System (ACS)” the words “or any other CBP-authorized electronic data interchange system”.

PART 54—CERTAIN IMPORTATIONS TEMPORARILY FREE OF DUTY

■ 17. The authority citation for part 54 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i); Section XV, Note 5, Harmonized Tariff Schedule of the United States), 1623, 1624.

■ 18. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

54.5(b)	declaration of the importer	, or its electronic equivalent,
54.6(a)	statement of the importer	, or its electronic equivalent,
54.6(b)	Form 7501	, or its electronic equivalent

PART 102—RULES OF ORIGIN

■ 19. The authority citation for part 102 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

■ 20. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

102.23(a)	Form 7501	, or its electronic equivalent,
102.23(a)	Form 3461	, or its electronic equivalent,
102.25	Certificate of Eligibility	, or its electronic equivalent,
Appendix to Part 102 .	Form 7501	, or its electronic equivalent,
Appendix to Part 102 .	Form 3461	, or its electronic equivalent,

PART 113—CUSTOMS BONDS

■ 21. The general authority citation for part 113 continues to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

* * * * *

■ 22. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

113.41	Form 7501	, or its electronic equivalent,
--------------	-----------	---------------------------------

PART 123—CBP RELATIONS WITH CANADA AND MEXICO

■ 23. The general authority citation for part 123 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1431, 1433, 1436, 1448, 1624, 2071 note.

* * * * *

■ 24. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

123.4(b)	Form 7501	, or its electronic equivalent,
123.4(c)	Form 3311	, or its electronic equivalent,
123.92(b)(2)(iii)	Form 3311	, or its electronic equivalent

PART 125—CARTAGE AND LITERAGE OF MERCHANDISE

■ 25. The general authority citation for part 125 continues to read as follows:

Authority: 19 U.S.C. 66, 1565, and 1624.

* * * * *

■ 26. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

125.31(b)	Form 7501	, or its electronic equivalent
125.32	Form 7501	, or its electronic equivalent

PART 128—EXPRESS CONSIGNMENTS

■ 27. The authority citation for part 128 continues to read as follows:

Authority: 19 U.S.C. 58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1484, 1498, 1551, 1555, 1556, 1565, 1624.

■ 28. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

128.24(b)	Form 3461	, or its electronic equivalent
128.24(c)	Form 3461	, or its electronic equivalent,
128.24(d)	Form 7501	, or its electronic equivalent

§ 128.11 [Amended]

■ 29. Amend § 128.11, in paragraph (b)(7)(i) by removing the words “Customs Automated Commercial System (ACS) and associated modules,” and adding in their place the words “CBP Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system, and associated applications.”

■ 30. Amend § 128.23 by revising paragraph (b) to read as follows:

§ 128.23 Entry requirements.

* * * * *

(b) *Procedures*—(1) *General*. All express consignment entities utilizing the procedures in this part must comply with the requirements of the CBP Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system. These requirements include those under the Automated Manifest System (AMS), Cargo Selectivity, Statement Processing, the Automated Broker Interface System (ABI), and enhancements of ACE or any other CBP-authorized electronic data interchange system.

(2) *Entry number*. All entry numbers must be furnished to CBP in a CBP approved bar coded readable format in order to assist in the processing of express consignment cargo under the CBP Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system.

* * * * *

PART 132—QUOTAS

■ 31. The general authority citation for part 132 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

* * * * *

■ 32. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

132.11a(a)(1)	entry summary for consumption,	or its electronic equivalent,
132.11a(a)(2)	entry summary for consumption,	or its electronic equivalent,
132.11a(a)(3)	entry summary for consumption,	or its electronic equivalent,
132.13(a)(1)(i)	entry summary for consumption,	or its electronic equivalent,
132.13(a)(1)(ii)	entry summary for consumption,	or its electronic equivalent,
132.13(a)(1)(iii) introductory text	the initial presentation of the entry summaries for consumption or withdrawals for consumption	or their electronic equivalents,
132.13(a)(1)(iii)(A)	or withdrawals for consumption,	or their electronic equivalents,
132.13(a)(2)	or withdrawal for consumption,	, or their electronic equivalents,

PART 134—COUNTRY OF ORIGIN MARKING

■ 33. The authority citation for part 134 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1304, 1624.

■ 34. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

134.51(a)	Form 4647	, or its electronic equivalent,
134.52(a)	Form 4647	, or its electronic equivalent,

PART 141—ENTRY OF MERCHANDISE

■ 35. The general authority citation for part 141 and the sectional authority for § 141.66 continue to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1498, 1624.

* * * * *

Section 141.66 also issued under 19 U.S.C. 1490, 1623.

* * * * *

■ 36. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

141.57(d)(2)	CF 3461/CF 3461 ALT,	or its electronic equivalent,
141.61(b)	Form 7501	, or its electronic equivalent
141.61(d) introductory text	Form 7501	, or its electronic equivalent,
141.61(d)(1)	7501 (boxes 10 and 12)	, or its electronic equivalent,
141.61(d)(1)	(box 12)	, or its electronic equivalent,
141.61(d)(1)	(box 10)	, or its electronic equivalent
141.61(d)(2)	(box 12)	, or its electronic equivalent,
141.61(d)(2)	(box 10)	, or its electronic equivalent
141.61(d)(3)	(box 22)	, or its electronic equivalent
141.61(d)(4)	Form 7501	, or its electronic equivalent
141.61(e)(1)(i)(A)	Form 7501	, or its electronic equivalent
141.61(e)(1)(ii)(B)	Form 7501	, or its electronic equivalent
141.61(e)(1)(ii)(C)	Form 7501	, or its electronic equivalent,
141.61(f)(1)(iv)	Form 7501	, or its electronic equivalent,
141.61(f)(2)(i)	Form 7501	, or its electronic equivalent
141.68(g)(1)	Form 7501	, or its electronic equivalent,
141.68(g)(2)	Form 7501	, or its electronic equivalent
141.68(h)	Form 7501	, or its electronic equivalent
141.68(h)	or 7501	, or its electronic equivalent,
141.113(g)	Form 4647	, or its electronic equivalent,

■ 37. Revise § 141.0a to read as follows:

§ 141.0a Definitions.

Unless the context requires otherwise or a different definition is prescribed, the following terms will have the meanings indicated when used in connection with the entry of merchandise:

(a) *Entry*. “Entry” means that documentation or data required by § 142.3 of this chapter to be filed with the appropriate CBP officer or submitted electronically to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system to secure the release of imported merchandise from CBP custody, or the act of filing that documentation. “Entry” also means that documentation or data required by § 181.53 of this chapter to be filed with CBP to withdraw merchandise from a duty-deferral program in the United States for exportation to Canada or Mexico or for entry into a duty-deferral program in Canada or Mexico.

(b) *Entry summary*. “Entry summary” means any other documentation or electronic submission of data necessary to enable CBP to assess duties, and collect statistics on imported merchandise, and determine whether other requirements of law or regulation are met.

(c) *Submission*. “Submission” means the voluntary delivery to the appropriate CBP officer or electronic submission to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system of the entry summary documentation or data for preliminary review or of entry documentation or data for other purposes.

(d) *Filing*. “Filing” means:

(1) The delivery to CBP, including electronic submission to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system, of the entry documentation or data required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to obtain the release of merchandise, or

(2) The delivery to CBP, including electronic submission to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system, together with the deposit of estimated duties, of the entry summary documentation or data required to assess duties, collect statistics, and determine whether other requirements of law and regulation are met, or

(3) The delivery to CBP, including electronic submission to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system, together with the deposit of estimated duties, of the entry summary documentation or data, which will serve as both the entry and the entry summary.

(e) *Presentation*. “Presentation” is used only in connection with quota-class merchandise and is defined in § 132.1(d) of this chapter.

(f) *Entered for consumption*. “Entered for consumption” means that an entry summary for consumption has been filed with CBP in proper form, including electronic submission to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system, with estimated duties attached. “Entered for consumption” also means the necessary documentation has been filed with CBP to withdraw merchandise from a duty-deferral program in the United States for exportation to Canada or Mexico or for entry into a duty-deferral program in Canada or Mexico (see § 181.53 of this chapter).

(g) *Entered for warehouse*. “Entered for warehouse” means that an entry summary for warehouse has been filed with CBP in proper

form, including electronic submission to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system.

(h) *Entered temporarily under bond.* “Entered temporarily under bond” means that an entry summary supporting a temporary importation under bond has been filed with CBP in proper form, including electronic submission to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system.

(i) *Released conditionally.* “Released conditionally” means any release from CBP custody before liquidation.

§ 141.57 [Amended]

■ 38. Amend § 141.57, in paragraph (d)(2) by removing the words “through the Customs Automated Commercial System (ACS)” and replacing them with the words “to the CBP Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system”.

§ 141.58 [Amended]

■ 39. Amend § 141.58, in paragraph (e) by removing the words “through the Customs Automated Commercial System (ACS)” and adding in their place the words “to the CBP Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system”.

§ 141.66 [Amended]

■ 40. Amend § 141.66 by removing the word “documents” and adding in its place the word “documentation” in the heading; and removing the word “document” and adding in its place the word “documentation” in the regulatory text.

PART 142—ENTRY PROCESS

■ 41. The authority citation for part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

■ 42. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

142.3(a)(1)	Form 3461 (appropriately modified)	, or its electronic equivalent,
-------------------	------------------------------------	---------------------------------

142.3(a)(1)	Form 7533 (appropriately modified)	, or its electronic equivalent,
142.3(a)(6)	Form 3461, 3461 ALT, 7501	, or their electronic equivalents.
142.3(b)(1)	Form 3461 or 7533	, or their electronic equivalents,
142.3(b)(2)	7501 or CBP Form 3311	, or their electronic equivalent
142.22(a)	Form 3461	, or its electronic equivalent
142.24(a)	Form 3461	, or its electronic equivalent
142.47(b)	CF 3461 or 3461 Alternate	, or its electronic equivalent,

■ 43. Section 142.11 is revised to read as follows:

§ 142.11 Entry summary form.

(a) *CBP Form 7501*. The entry summary must be on the CBP Form 7501, or its electronic equivalent, unless a different form or format is prescribed elsewhere in this chapter. CBP Form 7501, or its electronic equivalent, must be used for merchandise formally entered for consumption, formally entered for warehouse, or rewarehouse in accordance with § 144.11 of this chapter, and formally entered temporarily under bond under § 10.31 of this chapter. The entry summary for merchandise which may be entered free of duty in accordance with § 10.1(g) or (h) may be on CBP Form 3311, or its electronic equivalent, instead of on a CBP Form 7501 (or its electronic equivalent). For merchandise entitled to be entered under an informal entry, *see* § 143.23 of this chapter.

(b) *Extra copies*. The port director may require additional copies of the entry summary if filed in paper.

■ 44. Section 142.16 is revised to read as follows:

§ 142.16 Entry summary documentation.

(a) *Entry summary not filed at time of entry*. When the entry documentation is filed in paper before the entry summary documentation, one copy of the entry document and the commercial invoice, or the documentation filed in place of a commercial invoice in the instances listed in § 141.83(d) of this chapter, will be returned to the importer after CBP authorizes release of the merchandise. Entry documentation may also be transmitted electronically to the CBP Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system. The importer may use these documents in preparing the entry summary, CBP Form 7501, or its electronic equivalent, and must file them with the entry summary

documentation within the time period stated in § 142.12(b). The entry summary documentation also must include any other documentation required for a particular shipment unless a bond for missing documentation is on file, as provided in § 141.66 of this chapter.

(b) *Entry summary filed at time of entry.* When the entry summary documentation is filed or transmitted electronically at time of entry, the documentation listed in § 142.3 must be filed at the same time, except that CBP Form 3461 or 7533, or their electronic equivalents, will not be required. The importer also must file any additional invoice required for a particular shipment.

PART 143—SPECIAL ENTRY PROCEDURES

■ 45. The authority citation for part 143 continues to read as follows:

Authority: 19 U.S.C. 66, 1321, 1414, 1481, 1484, 1498, 1624, 1641.

■ 46. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

143.12	Form 7501	, or its electronic equivalent
143.13(a)	statements of cost	, or their electronic equivalents,
143.13(b)	A declaration	, or its electronic equivalent,
143.23 introductory text	Form 7501	, or its electronic equivalent
143.23(b)	Form 3311	, or its electronic equivalent,
143.23(c)	Form 3299	, or its electronic equivalent,
143.23(f)	Form 7501	, or its electronic equivalent
143.23(h)(1)	Form 3311	, or its electronic equivalent,
143.23(h)(2)	Form 3311	, or its electronic equivalent,
143.23(h)(2)	Form 7501	, or its electronic equivalent
143.24	Form 7501	, or its electronic equivalent,
143.25 heading	entry form	, or its electronic equivalent
143.25	Form 7501	, or its electronic equivalent,
143.32(g)	Forms 7502, 3461	, or their electronic equivalents
143.32(h)	Forms 7501 and 3461	, or their electronic equivalents

■ 47. Section § 143.1 introductory text is revised to read as follows:

§ 143.1 Eligibility.

The Automated Broker Interface (ABI) allows participants to transmit data electronically to CBP through ABI and to receive transmissions from Automated Commercial Environment (ACE) or any other

CBP-authorized electronic data interchange system. Its purposes are to improve administrative efficiency, enhance enforcement of customs and related laws, lower costs and expedite the release of cargo.

* * * * *

§ 143.31 [Amended]

■ 48. Amend § 143.31, in first sentence, by removing the words “Customs Automated Commercial System (ACS)” and adding in their place the words “CBP Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system”.

■ 49. Section 143.32 is amended by revising paragraphs (a), (b), (j) and (p) to read as follows:

§ 143.32 Definitions.

* * * * *

(a) *ABI*. “ABI” means the Automated Broker Interface functionality that allows entry filers to transmit immediate delivery, entry and entry summary data electronically to, and receive electronic messaging from, CBP and receive transmissions from Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system.

(b) *Authorized electronic data interchange system* means any established mechanism approved by the Commissioner of CBP through which information can be transferred electronically.

* * * * *

(j) *Electronic immediate delivery*. “Electronic immediate delivery” means the electronic transmission of CBP Forms 3461 or 3461 alternate (CBP Form 3461 ALT) data to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system in order to obtain the release of goods under immediate delivery.

* * * * *

(p) *Statement processing*. “Statement processing” means the method of collection and accounting which allows a filer to pay for more than one entry summary with one payment. ACS, or any other CBP-authorized electronic data interchange system, generates the statement, which is transmitted electronically to the filer, consisting of a list of entry summaries and the amount of duties, taxes or fees, if any, due for payment. Upon payment and collection of the state-

ment, those entry summaries designated as electronic will be scheduled for liquidation (see § 24.25 of this chapter).

* * * * *

§ 143.33 [Amended]

■ 50. Amend § 143.33 by removing the words “of ACS”.

PART 144—WAREHOUSE AND RE-WAREHOUSE ENTRIES AND WITHDRAWALS

■ 51. The general authority citation for Part 144 continues to read as follows:

Authority: 19 U.S.C. 66, 1484, 1557, 1559, 1624.

* * * * *

■ 52. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

144.11(a)	Form 7501	, or its electronic equivalent
144.11(a)	Form 3461 or 7533	, or their electronic equivalents,
144.11(b) heading and (b)	Form 7501	, or its electronic equivalent
144.11(c)	Form 7501	, or its electronic equivalent
144.12	Form 7501	, or its electronic equivalent
144.14 introductory text	Form 7501	, or its electronic equivalent
144.22(a) introductory text	Form 7501	, or its electronic equivalent,
144.36(b)	Form 7501	, or its electronic equivalent,
144.37(a)	7501	, or its electronic equivalent,
144.38(a)	Form 7501	, or its electronic equivalent
144.38(e)	Form 7501	, or its electronic equivalent,
144.41(b)	Form 7501	, or its electronic equivalent,
144.41(d)	Form 7501	, or its electronic equivalent,
144.42(b)(1)	Form 7501	, or its electronic equivalent,
144.42(b)(2)	Form 7501	, or its electronic equivalent
144.42(b)(3)	Form 7501	, or its electronic equivalent

PART 145—MAIL IMPORTATIONS

■ 53. The general authority citation for Part 145 continues to read as follows:

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

* * * * *

■ 54. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

145.4(c)	Form 7501	, or its electronic equivalent,
145.12(b)(1)	Form 7501	, or its electronic equivalent
145.12(c)	Form 7501	, or its electronic equivalent
145.12(e)(1)	Form 7501	, or its electronic equivalent

PART 146—FOREIGN TRADE ZONES

■ 55. The authority citation for Part 146 continues to read as follows:

Authority: 19 U.S.C. 66, 81a–81u, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624.

■ 56. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

146.62(a)	or other applicable Customs forms	, or their electronic equivalents
146.62(b)(1)	Form 7501	, or its electronic equivalent,
146.62(b)(2)	Form 7512	, or its electronic equivalent,
146.63(c)(1) (first, second and fourth sentences)	Form 3461	, or its electronic equivalent,
146.63(c)(1) (third sentence)	Form 3461	, or its electronic equivalent
146.70(c)	Form 7501	, or its electronic equivalent,
Appendix to Part 146 .	CF 7501	, or its electronic equivalent,
Appendix to Part 146 .	CF 7501s	, or their electronic equivalents,
Appendix to Part 146 .	CF 3461	, or its electronic equivalent,

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

■ 57. The general authority citation for Part 148 continues to read as follows:

Authority: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States).

* * * * *

■ 58. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

148.1(b)	form 4455	, or its electronic equivalent,
148.1(b)	Form 4457	, or its electronic equivalent,
148.1(b)	form 4457	, or its electronic equivalent,
148.6(a)	Form 3299	, or its electronic equivalent,
148.8(b)	Form 4455	, or its electronic equivalent
148.8(c)	Form 4455	, or its electronic equivalent
148.32(b) introductory text	Form 4455	, or its electronic equivalent
148.37(b)	Form 4455	, or its electronic equivalent,
148.37(c)	Form 4455	, or its electronic equivalent,
148.52(c)	Form 3299	, or its electronic equivalent,
148.53(b)	Form 3299	, or its electronic equivalent,
148.77(b)(1)	Form 3299	, or its electronic equivalent
148.77(b)(2)	Form 3299	, or its electronic equivalent,

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

■ 59. The general authority citation for Part 151 continues to read as follows:

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

* * * * *

■ 60. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

151.11	Form 28	, or its electronic equivalent
--------------	---------	--------------------------------

151.15(a)	Form 3461, or Customs Form 3461 (ALT)	, or their electronic equivalents,
151.15(a)	Form 3461 or 3461 (ALT)	, or their electronic equivalents
151.15(d)	Form 3461 or 3461 (ALT)	, or their electronic equivalents,

PART 152—CLASSIFICATION AND APPRAISEMENT OF MERCHANDISE

■ 61. The general authority citation for Part 152 continues to read as follows:

Authority: 19 U.S.C. 66, 1401a, 1500, 1502, 1624,

* * * * *

■ 62. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

152.2	Form 29	, or its electronic equivalent
-------------	---------	--------------------------------

PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED, ABANDONED, OR EXPORTED

■ 63. The authority citation for Part 158 continues to read as follows:

Authority: 19 U.S.C. 66, 1624, unless otherwise noted. Subpart C is also issued under 19 U.S.C. 1563.

■ 64. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

158.11(b)(1)	Form 4315	, or its electronic equivalent,
158.13(a)(1)	Form 4315	, or its electronic equivalent
158.13(a)(2)	Form 4315	, or its electronic equivalent
158.23	Form 4315	, or its electronic equivalent

PART 163—RECORDKEEPING

■ 65. The general authority citation for Part 163 continues to read as follows:

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

* * * * *

■ 66. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

Appendix to Part 163	Form 7501	, or its electronic equivalent,
Appendix to Part 163	Form (CF) 3461	, or its electronic equivalent,
Appendix to Part 163	Form 3229	, or its electronic equivalent,
Appendix to Part 163	CG-5096	, or its electronic equivalent

PART 174—PROTESTS

■ 67. The general authority citation for part 174 continues to read as follows:

Authority: 19 U.S.C. 66, 1514, 1515, 1624.

* * * * *

§ 174.12 [Amended]

■ 68. Amend § 174.12, in paragraph (c) by removing the word “ACS” and adding in its place the words “CBP Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system”.

PART 181—NORTH AMERICAN FREE TRADE AGREEMENT

■ 69. The general authority citation for Part 181 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 3314;

* * * * *

■ 70. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

181.11(b) introductory text	Form 434	, or its electronic equivalent
181.22(b)(1)	Form 434	, or its electronic equivalent
181.47(b)(2)(i)(B)	Form 7501	, or its electronic equivalent,

181.47(b)(2)(ii)(B)	Form 7501	, or its electronic equivalent,
181.47(b)(2)(ii)(D)	Form 7552	, or its electronic equivalent
181.47(b)(2)(iii)(B)	Form 7501	, or its electronic equivalent,
181.53(a)(2)(iii)(B)	Form 7501	, or its electronic equivalent,
181.53(a)(2)(iii)(C)	Form 7501	, or its electronic equivalent,
181.53(a)(3)(i)	Form 7501	, or its electronic equivalent,
181.53(a)(3)(ii)	Form 7501	, or its electronic equivalent,
181.53(a)(3)(iii)	Form 7501	, or its electronic equivalent,
181.53(a)(4)(i)	Form 7501	, or its electronic equivalent,
181.53(a)(4)(ii)	Form 7501	, or its electronic equivalent,
181.53(b)(2) Example .	Form 7501	, or its electronic equivalent,
181.53(b)(3) Example .	Form 7501	, or its electronic equivalent,
181.53(b)(4)(ii) Ex- ample	Form 7501	, or its electronic equivalent,
181.72(a)(3)(i)	Form 28	, or its electronic equivalent,
181.112(a)	Form 4647	, or its electronic equivalent,
181.114(b)(2)	Form 4647	, or its electronic equivalent

PART 191—DRAWBACK

■ 71. The general authority citation for Part 191 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1313, 1624;

■ 72. In the table below, for each section indicated in the left column, after the words indicated in the middle column, wherever they appear in the section, add the words indicated in the right column:

191.2(c) introductory text	Form 7552	, or its electronic equivalent
191.2(d) introductory text	Form 7552	, or its electronic equivalent
191.91(b)(3)	Form 7501	, or its electronic equivalent

Dated: October 5, 2015.

R. GIL KERLIKOWSKA,
Commissioner,
U.S. Customs and Border Protection.
MARK J. MAZUR,
Assistant Secretary of the Treasury.

GENERAL NOTICE

19 CFR PART 177

PROPOSED MODIFICATION OF A RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF PLAY TABLES WITH DETACHABLE MOBILE SEATS

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

ACTION: Notice of proposed modification of a ruling letter and revocation of treatment relating to the tariff classification of a play table with a detachable mobile seat.

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 CBP intends to modify a ruling letter concerning the tariff classification of a play table with a detachable mobile seat. Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

DATES: Comments must be received on or before November 27, 2015.

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

FOR FURTHER INFORMATION CONTACT: Nerissa Hamilton-vom Baur, Tariff Classification & Marking Branch, (202) 325–0104.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is proposing to modify one ruling letter pertaining to the tariff classification of a play table with a detachable mobile seats. Although in this notice CBP is specifically referring to New York Ruling Letter (NY) N074173, dated September 25, 2009 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to those identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during the notice period.

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

In NY N074173, CBP classified the Around We Go! Activity Center” as a seat in heading 9401, HTSUS. It is now CBP’s position that the article identified in NY N074173 as Item 5 (“Around We Go! Activity

Station”) is distinguishable from the other items classified in that ruling, and classifiable under subheading 9503.00.0071, HTSUSA, which provides for: “[T]ricycles, scooters, pedal cars and similar wheeled toys; dolls’ carriages; dolls, other toys; reduced-scale (“scale”) models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof... Other: Labeled for use by persons under 3 years of age.”

Pursuant to 19 U.S.C. 1625(c)(1), CBP is proposing to modify NY N074173, and any other ruling not specifically identified, to reflect the tariff classification of the subject merchandise according to the analysis contained in proposed HQ H166336, set forth as Attachment B to this notice. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: September 16, 2015

ALLYSON MATTANAH

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N074173

September 25, 2009

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

CATEGORY: Classification

TARIFF NO.: 9401.71.0010; 9401.90.5080;

9401.80.2010; 9401.80.4045

DAMON V. PIKE

PRESIDENT

THE PIKE LAW FIRM, P.C.

127 PEACHTREE STREET, N.E., SUITE 923

ATLANTA, GEORGIA 30303-1825

RE: The tariff classification of “musical motion activity jumper”; “metal frame kit for musical motion activity jumper”; “bounce bounce baby”; “bounce-a-bout activity center”; and “around we go activity center” from China.

DEAR MR. PIKE:

In your letter dated August 28, 2009, you requested on behalf of Kids II, Inc, a tariff classification ruling.

Item #1: is a musical motion activity jumper. Model numbers 30872 and 30917 belong to the product line “Baby Einstein” and model number 6842 belongs to the product line “Bright Starts Pretty in Pink.” The jumper is a stationary object with a metal frame that is designed to rest on the floor. A plastic molded piece is placed in the middle of the jumper and is attached to the metal frame with springs that are covered in protective padding. A circular opening is located in the center of the molded plastic into which a fabric sling-style seat is inserted; the seat has cut-outs through which an infant’s legs can protrude. When the infant is placed within the seat, the baby can swivel, allowing interaction and play amongst the various toys attached to the jumper.

Item #2: is a metal frame kit for a musical motion activity jumper used in conjunction with the models identified in Item #1 above. The item is composed of several (bent) bars of cold rolled steel which are hallowed, and have been shaped to accommodate different components of the jumper. The walls of the steel tubes are less than 1.65mm thick with a diameter of one inch. Portions of the tubes are covered with plastic elements or fabric padding.

Item #3: is a Bounce Bounce Baby Activity Zone, with model # 6837. It is an entertainment center for infants constructed mainly of plastic. Unlike the jumper it does not have a metal frame. The item has three plastic legs that provide stability for the activity zone, and has a circular opening in the middle into which a cloth sling-type seat is inserted. Below the seat is a plastic platform, known as a bounce pad. Around the seat are several plastic toys that are designed to amuse an infant.

Item #4: is a Bounce-a-Bout Activity Center. Two versions of this activity center are available under the Bright Starts line, with model numbers 6895 and 6724: (1) Backyard (green, blue, yellow and orange) and (2) Pink (pink, white and yellow). The activity center is constructed mainly of plastic and does not have a metal frame. The item has a circular plastic base attached to which a bounce pad is centered. The seat has a circular opening in the middle into which a cloth sling-type seat is inserted. Around and above the seating

area are various plastic toys in which to amuse an infant. Included with the item are electronic elements that project noises when the infant interacts with them.

Item #5: is an Around We Go Activity Station. Two model numbers under the Bright Starts product line are listed: model numbers 6797 and 6938. The activity station has two primary components (1) a plastic pedestal table that is capable of containing over twenty toys, and (2) a plastic seat on two legs with wheels that is attached to the table – the mobile seat allows the infant to rotate 360 degrees around the table. The seat has a circular opening in the middle into which a cloth sling-type seat is inserted. As the infant turns to toddler the seat is easily removable and becomes a play table. Included with the item are electronic elements that light up and project noises when the infant interacts with them.

Classification of goods in the Harmonized Tariff Schedule of the United States (HTSUS) shall be governed by the General Rules of Interpretation (GRI) in accordance with the following hierarchical principles:

1. The table of contents, alphabetical index, and titles of sections, chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the following provisions:

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), entered unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

3. When, by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. Counsel suggest that classification

of the five items under review should be HTSUS heading 9503, the provision in pertinent part for other toys, and parts and accessories thereof. As the provision for toys, and parts and accessories thereof, only covers part of the possible HTSUS headings for these items, GRI 3 is applicable – “When, by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected” in accordance with GRI 3(a), (b) and (c), in that order. All of the items are composite articles made of metal, plastic and fabric or plastic and fabric.

GRI 3(b) provides that mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale shall be classified as if they consisted of the material or component which gives them their essential character. The Explanatory Notes state that the factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods. Recent court decisions on the essential character for 3(b) purposes have looked primarily to the role of the constituent material in relation to the use of the goods. *See Better Home Plastics Corp. v. U.S.*, 915 F. Supp. 1265 (CIT 1996), *aff'd* 119 F. 3d 969 (Fed. Cir. 1997); *Mita Copystar America, Inc. v. U.S.*, 966 F.Supp. 1245 (CIT 1997), *rehear'g denied*, 994 F. Supp. 393 (1998); *Vista Int'l Packing Co. v. U.S.*, 890 F. Supp. 1095 (CIT 1995).

In Headquarters Ruling, HQ 960859 dated June 5, 1998, dealing with a substantially similar product called a Stationary Entertainer, it was determined that the classification was one of principal use: article of furniture “seats and chairs” versus “other toys.” The Stationary Entertainer constructed for placing on the floor was used for positioning an infant into a seat restraint, while the baby could interact with eight different attached toys. It was found that the design elements, swiveling and bouncing of the chair and toys, was merely secondary to the primary purpose of restraint onto the chair. Accordingly, the item was classified as a seat under HTSUS heading 9401.

Recognizing the primary use of Item #1, Item #3, Item #4 and Item #5 is for restraint of an infant (baby) onto a seat, within a play activity jumper, center or zone, we are of the opinion that these items are classified as seats under HTSUS heading 9401. With or without a closed lap restraint the infant is unable to easily get out of the play activity jumper, center or zone on their own accord. Item #5 is foremost an infant seat before becoming a separated play table for a toddler, and remains classified in the provision for seats under HTSUS heading 9401. The essential character for Item #1 is imparted by its painted metal frame attached to which are colored plastic elements and fabric padding, while the essential character of #2 (frame kit) is imparted by the painted metal tubes. The essential character for Item #3, #4 and #5 is the colored plastic frames with its plastic toys.

The applicable subheading for Item #1, the metal musical motion jumper with fabric seat, will be 9401.71.0010, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other seats, with metal frames: Upholstered; Household.” The rate of duty will be free.

The applicable subheading for Item #2, the metal frame kit, will be 9401.90.5080, Harmonized Tariff Schedule of the United States (HTSUS),

which provides for “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Parts: Other; Other; Other.” The rate of duty will be free.

The applicable subheading for Item #3 (Bounce Bounce Baby Activity Zone), Item #4 (Bounce-a-Bout Activity Center), and Item #5 (Around We Go Activity Station), if made of reinforced or laminated plastic, will be 9401.80.2010, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other seats: Of rubber or plastic: Of reinforced or laminated plastics; Household.” The rate of duty will be free.

The applicable subheading for Item #3 (Bounce Bounce Baby Activity Zone), Item #4 (Bounce-a-Bout Activity Center), and Item #5 (Around We Go Activity Station), if not made of reinforced or laminated plastic, will be 9401.80.4045, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other seats: Of rubber or plastic: Other; Other.” The rate of duty will be free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Neil H. Levy at (646) 733-3036.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT B]

HQ H166336
CLA-2 OT:RR:CTF:TCM H166336 HvB/SKK
CATEGORY: Classification
TARIFF NO.: 9503.00.0071

DAMON V. PIKE
THE PIKE LAW FIRM, P.C.
127 PEACHTREE STREET, N.E.
SUITE 923
ATLANTA, GEORGIA 30303-1825

RE: Modification of NY N074173; tariff classification of play table with detachable mobile seat; toys.

DEAR MR. PIKE:

This is in response to your October 23, 2009 letter, on behalf of Kids II, Inc., requesting reconsideration of New York (NY) ruling letter N074173, dated September 25, 2009. At issue in that ruling was the classification of five styles of infant/toddler stationary entertainers, including one metal frame component part. In NY N074173, Customs and Border Protection (CBP) determined that the subject merchandise was classifiable as “seats (other than those of heading 9402) and parts thereof” under heading 9401, Harmonized Tariff Schedule of the United States (HTSUS).

In response to your request for reconsideration, we issued HQ H082619, dated July 31, 2013, which affirmed NY N074173, with respect to the classification of Items 1 through 4. In this letter, we address the classification of Item 5, described as the “Around We Go! Activity Station”, model numbers 6797 and 6938.

In your October 23, 2009 request, you assert that CBP’s classification of “Around We Go! Activity Station” in NY N074173 as “seats” in heading 9401, HTSUS, is erroneous as the stationary entertainer’s primary function is for entertainment and the merchandise is marketed as such. You suggest that the subject merchandise is properly classifiable under heading 9503, HTSUS, as “other toys; ... parts and accessories thereof.”

FACTS:

In NY N074173, the subject merchandise consisted of five styles of infant/toddler stationary entertainers. We classified and described Item 5 as follows:

Item 5: “Around We Go! Activity Station” - model numbers 6797 and 6938 are available under the Bright Starts line. The activity station has two primary components: (1) a plastic pedestal table that features over twenty toys; and (2) a plastic seat on two legs with wheels that is attached to the table. The mobile seat allows an infant to rotate 360 degrees around the table. The seat has a circular opening in the middle into which a cloth sling-type seat is inserted. As the child grows, the seat is easily removable but has no independent use of its own. Once the seat is outgrown, the play table remains as the sole useable component. Included with the item are electronic elements that light up and project noises when the infant interacts with them. NY N074173 classified Item 5, if made of reinforced or laminated plastic, under subheading 9401.80.2010, HTSUS, which provides for “[S]eats (other than those of heading 9402), whether or not convertible into beds, and

parts thereof: Other seats: Of rubber or plastic: Of reinforced or laminated plastics: Household.” If Item 5 is not made of reinforced or laminated plastics, the item was deemed classifiable under subheading 9401.80.4045, HTSUS, which provides for “[S]eats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other seats: Of rubber or plastic: Other; Other.”

Below is a photo of the item:



ISSUE:

Whether the “Around We Go! Activity Station” is properly classifiable as a “Seat” in heading 9401, HTSUS, or as an “other toy” of heading 9503, HTSUS?

LAW AND ANALYSIS:

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

The 2015 HTSUS provisions under consideration are the following:

- 9401** Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof
- 9503** Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls, other toys; reduced-scale ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof

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

EN 95.03 provides in relevant part:

(D) **Other toys.**

This group covers toys intended essentially for the amusement of persons (children or adults). However, toys which, on account of their design, shape or constituent material, are identifiable as intended exclusively for animals, e.g., pets, do not fall in this heading, but are classified in their own appropriate heading...

* * *

In your request for reconsideration of NY N074173, you argue that the subject merchandise is properly classifiable as "other toys" in heading 9503, HTSUS, because the principal use of the products is not its ability to restrain an infant, but instead to amuse the child. You argue that the articles at issue are may be distinguished from the stationary entertainer at issue in HQ 960859, dated June 5, 1998, in that the subject merchandise is are developed, marketed and sold as toys, as opposed to "restraint articles".

CBP more recently addressed the issue of restraint versus amusement in classifying infant activity entertainers in HQ H082619, dated July 31, 2013, which concerned the classification of three plastic or metal infant jumpers and bouncers, that are also imported by the instant requestor, Kids' Inc. In HQ H082619, we ruled that the items primarily serve a utilitarian purpose of restraining a child and thus were classifiable in heading 9401, HTSUS, as "seats". However, the subject merchandise, Item 5 ("Around We Go! Activity Station") is distinguishable from HQ H082619, primarily because its physical characteristics are different.

Item 5 has two primary components: (1) a plastic pedestal table that features over 20 built-in toys; and (2) a detachable wheeled mobile plastic seat on two legs which affixes to the table and allows the child to rotate 360 degrees around the table in order to play with the various toys. The seat has a circular opening in the middle into which a cloth sling-type seat is inserted. As the infant becomes a toddler, the mobile seat is easily removable and the article becomes solely a play table. The stationary activity centers in HQ H082619 consisted of seats, and not did not feature tables. Thus, unlike the seats in in HQ H082619, the seat in the instant article is on wheels which allows the infant to move around the table.

Inasmuch as the instant "Around We Go! Activity Station" qualifies as a composite good with separable components, it must be classified accordingly. If imported alone, the seat would be classified in heading 9401, HTSUS,

which provides for “seats”. See HQ H082619, *supra*. The pedestal table features more than 20 interactive toys; these toys occupy the entire table. Thus, the table cannot be used as furniture and it does not provide any utilitarian value. See *Minnetonka Brands v. United States*, 24 C.I.T. 645 (Ct Int’l Trade 2000) in which the court held that an “object is only a toy if it is designed and used for amusement or play, rather than for practicality.”¹ See also HQ H253885, dated March 23, 2015, in which we held that “boo-boo” gel packs were not classified as toys. Therefore, if the pedestal table was imported separately, it would be classified in heading 9503, HTSUS, as “other toys” because it can only be used to entertain a child and it is inherently amusing, due to the variety of light-up and noise-producing interactive toys. The activity center is therefore *prima facie* classifiable in more than one heading. In such a situation, the GRIs direct us to apply GRI 3 to a “composite good.”

GRI 3 provides, in pertinent part, as follows:

When, by application of rule 2(b) [not applicable in this case] or any other reason, goods are, *prima facie*, classifiable under two or more heading, classification shall be effected as follows:

- (a) The heading which provides the most specific description shall be preferred to headings providing a more general description [...]
- (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

...

The relevant ENs for GRI 3 provide:

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

...

- (IX) For the purposes of this Rule, composite goods made up of different components shall be taken to mean not only those in which the components are attached to each other to form a practically insepa-

¹ In several court cases that have defined the term “toy,” heading 9503, HTSUS, has been found to be a principal use provision. The CIT has provided factors which are indicative but not conclusive, to apply when determining whether merchandise falls within a particular class or kind. They include: general physical characteristics, the expectation of the ultimate purchaser, channels of trade, environment of sale (accompanying accessories, manner of advertisement and display), use in the same manner as merchandise which defines the class, economic practicality of so using the import, and recognition in the trade of this use. See *United States v. Carborundum Company*, 63 CCPA 98, C.A.D. 1172, 536 F. 2d 373 (1976), *cert. denied*, 429 U.S. 979 (hereinafter *Carborundum*).

rable whole but also those with separable components, **provided** these components are adapted one to the other and are mutually complementary and that together they form a whole which would not normally be offered for sale in separate parts.

In determining the essential character of the “Around We Go Activity Station,” CBP notes that the merchandise consists of a plastic chair that swivels around a pedestal table. When the child is restrained in the seat, she can “walk” 360 degrees around the toy table. The chair is detachable and may be removed once the child outgrows the manufacturer’s weight and height limits. Thus, the chair’s use is limited to the age and weight limits specified by the manufacturer (4 months and approximately 25 pounds). Unlike the chair, the table can be used alone, which is an attractive selling point to the ultimate purchaser, as parents get longer use out of the entertainer. Parents who reviewed the subject item on Walmart.com note this as a major selling point in their reviews of the item.² The table features electronic elements that light up and project noises when the infant interacts with them. The table also accounts for a majority of the items bulk and weight. We also note that the instant item retails at a slightly higher price than infant stationary entertainers that consist of merely bouncer without a table, such as the stationary entertainers that we classified in HQ H082619. Consequently, CBP concludes that the pedestal toy table predominates the Activity Center by its role in relation to the use of the goods, as well as by bulk, weight, value, and visual appearance. Consequently, we conclude that the pedestal toy table imparts the “Around We Go! Activity Center” with its essential character, pursuant to GRI 3(b). Accordingly, Item 5 is classifiable as an “other toy” of heading 9503, HTSUS.

HOLDING:

By application of GRI 3(b), Item 5, the “Around We Go! Activity Station” is classifiable under subheading 9503.00.0071, HTSUSA, which provides for “[T]ricycles, scooters, pedal cars and similar wheeled toys; dolls’ carriages; dolls, other toys; reduced-scale (“scale”) models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof... Other: Labeled for use by persons under 3 years of age.” The rate of duty will be free.

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

EFFECT ON OTHER RULINGS:

NY N074173, dated September 25,, 2009, is hereby partially modified with respect to Item 5, identified as “Around We Go! Activity Station”.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

² <http://www.walmart.com/ip/Bright-Starts-Zippity-Zoo-3-in-1-Around-We-Go/35846998>
(Last accessed July 14, 2015)

**REVOCAION OF ONE RULING LETTER AND
MODIFICATION OF TWO RULING LETTERS AND
REVOCAION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF ELECTRIC FLATIRON FOR
HAIR**

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

ACTION: Notice of revocation of one ruling letter, and modification of two ruling letters and revocation of treatment relating to tariff classification of electric flatiron for hair.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) is revoking one ruling letter, and modifying two ruling letters relating to the tariff classification of electric flatiron for hair, under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in *Customs Bulletin and Decisions*, Vol. 49, No. 32, on August 12, 2015. No comments were received in response to this Notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 28, 2015.

FOR FURTHER INFORMATION CONTACT: George Aduhene, Tariff Classification and Marking Branch: (202) 325–0184.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993 Title VI, (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (hereinafter “Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade commu-

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

Pursuant to section 625 (c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, Stat. 2057), notice proposing to revoke NY N060719, dated June 5, 2009, and to modify NY N025515, dated April 23, 2008, NY N060721, dated June 5, 2009 and any treatment accorded to substantially identical transactions was published in the *Customs Bulletin and Decisions*, Vol. 49, No. 32, on August 12, 2015. No comments were received in response to this Notice.

As stated in the proposed notice, this revocation and modification will cover any rulings on those merchandise that may exist but have not been specifically identified. 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 this notice period.

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

In NY N025515, CBP determined that a cosmetic hair gel cartridge imported together with a flatiron, was classified in subheading 8516.40.4000, HTSUSA, which provides for, "Electric flatirons: Other."

In NY N060719, the merchandise was described as "Convertible, HAI-2, Nustik, Twig and Nano XT" hair irons, which are used to flatten/straighten hair. The irons were electrically heated and operated on 110 volts of alternating current. CBP determined that the merchandise was classified in subheading 8516.40.4000, HTSUSA.

In NY N060721, CBP described the merchandise as the “Tong, DraStik, and Digistik” hair irons, which are used to flatten/straighten hair. The “DraStik” and “Digistik” have flat heating plates, while the “Tong” had crescent-shaped plates that allowed for creating semi-circular shapes in hair. The irons were electrically heated and operate on 110 volts of alternating current. CBP also determined that the merchandise was classified in subheading 8516.40.4000, HTSUSA. It is now CBP’s position that the merchandise in NY N025515 (the cosmetic hair gel cartridge), N060719, and N060721 (the “DraStik” and “Digistik” hair irons) are classified in subheading 8516.32.0040, HTSUSA.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY N060719, and modifying N025515 and N060721, and revoking or modifying any other ruling not specifically identified, in order to reflect the proper classification of electric flatirons for hair in subheading 8516.32.0040, HTSUS, according to the analysis contained in Headquarters Ruling Letter (“HQ”) H157778, set forth as an attachment this document. 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 and Decisions*.

Dated: September 17, 2015

JACINTO JUAREZ
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H157778

September 17, 2015

CLA-2 OT:RR:CTF:TCM H157778 GA

CATEGORY: Classification

TARIFF NO.: 8516.32.0040 HTSUS

MR. STEVE NOWIK
PANALPINA, INC.
800 E. DEVON AVENUE
ELK GROVE VILLAGE
IL 60007

MR. RUSSELL BRUCE THORNBURG
RUSSELL BRUCE THORNBURG, CHB
11256 CANDLEBERRY COURT
SAN DIEGO, CA 92128

RE: Modification of NY N025515, NY N060721 and Revocation of NY N060719: Classification of electric iron for hair

DEAR MR. NOWIK:

This letter concerns New York Ruling Letter (NY) N025515, dated April 23, 2008, issued to you on behalf of your client Wahl Clipper. That ruling involved the tariff classification of a gel conditioning replacement cartridge when imported separately, and when imported packaged together with an electric iron for hair. In that ruling, U.S. Customs and Border Protection (CBP) classified the gel and iron packaged together in subheading 8516.40.4000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for, "Electric flatirons: Other." We have reviewed NY N025515 and find the portion of that that relates to the classification of the gel imported together with the iron to be in error. In addition, in NY N060721 and NY N060719 similar electric iron products for hair were classified in subheading 8516.40.4000, HTSUS. For the reasons set forth below, we hereby modify NY N025515 and N060721, and revoke N060719.

On August 12, 2015, 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. 49, No. 32 on August 12, 2015. No comments were received in response to this notice.

FACTS:

In NY N025515, the merchandise was described as a cosmetic hair gel cartridge, imported together with a flatiron.

In NY N060719, the merchandise was described as a "Convertible, HAI-2, Nustik, Twig and Nano XT" hair irons, which are used to flatten/straighten hair. The irons were electrically heated and operated on 110 volts of alternating current.

In NY N060721, CBP described the merchandise as the "Tong, DraStik, and Digistik" hair irons, which are used to flatten/straighten hair. The "DraStik" and "Digistik" have flat heating plates, while the "Tong" had crescent-shaped plates that allowed for creating semi-circular shapes in hair. The irons were electrically heated and operate on 110 volts of alternating current.

ISSUE:

Whether electric irons used for hairdressing are flatirons within the meaning of subheading 8516.40, HTSUS?

LAW AND ANALYSIS:

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

The HTSUS provisions under considerations are as follows:

8516	Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electro-thermic hair dressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; other electro-thermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof:
8516.32.00	Other hairdressing apparatus
8516.40	Electric flatirons
8516.40.20	Travel type
8516.40.40	Other

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding, the ENs provide a commentary on the scope of each heading of the HS and are thus useful in ascertaining the proper classification of merchandise. It is CBP's practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Explanatory Note 85.16 provides, in relevant part, as follows:

(C) ELECTRO-THERMIC HAIR-DRESSING APPARATUS AND HAND DRYERS

These include:

- (1) Hair dryers, including drying hoods and those with a pistol grip and built-in fan
- (2) Hair curlers and electrical permanent waving apparatus
- (3) Curling tong heaters
- (4) Hand dryers

(D) ELECTRIC SMOOTHING IRONS

This group covers smoothing irons of all kinds, whether for domestic use or for tailors, dressmakers, etc., including cordless irons. These cordless irons consist of an iron incorporating heating element and a stand which can be connected to the mains. The iron makes contact with the current only when placed in this stand. This group also includes electric steam

smoothing irons whether they incorporate a water container or are designated to be connected to a steam pipe.

The above explanatory note's reference to tailors and dressmakers in connection with irons indicates that the flatirons of subheading 8416.40 are irons used for pressing cloth. By contrast, the instant merchandise is in the nature of hair dressing apparatus, of the kind described in subheading 8516.32 and Explanatory Note C to heading 8516.

Therefore, the subject product is properly classified under subheading 8516.32.00, HTSUS, rather than subheading 8516.40, HTSUS.

HOLDING:

By application of GRI 1, we find the subject flatirons are classified in subheading 8516.32.00, HTSUS, which provides for "Other hairdressing apparatus." The column one, general rate of duty is 3.9 percent *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 on the World Wide Web at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY N025515, dated April 23, 2008, and NY N060721, dated June 5, 2009 are MODIFIED and NY N060719, dated June 5, 2009 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,

JACINTO JUAREZ

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



**REVOCATION OF ONE RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
CLASSIFICATION OF A TRIATHLON SHORT**

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

ACTION: Notice of revocation of one ruling letter and revocation of treatment relating to the classification of a triathlon short.

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 CBP is revoking one ruling concerning the classification of a triathlon short under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment

previously accorded by CBP to substantially identical merchandise. Pursuant to section 625(c)(1)), as amended by section 623 of Title VI, notice of the proposed action was published in the *Customs Bulletin*, Vol. 49, No. 30, July 29, 2015. One comment was received in response to this notice. The commenter did not address the merits of the proposed action, but instead offered to provide additional information about the merchandise.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 28, 2015.

FOR FURTHER INFORMATION CONTACT: Ann Segura, Tariff Classification and Marking Branch: (202) 325-0031.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), a notice was published in the *Customs Bulletin*, Volume 49, No. 30, July 29, 2015, proposing to revoke New York Ruling Letter (NY) N007456, dated March 6, 2007. One comment was received in response to this notice.

As stated in the proposed notice, this revocation will cover any rulings on this merchandise that may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the rulings identified above. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

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

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY N007456, dated March 6, 2007, and any other ruling not specifically identified, pursuant to the analysis set forth in Proposed Headquarters Ruling Letter (HQ) H039658, set forth as Attachment A 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. section 1625(c), the attached ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated: September 22, 105

JACINTO JUAREZ

For

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachment

HQ H039658

September 22, 2015

CLA-2 OT:RR:CTF:TCM H039658 AS

CATEGORY: Classification

TARIFF NO.: 6114.30.3070

Ms. JUDITH L. HAGGIN
1100 S.W. SIXTH AVE.
SUITE 1212
PORTLAND, OR 97204

RE: Revocation of NY N007456; Tariff Classification of Triathlon Shorts

DEAR Ms. HAGGIN:

This is in response to your letter to the National Commodity Specialist Division (NCSA), dated February 19, 2008, filed on behalf of your client, Dash America, Inc., requesting the reconsideration of New York Ruling Letter (NY) N007456, dated March 6, 2007. The NCSA has forwarded your request to us for a direct reply.

In NY N007456, dated March 6, 2007, CBP classified a woman's triathlon racing short style #1557 in subheading 6104.63.2006, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), which provides for "Women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear), knitted or crocheted: Trousers, bib and brace overalls, breeches and shorts: Of synthetic fibers: Other: Other, Trousers and breeches: Women's: Containing 5 percent or more by weight of elastomeric yarn or rubber thread".

Your request for reconsideration also includes a request for a ruling on a similar women's triathlon racing short style #0429. You explain that style #0429 is an updated version of style #1557 of the same name, "Women's Micro Race Shorts". This responds to your request for reconsideration. Samples of style #1557 and style #0429 have been forwarded by the NCSA to this office for examination. Both samples will be returned.

We have reviewed NY N007456 and found it to be incorrect. For the reasons set forth below, we hereby revoke NY N007456.

Pursuant to section 625(c)(1), the Tariff Act of 1930 (19 U.S.C. Section 1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke NY N007456 was published in the *Customs Bulletin*, Vol. 49, No. 30, July 29, 2015. One comment was received in response to this notice. The commenter did not address the merits of the proposed action but instead offered to provide additional information about the merchandise.

FACTS:

In NY N007456, the merchandise was described as follows:

Style #1557 (style name Micro Race Short) is described as a woman's triathlon racing short. The garment is a ladies' pull-on knit short. The main body is 90 percent nylon 10 percent spandex and the side panels are 87 percent polyester 13 percent spandex. The short features a full elasticized waistband with a drawstring, hemmed leg openings and a lightly padded crotch.

Additionally, from our examination of Style #1557, it has a 100 percent polyester multi-layer pad permanently sewn into the crotch/seat area of the shorts as part of the garment. The pad insert is visible when the shorts are worn, and the effects of the pad are clearly visible (it creates an unsightly bulge). You also refer to the pad insert as the “chamois insert”. You state that the pad serves as a cushion and provides extra comfort while participating in the triathlon.

ISSUE:

What is the proper classification for the merchandise?

LAW AND ANALYSIS:

Classification under the 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 heading and legal notes do not otherwise require, the remaining GRIs may then be applied.

The HTSUS provisions under consideration are as follows:

- | | |
|--------------|---|
| 6104 | Women’s or girls’ suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear), knitted or crocheted: |
| | Trousers, bib and brace overalls, breeches and shorts: |
| 6104.63 | Of Synthetic fibers: |
| | Other: |
| 6104.6..20 | Other |
| | Trousers and breeches: |
| | Women’s: |
| 6104.63.2006 | Containing 5 percent or more by weight of elastomeric yarn or rubber thread |
| 6114 | Other garments, knitted or crocheted: |
| 6114.30 | Of man-made fibers: |
| 6114.30.30 | Other |
| | Other: |
| 6114.30.3070 | Women’s or girls’ |

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

The ENs to heading 6114, HTSUS, state, in relevant part:

This heading covers knitted or crocheted garments which are not included more specifically in the preceding headings of this Chapter.

The heading includes, *inter alia*:

* * *

(5) Special articles of apparel, whether or not incorporating incidentally protective components such as pads or padding in the elbow, knee or groin areas, used for certain sports or for dancing or gymnastics (e.g., fencing clothing, jockeys' silks, ballet skirts, leotards). However protective equipment for sports or games (e.e., fencing masks and breast plates, ice hockey pants, etc.) are **excluded (heading 95.06)**.

You have asserted that the subject merchandise should be classified in heading 6114, HTSUS, as "other" garments due to certain specific features said to be designed specifically for wear during all three triathlon events, swimming, bicycling, and running.

The terms of heading 6104, HTSUS, are not limited (other than swimwear), thus they include all forms of shorts. See HQ 089405, dated March 19, 1992. However, while special articles of apparel used for certain sports are properly classified in heading 6114, this is a limited exception. The Explanatory Notes for heading 6114, HTSUS, state that: "The heading includes, *inter alia* : (5) Special articles of apparel used for certain sports or for dancing or gymnastics (e.g., fencing clothing, jockey silks, ballet skirts, leotards)." See EN 61.14(5). In HQ 960833, dated October 5, 1998, CBP in particular noted: "The exemplars given in the EN, such as fencing clothing, jockeys' silks and ballet clothing, are generally worn only while engaging in that activity." CBP has consistently stated that for sports clothing to be classified in heading 6114, HTSUS, it must be limited to use in a particular sport, be designed for use in a particular sport, and be worn only while participating in the sport and not ordinarily worn at any other time. CBP has also considered the manner in which the garment is marketed and sold. See Headquarters Ruling Letters (HQ) 086973, dated April 30, 1990; 950846, dated April 8, 1992; 957469, dated November 7, 1995; and 960833, dated October 5, 1998.

The subject garment is specifically designed for the triathlon events that include swimming, bicycling and running. The instant garment includes a fully elasticized waist through which a drawstring is threaded, a feature found in swim trunks. It also includes a padded crotch and seat area, which is a feature found in cycle shorts. These features, along with the condition of the padding, demonstrate that the garment meets the needs of all three events, without unnecessarily impeding any one triathlon event. We agree that the chamois insert's purpose is functional (i.e., to prevent chafing, to provide cushioning, and to absorb sweat), and that the design of the shorts is such that it renders them impractical for use as fashion shorts of heading 6104, HTSUS. Additionally, the chamois insert has been designed to be clearly visible on the outside of the garment, creating an unsightly and unseemly bulge such that the item would not be worn for casual wear. In addition, we note that the sample of Style #0429 is labeled for triathlon racing highlighting the "Quick drying UltraSensor Triathlon chamois". The www.pearlizumi.com website also markets the item as a woman's triathlon short.

In view of the foregoing, CBP finds that subject merchandise is classified in heading 6114, HTSUS.

This decision is consistent with NY N007592, dated March 27, 2007 (classifying men's triathlon shorts in heading 6114, HTSUS); NY J88284, dated

September 17, 2003; NY J88979, dated October 29, 2003; NY L81141, dated December 8, 2004; and N102306, dated May 20,2010.

HOLDING:

By application of GRI's 1 and 6, the woman's triathlon racing short style #1557 is classified in heading 6114, HTSUS, specifically, subheading 6114.30.3070, HTSUSA, which provides for "Other garments, knitted or crocheted: Of man-made fibers: Other, Other: Women's or girls'." The column one, general rate of duty is 14.9 percent *ad valorem*.

Duty rates are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at www.us-ita.gov.

Style #1557 falls within textile category 659. With the exception of certain products of China, quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas" which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at www.otexa.ita.doc.gov.

EFFECT ON OTHER RULINGS:

NY N007456, dated March 6, 2007, is REVOKED.

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

Sincerely,

JACINTO JUAREZ

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



GENERAL NOTICE

19 CFR PART 177

**PROPOSED MODIFICATION OF TWO LETTERS AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
THE TARIFF CLASSIFICATION OF WOMEN'S SUIT-TYPE
JACKETS AND PANTS**

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

ACTION: Notice of proposed modification of two ruling letters and proposed revocation of treatment relating to the classification of women's suit-type jackets and pants.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625 (c)), this notice advises interested parties that U.S. Customs and Border Protection ("CBP") is proposing to modify two ruling letters relating to the tariff classification of women's suit-type jackets and pants under the Harmonized Tariff Schedule of the United States ("HTSUS"). CBP also proposes to revoke any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the intended actions.

DATES: Comments must be received on or before November 27, 2015.

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

FOR FURTHER INFORMATION CONTACT: Nerissa Hamilton-vom Baur, Tariff Classification and Marking Branch, at (202) 325-0104.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, Title VI ("Customs Modernization") of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI") became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility.**" These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff

Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to modify two ruling letters pertaining to the tariff classification women's suit-type jackets and pants. Although in this notice, CBP is specifically referring to the modification of New York Ruling Letter ("NY") N086736, dated December 9, 2009 (Attachment A) and NY N086592, dated December 7, 2009 (Attachment B), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

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

In NY N086736 and NY N086592, CBP classified certain styles of women's jackets and pants separately, in subheadings 6204.33.50 and 6204.63.35, HTSUS. It is now CBP's position that the garments are properly classified as "suits" in subheading 6204.13.20, HTSUS, which provides for: "Women's or girl's suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts: Suits: Of Synthetic Fibers: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to modify NY N086736 (Attachment A) and NY N086592 (Attachment B), to reflect the proper classification of this merchandise according to the analysis contained in the proposed Headquarters Ruling Letter ("HQ") H110416 (Attachment C). Additionally, pursuant to 19 U.S.C. §

1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: September 29, 2015

LEVA K. O'ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N086736

December 9, 2009

CLA-2-62:OT:RR:NC:TA:360

CATEGORY: Classification

TARIFF NO.: 6204.13.2010; 6204.33.5010;
6204.63.3510

Ms. CATHY SPIOTTA
ALBA WHEELS UP INTERNATIONAL, INC,
150-30 132ND AVENUE SUITE 208
JAMAICA, NY 11434

RE: The tariff classification of women's woven wearing apparel from China

DEAR Ms. SPIOTTA:

In your letter dated December 2, 2009, you requested a tariff classification ruling on behalf of American Apparel Co. The submitted samples will be returned as requested.

All of the submitted samples are constructed from 63 percent polyester, 33 percent rayon and 4 percent spandex woven fabric.

Style 37715-05 consists of a woman's jacket and pant. The jacket is composed of more than three panels and features $\frac{3}{4}$ length sleeves with cuffs, a notched collar, two chest pockets with flaps, self-fabric loops and tie belt, shoulder pads and a full front opening secured by three buttons. The pant features a waistband with two front hook and eye closures, a front zipper and long hemmed legs.

Style 171897-05 consists of a woman's jacket and pant. The jacket is composed of more than three panels and features long sleeves, a shawl collar, thread belt loops, a self-fabric tie belt, shoulder pads and a full front opening secured by a snap closure. The pant features a waistband with two front hook and eye closures, a front zipper and long hemmed legs.

Style 171901-05 consists of a jacket and pant. The partially lined jacket is composed of more than four panels and features a ruffled shawl-like collar, long flared sleeves, a full front opening secured by a one button closure and shoulder pads. The jacket has a peplum-like bottom. The pant features a waistband with two front hook and eye closures, a front zipper and long hemmed legs.

The applicable subheading for style 171901-05 will be 6204.13.2010, Harmonized Tariff Schedule of the United States (HTSUS), which provides for women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): suits: of synthetic fibers: other: women's. The rate of duty will be 35.3 cents/kg + 25.9 percent ad valorem.

The applicable subheading for the jackets of styles 37715-05 and 171897-05 will be 6204.33.5010, Harmonized tariff Schedule of the United States (HTSUS), which provides for women's or girls', suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): suit-type jackets and blazers: of synthetic fibers: other: women's. The rate of duty will be 27.3 ad valorem.

The applicable subheading for the pants of styles 37715-05 and 171897-05 will be 6204.63.3510, Harmonized Tariff Schedule of the United States (HT-

SUS), which provides for women's or girls; suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): trousers, bib and brace overalls, breeches and shorts: of synthetic fibers: other: other: other: other: other: trousers and breeches: women's. The rate of duty will be 28.6 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 World Wide Web at <http://www.usitc.gov/tata/hts/>.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Brenda Wade at (646) 733-3051.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT B]

N086592

December 7, 2009

CLA-2-62:OT:RR:NC:TA:360

CATEGORY: Classification

TARIFF NO.: 6204.13.2010; 6204.33.5010;
6204.63.3510

MS. CATHY SPIOTTA
ALBA WHEELS UP INTERNATIONAL, INC.
150-30 132ND AVENUE SUITE 208
JAMAICA, NY 11434

RE: The tariff classification of women's wearing apparel from China

DEAR MS. SPIOTTA:

In your letter dated December 2, 2009, you requested a tariff classification ruling on behalf of American Apparel Co.

All of the submitted garments are constructed from woven fabric that is 63 percent polyester, 33 percent rayon and 4 percent spandex.

Style 39123-05 consists of a jacket and pants. The jacket is composed of more than three panels and features long sleeves, a notched collar, shoulder pads, simulated pockets at the waist and a full front opening secured by four buttons. The pant features a waistband with two hook and eye closures. a front zipper opening and long hemmed legs.

Style 10905-40 consists of a jacket and pants and is identical in styling to the above.

Style 17821-05 consists of a jacket and pants. The jacket is composed of more than three panels and features long sleeves, a notched collar, shoulder pads, two pockets at the waist, two thread loops and a full front opening secured by two buttons. The pant features a waistband with two hook and eye closures, a front zipper opening and long hemmed legs.

Style 37821-05 consists of a jacket and pants and is identical in styling to the above.

Style 17828-05 consists of a jacket and pants. The jacket is composed of more than three panels and features long sleeves, a notched collar, shoulder pads, two faux pockets at the waist and a full front opening secured by one button. The pant features a waistband with two hook and eye closures, a front zipper opening and long hemmed legs.

The applicable subheading styles 39123-05 and 10905-40 will be 6204.13.2010, Harmonized Tariff Schedule of the United States (HTSUS), which provides for women's or girls' suits, ensembles, sui-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): suits: of synthetic fibers: other: women's. The rate of duty will be 35.3 cents/kg + 25.8 percent ad valorem.

The applicable subheading for the jackets of styles 17821-05, 37821-05 and 17828-40 will be 6204.33.5010, Harmonized Tariff Schedule of the United States (HTSUS), which provides for women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): suit-type jackets and blazers : of synthetic fibers: other: women's. The rate of duty will be 27.3 percent ad valorem.

The applicable subheading for the pants of styles 17821-05, 37821-05 and 17828-40 will be 6204.63.3510, Harmonized Tariff Schedule of the United States (HTSUS), which provides for women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): trousers, bib and brace overalls, breeches and shorts: of synthetic fibers: other: other: trousers and breeches: women's, The rate of duty will be 28.6 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 World Wide Web at <http://www.usitc.gov/tata/hts/>.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Brenda Wade at (646) 733-3051.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT C]

HQ H110416
CLA-2 OT:RR:CTF:TCM H110416 HvB
CATEGORY: Classification
TARIFF NO.: 6204.13.20.10

CATHY SPIOTTA
ALBA WHEELS UP INTERNATIONAL INC.
150-30 132ND AVENUE
SUITE 208
JAMAICA, NY 11434

RE: Tariff classification of women's suits; Modification of NY N086736 and NY N086592

DEAR MS. SPIOTTA:

This letter is in response to your request for reconsideration, dated May 21, 2010, on behalf of your client, American Apparel Co., of New York Ruling Letter ("NY") N086736, issued on December 9, 2009, concerning the tariff classification of women's suit-type jackets and pants, specifically, Styles 37715-05 and 171897-05.¹ In addition, this letter also addresses your request for reconsideration of NY N086592, dated December 7, 2009, also on behalf of American Apparel Co. NY N086592 concerns the classification of women's suit-type jackets and pants, which you identify as Styles 17821-05, 37821-05, and 17828-40.²

In NY N086736, U.S. Customs and Border Protection ("CBP") classified the jackets of Styles 37715-05 and 171897-05 as "suit-type jackets and blazers" under subheading 6204.33.50, Harmonized Tariff Schedule of the United States ("HTSUS") which provides for "Women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): Suit-type jackets and blazers: Of synthetic fibers: other." CBP classified the corresponding pants of Styles 37715-05 and 171897-05 as "trousers..." under subheading 6204.63.35, HTSUS, which provides for "Women's or girls', suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): Trousers, bib and brace overalls, breeches and shorts: Of synthetic fibers: Other: Other: Other: Other: Other."

In NY N086592, CBP classified the jackets of Styles 17821-05, 37821-05, and 17828-40 in HTSUS subheading 6204.33.55, which provides for "Women's or girls', suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): Suit-type jackets and blazers: Of synthetic fibers: Other." CBP classified the corresponding pants for each style at issue as "trousers..." in subheading 6204.63.35, HTSUS, which provides for "Women's or girls', suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts,

¹ NY N086736 also concerned Style 171901-05, which is not at issue in this ruling.

² NY N086592 also concerned Style 39123-05 and Style 10905-40, which are not at issue in this ruling. In addition, NY N086592, a typographic error referred to Style # 17828-40 as Style # 17828-05 in the garments' descriptions, but the ruling correctly referred to the article as Style # 17828-40.

trousers, bib and brace overalls, breeches and shorts (other than swimwear): Trousers, bib and brace overalls, breeches and shorts: Of synthetic fibers: Other: Other: Other: Other: Other.”

Your submission included samples of each style at issue. Per your request, the garments are being returned to you.

FACTS:

Each style at issue consists of a set of garments consisting of a jacket and a pair of pants in the same style, color, construction, and composition. Each garment is made from synthetic fabric consisting of 63% polyester, 33% rayon, and 4% spandex. The jackets are not lined.

Style 37715-05 consists of a woman's jacket and pants. The jacket is comprised of six panels which are sewn together lengthwise; two panels in the front and four panels in the back. The jacket features $\frac{3}{4}$ length sleeves with cuffs, a notched collar, two chest pockets with flaps, self-fabric loops and a tie belt, shoulder pads and a full front opening secured by three buttons. The pants features a waistband with two front hook and eye closures, a front zipper closure and long hemmed legs. Both the pants and the jacket are a Women's size 18W. Both the jacket and pants have a hang tag that states “2 Piece Set”.

Style 171897-05 features a jacket which is comprised of seven panels sewn together lengthwise; three panels in the front and four panels in the back. It also features long sleeves, a shawl collar, thread belt loops, a self-fabric tie, shoulder pads, and a full front opening secured by a snap closure. The pair of pants for this style features a waistband with two front hook and eye closures, a front zipper, and long hemmed legs. The jacket and pants are both labeled Size 8. Both the jacket and pants have a hang tag that states “2 Piece Set”.

Style 37821-05 consists of a woman's jacket and pants, which both have hang tags that states “2 Piece Set”. The jacket has three panels in the front on each side of the opening that are sewn together lengthwise with four panels in the back. Both the back and the front of the garment feature seams at the waistband. The jacket features shoulder pads, a notched collar, and a 2 button closure that secures a full frontal opening. A fabric self-tie belt is attached to the jacket. The pants features a waistband with two hook and eye closures, a front zipper opening, and long hemmed legs.

Style 17821-05 consists of jacket and pants. The jacket is composed of more than three panels. It also features long sleeves, a notched collar, shoulder pads, two pockets at the waist and a full front opening secured by two buttons. There are belt loops above the pockets for a belt. The pants features a waistband with two hook and eye closures, a front zipper opening, and long hemmed legs. Both the jacket and pants have a hang tag that states “2 Piece Set”. The items are both labeled Women's size 8.

Style 17828-40 also consists of a woman's jacket and pants. The jacket features six panels in total, with three panels in the front and the back. The panels are sewed together lengthwise. The jacket has a notched collar, shoulder pads, two faux pockets at the waist and a full front opening that is secured by one button. The jacket and pants are both labeled Size 8. Both the jacket and pants have a hang tag that states “2 Piece Set”.

You request classification of these garments in subheading 6204.13, HT-SUS, the subheading which provides for women's or girls' “suits”.

ISSUE:

Whether the instant garments are classified together as suits in subheading 6204.13, HTSUS, or as “suit-type jackets and blazers” and “trousers” in subheading 6204.33, HTSUS, and 6204.63, respectively?

LAW AND ANALYSIS:

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

Because the instant classification dispute occurs beyond the four-digit heading level, GRI 6 is implicated. GRI 6 states:

For legal purposes, the classification of goods in the subheading of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to the above rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this rule, the relative section, chapter and subchapter notes also apply, unless the context otherwise requires.

The 2015 HTSUS provisions under consideration are as follows:

6204	Women’s or girls’ suits, ensembles, jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): Suits: ***
6204.13	Of synthetic fibers *** Suit-type jackets and blazers
6204.33	Of synthetic fibers: *** Trousers, bib and brace overalls and shorts (other than swimwear) ***
6204.63	Of synthetic fibers

Note 3 to Chapter 62, HTSUS, in pertinent part, states:

For the purposes of headings 6203 and 6204:

- (a) The term “suit” means a set of garments composed of two or three pieces made up, in respect of their outer surface, in identical fabric and comprising:
 - one suit coat or jacket the outer shell of which, exclusive of sleeves, consists of four or more panels, designed to cover the upper part of the body, possibly with a tailored waistcoat in addition whose front is made from the same fabric as the outer

surface of the other components of the set and whose back is made from the same fabric as the lining of the suit coat or jacket; and

- one garment designed to cover the lower part of the body and consisting of trousers, breeches or shorts (other than swimwear), a skirt or a divided skirt, having neither braces nor bibs.

All of the components of a “suit” must be of the same fabric construction, color and composition; they must also be of the same style and of corresponding or compatible size. However, these components may have piping (a strip of fabric sewn into the seam) in a different fabric.

...

* * *

There is no dispute that the subject women’s garments are classified in heading 6204, HTSUS. To the contrary, the dispute is at the 6-digit level. You argue that the instant garments should be classified as “suits” in subheading 6204.13, HTSUS, whereas in NY N086736 and NY N086592, CBP classified the jacket and pants of each style at issue separately, in subheadings 6204.33 and 6204.63, HTSUS.

Note 3(a) to Chapter 62, HTSUS, defines the term “suit” as “a set of garments composed of two or three pieces made up, in respect of their outer surface, in identical fabric, and which are comprised of one of a number of specific type of garments designed to cover the lower body and a suit coat or suit jacket. *See* Headquarters Ruling Letter (HQ) 962125, dated May 5, 2000. Thus, we must evaluate each pair of garments as a whole before we can determine if the individual articles meet the criteria for suit jackets and suit pants. In this case, we are presented with garments each composed of a jacket and a pair of pants. The components of each style at issue are of the same fabric construction, style, color, and composition. Each pant and jackets are also of corresponding sizes. *See* HQ 953237, dated February 2, 1993. Accordingly, the first definitional requirement is met.

Note 3(a) requires that the outer shell of suit-jackets in heading 6204, HTSUS, consist of at least four panels. Each jacket presented meets this requirement as each jacket features at least four panels, as noted above. Therefore, we find that the instant merchandise, Styles 37715–05, 171897–05, 37821–05, 17821–05, and 17828–40 each meet the requirements of Note 3(a) to Chapter 62, HTSUS. Accordingly, by operation of GRI 1, the instant merchandise are classified in subheading 6204.13.20, HTSUS, as “Women’s or girl suits...: Suits: Of Synthetic fibers: Other.”

HOLDING:

By application of GRI 1, the women’s pants suits, Styles 37715–05, 171897–05, 37821–05, 17821–05, and 17828–40 are classified in heading 6204, HTSUS, and specifically in subheading 6204.13.20.10, HTSUSA, which provides for “Women’s or girl’s suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts: Suits: Of Synthetic Fibers: Other: Women’s.” Under the 2015 HTSUS, the column one, general rate of duty is 35.3¢/kg + 25.9%. *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 N086736, dated December 9, 2009, is hereby MODIFIED with respect to Style 37715-05 and Style 171897-05.

NY N086592, dated December 7, 2009, is hereby MODIFIED with respect to Style 17821-05, Style 37821-05, and Style 17828-40.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division


**MODIFICATION OF A RULING LETTER AND REVOCATION
OF TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF AN INKJET PRINTER/CUTTER**

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

ACTION: Notice of modification of a ruling letter and revocation of treatment relating to tariff classification of an inkjet printer/cutter.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) is modifying a ruling letter relating to the tariff classification of inkjet printer/cutter from Japan, under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin and Decisions*, Vol. 49, No. 31, on August 5, 2015. No timely comments were received in response to this notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 28, 2015.

FOR FURTHER INFORMATION CONTACT: George Aduhene, Tariff Classification and Marking Branch: (202) 325-0184

SUPPLEMENTARY INFORMATION:**Background**

On December 8, 1993 Title VI, (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective.

Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625 (c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of Title VI (Customs Modernization of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, Stat. 2057), notice proposing to modify NY N004132, dated December 29, 2006 and any treatment accorded to substantially identical transactions was published in the *Customs Bulletin and Decisions*, Vol. 49, No. 31, August 5, 2015. No timely comments were received in response to this notice.

As stated in the proposed notice, this modification will cover any rulings on this merchandise that may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to NY N004132. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In NY N004132, CBP determined that an inkjet printer/cutter imported from Japan, was classified in subheading 8477.80.00, HTSUS, which provides for, “Machinery for working rubber or plastics or for the manufacture of products from these materials, not specified or included elsewhere in this chapter; parts thereof: Other machinery for molding or otherwise forming: Other machinery.”

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying N004132 and any other ruling not specifically identified, in order to reflect the proper classification of an inkjet printer/cutter in subheading 8443.32.10, HTSUS, according to the analysis contained in Headquarters Ruling Letter (“HQ”) H128416, set forth as an attachment to this document. 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 and Decisions*.
Dated: September 28, 2015

JACINTO JUAREZ
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H128416

September 28, 2015

CLA-2 OT:RR:CTF:TCM H128416 GA

CATEGORY: Classification

TARIFF NO.: 8443.32.1040

MR. TOM BOIVIN
ROLAND DGA CORPORATION
15363 BARRANCA PARKWAY
IRVINE, CA 92618

RE: Modification of NY N004132; Classification of a wide format inkjet printer and a wide format inkjet printer/cutter from Japan

DEAR MR. BOIVIN:

This is in reference to New York Ruling Letter (“NY”) N004132, dated December 29, 2006, issued to you concerning the tariff classification of a wide format inkjet printer and a wide format inkjet printer/cutter from Japan, under the Harmonized Tariff Schedule of the United States (HTSUS). In NY N004132, U.S. Customs and Border Protection (CBP) classified a 6 color inkjet printer and contour cutter, Model Number XC-540 in subheading 8477.80.00, HTSUS, which provides for, “Machinery for working rubber or plastics or for the manufacture of products from these materials, not specified or included elsewhere in this chapter; parts thereof: Other machinery.” CBP also classified a wide-format sublimation digital inkjet printer, Model Number FP-740 in subheading 8443.51.50, HTSUS, which provides for, “Printing machinery used for printing by means of printing type, blocks, plates, cylinders and other printing components of heading 8442; ink-jet printing machines, other than those of heading 8471; machines for uses ancillary to printing; parts thereof: Other printing machinery: Ink-jet printing machinery: Other.” We have reviewed NY N004132 and find the portion that relates to the classification of the 6 color inkjet printer and contour cutter, Model XC-540 to be in error. The classification of the wide-format sublimation digital inkjet printer, Model Number FP-740, remains unmodified. For the reasons set forth below, we hereby modify NY N004132.

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. 49, No. 31, on August 5, 2015. No timely comments were received in response to this notice.

FACTS:

In NY N004132, the subject merchandise was described as follows:

The 6 color inkjet printer and contour cutter, Model Number XC-540, is designed to produce outdoor graphics (banners, signs, vehicle graphics) that are UV and water resistant. Other applications include the production of labels, decals, apparel graphics, floor graphics, and packaging. The unit can print on and cut media such as vinyl, canvas, banner and backlit film up to 54 inches in width. It features a 64 nozzle piezo inkjet print head capable of printing resolutions up to 1440 dpi using solvent based inks. In addition, it has a swivel drag cutting blade for high speed precision contour cutting. In your letter, you indicate that the unit is

principally used on plastic media. The unit is intended to be used in conjunction with a separate personal computer (not imported with the Model Number XC-540)

ISSUE:

What is the proper classification of the inkjet printer/cutter?

LAW AND ANALYSIS:

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

The HTSUS headings under considerations are as follows:

- | | |
|------|--|
| 8443 | Printing machinery used for printing by means of plates, cylinders and other printing components of heading 8442; other printers, copying machines and facsimile machines, whether or not combined; parts and accessories thereof: |
| 8477 | Machinery for working rubber or plastics or for the manufacture of products from these materials, not specified or included elsewhere in this chapter; parts thereof: |

Note 3 to Section XVI, HTSUS, states, in pertinent part, the following:

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

* * * * *

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding, the ENs provide a commentary on the scope of each heading of the HS and are thus useful in ascertaining the proper classification of merchandise. It is CBP's practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The ENs to Section XVI, provide, in relevant part, as follows:

**(VI) MULTI-FUNCTION MACHINES
AND COMPOSITE MACHINES**

(Section Note 3)

In general, multi-function machines are classified according to the principal function of the machine.

...

Composite machines consisting of two or more machines or appliances of different kinds, fitted together to form a whole, consecutively or simulta-

neously performing **separate** functions which are generally complementary and are described in different headings of Section XVI, are also classified according to the principal function of the composite machine.

...

For the purposes of the above provisions, machines of different kinds are taken to be **fitted together to form a whole** when incorporated one in the other or mounted one on the other, or mounted on a common base or frame or in a common housing.

* * * * *

In your letter dated August 4, 2010, in response to our letter of April 21, 2010, requesting additional information, you addressed the questions concerning the principal function of the subject printer/cutter machine. As an initial matter, we note your admission that information provided to CBP by your former Director of Distribution concerning the principal function of the subject merchandise of ruling NY N004132 (an earlier model inkjet printer with a contour cutter) was incorrect. You indicated that the error could have led CBP to classify the subject printer/cutter in subheading 8477.80.00, HTSUS. You now indicate that the criteria you use to determine the principal function are: (1) the design of the machine, (2) the application to which the end users put the machines, and (3) the cost of the printer/cutters compared to single function machines. You indicate that the principal function of the subject printer/cutter is “printing” and believe it should be classified under heading, 8443, HTSUS. Furthermore, you state that the subject printer/cutter is purposely intended to enable the user to print graphics on a variety of substrate material and once the printing is completed, to permit the cutting of the material into the final form.

Note 3 to Section XVI, HTSUS, directs that unless context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole are to be classified as if consisting only of that component or as being that machine which performs the principal function. As described above, the subject merchandise is used for printing by means of ink jets with the option to cut printed materials. As you indicated, the user may choose to use the printing machine to perform cutting functions. However, the cutting function is not necessary for the operation of the printing machine. The printing machine would not be used solely or primarily for cutting materials without printing.

CBP has found the analysis developed and utilized by the courts in relation to “principal use” (the “*Carborundum* factors”) to be a useful aid in determining the principal function of such machines. Generally, the courts have provided several factors, which are indicative but not conclusive, to apply when determining whether merchandise falls within a particular class or kind. They include: (1) general physical characteristics; (2) expectation of the ultimate purchaser; (3) channels of trade, environment of sale (accompanying accessories, manner of advertisement and display); (4) use in the same manner as merchandise that defines the class; (5) economic practicality of so using the import; and (6) recognition in the trade of this use. *See United States v. Carborundum Co.*, 63 C.C.P.A. 98, 102, 536 F.2d 373, 377 (1976), *cert. denied*, 429 U.S. 979 (1976); *Lennox Collections v. United States*, 20 Ct. Int’l Trade 194, 196 (1996); *Kraft, Inc. v. United States*, 16 Ct. Int’l Trade 483, 489 (1992); and *G. Heileman Brewing Co. v. United States*, 14 Ct. Int’l Trade

614, 620 (1990). *See also* HQ W968223, dated January 12, 2007, and HQ 966270, dated June 3, 2003.

You listed a number of *Carborundum* factors in your submission including: general physical characteristics, expectation of the ultimate purchaser, channels of trade, environment of sale, the use in the same manner as merchandise which defines the class, economic practicality, and economic recognition in the trade of use of the printer/cutter machine. After examining the product literature and documentation you provided and considering the *Carborundum* factors, we agree that the principal function of the printer/cutter is for a user to print graphics on a variety of materials. As such, CBP concludes that the subject printer/cutter performs the principal function of printing materials, and pursuant to Note 3 to Section XVI, HTSUS, the subject merchandise shall be classified as if consisting only of the printer. This finding is consistent with prior CBP rulings on similar merchandise. In NY N092737, dated February 4, 2010, various inkjet printers with a built-in contour cutter from Japan were classified as having the principal function of printing machines. *See also* NY N112997, dated July 16, 2010; NY N018032, dated October 19, 2007; NY N030139, dated June 26, 2008; and NY N044490, dated December 8, 2008.

Therefore, the printing machine is properly classified under heading 8443, HTSUS, as opposed to 8477, HTSUS.

HOLDING:

By application of GRI 1, we find the inkjet printer/cutter (Model XC-540) to be properly classified under heading 8443, HTSUS, specifically, in subheading 8443.32.10, HTSUS, which provides for "Printing machinery used for printing by means of plates, cylinders and other printing components of heading 8442; other printers, copying machines and facsimile machines, whether or not combined; parts and accessories thereof: Printing machinery used for printing by means plates, cylinders and other printing components of heading 8422: Other printers, copying machines and facsimile machines, whether or not combined: Other, capable of connecting to an automatic data processing machine or to a network: Printer units: Ink jet.." The duty rate is "Free."

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

EFFECT ON OTHER RULINGS:

NY N004132, dated December 29, 2006, is hereby MODIFIED.

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

Sincerely,

JACINTO JUAREZ

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**REVOCAION OF A RULING LETTER AND REVOCAION
OF TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF A POWERCAP AND A POWERCAP
WITH CRYSTAL**

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

ACTION: Notice of revocation of a ruling letter and revocation of treatment relating to the tariff classification of a PowerCap and a PowerCap with Crystal.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) is revoking a ruling letter relating to the tariff classification of a PowerCap and a PowerCap with Crystal, under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin and Decisions*, Vol. 49, No. 33, on August 19, 2015. No comments were received in response to this notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 28, 2015.

FOR FURTHER INFORMATION CONTACT: George Aduhene, Tariff Classification and Marking Branch: (202) 325–0184

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993 Title VI, (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (hereinafter “Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s responsibilities and rights under the customs and related laws.

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

Pursuant to section 625 (c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of Title VI, a notice proposing to revoke NY N093423, dated February 18, 2010 and any treatment accorded to substantially identical transactions was published in the *Customs Bulletin and Decisions*, Vol. 49, No. 33, on August 19, 2015. No comments were received in response to this notice.

As stated in the proposed notice, this revocation will cover any rulings on this merchandise that may exist but not have been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to NY N093423. No further rulings have been found. Any party who has received an interpretive ruling or decision (I.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In NY N093423, CBP determined that a PowerCap and a PowerCap with Crystal imported from the Philippines, was classified in subheading 8504.40.9540, HTSUSA, which provides for, "Electrical transformers, static converters (for example, rectifiers) and inductors; parts thereof: Static converters: Other: Rectifiers and rectifying apparatus: Power supplies: Other."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY N093423 and any other ruling not specifically identified, in order to reflect the proper classification of a PowerCap and a PowerCap with Crystal in subheading 8506.50.00, HTSUS, according to the analysis contained in Headquarters Ruling Letter ("HQ") H192478, set forth as an at-

tachment to this document. 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 and Decisions*.

Dated: September 28, 2015

JACINTO JUAREZ

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachment

HQ H192478

September 28, 2015

CLA-2 OT:RR:CTF:TCM H192478 GA

CATEGORY: Classification

TARIFF NO.: 8506.50.00

MR. GREGORY LEE PEEBLES, SR.

COMPLIANCE MANAGER

MAXIM INTEGRATED PRODUCTS

4401 S. BELTWOOD PARKWAY

DALLAS, TX 75244

RE: Revocation of NY N093423; Classification of a PowerCap and a PowerCap with Crystal from the Philippines

DEAR MR. PEEBLES:

This letter concerns New York Ruling Letter (NY) N093423, dated February 18, 2010, issued to Maxim Integrated Products concerning the classification of the PowerCap and the PowerCap with Crystal products under the Harmonized Tariff Schedule of the United States (HTSUS). In that ruling, U.S. Customs and Border Protection (CBP) classified the subject merchandise in subheading 8504.40.9540, HTSUSA, which provides for “Electrical transformers, static converters (for example, rectifiers) and inductors; parts thereof: Static converters: Other: Rectifiers and rectifying apparatus: Power supplies: Other.” For the reasons set forth below, we hereby revoke N093423.

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. 49, No. 33, on August 19, 2015. No comments were received in response to this notice.

FACTS:

In NY N093423, CBP described the merchandise as follows:

The merchandise under consideration is a PowerCap and a PowerCap with Crystal. The product literature also refers to the PowerCap as DS9034PC/PCI and the PowerCap with Crystal as DS9034PCX.

The DS9034PC/PCI PowerCap is a lithium power source designed to provide 10 years of battery backup power for NV (non-volatile) SRAMS in Dallas Semiconductor’s PowerCap Module (PCM) package. It snaps directly onto a surface-mounted PowerCap Module base to form a complete NV SRAM Module.

The DS9034PCX PowerCap with Crystal is a lithium power source designed to provide 10 years of battery backup power for NV (non-volatile) timekeeping RAMs in Dallas Semiconductor’s surface-mountable PowerCap Module (PCM) package. After the PowerCap module board has been soldered in place and cleaned, the DS9034PCX PowerCap with Crystal is placed on top of the PCM board to form a complete PowerCap Module package. The PowerCap is keyed to prevent incorrect attachment.

Both the DS9034PC/PCI PowerCap and the DS9034PCX PowerCap with Crystal contained printed circuit board substrate upon which a lithium battery, connectors, and plastic cap are attached. The DS9034PCX also

contains a crystal. Based on the description and function of each of these devices, each is a printed circuit assembly that carries out the function of a power supply.

ISSUE:

Whether the PowerCap and PowerCap with Crystal products are classified in heading 8504, HTSUS, as static converters, or in heading 8506, HTSUS, as primary batteries.

LAW AND ANALYSIS:

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

The HTSUS provisions under considerations are as follows:

8504	Electrical transformers, static converters (for example, rectifiers) and inductors; parts thereof:
8504.40	Static converters:
8504.40.95	Other:
	Rectifiers and rectifying apparatus:
	Power supplies:
8504.40.9540	Other
* * * * *	
8506	Primary cells and primary batteries; parts thereof:
8506.50.00	00 Lithium

Section XVI, Note 3, which includes headings 8504 and 8506, HTSUS, provides:

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

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding, the ENs provide a commentary on the scope of each heading of the HS and are thus useful in ascertaining the proper classification of merchandise. It is CBP's practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN 85.04 states, in relevant part:

(II) ELECTRICAL STATIC CONVERTERS

The apparatus of this group are used to convert electrical energy in order to adapt it for further use. They incorporate converting elements (e.g.,

valves) of different types. They may also incorporate various auxiliary devices (e.g., transformers, induction coils, resistors, command regulators, etc.). Their operation is based on the principle that the converting elements act alternately as conductors and non-conductors.

EN 85.06 states, in relevant part:

These generate electrical energy by means of chemical reactions.

A primary cell consists basically of a container holding an alkaline or a non-alkaline electrolyte (e.g., potassium or sodium hydroxide, ammonium chloride or a mixture of lithium chloride, ammonium chloride, zinc chloride and water) in which two electrodes are immersed. The anode is generally of zinc, magnesium or of lithium and the cathode (depolarising electrode) is, for example, of manganese dioxide (mixed with carbon powder), of mercuric oxide or of silver oxide. In lithium primary cells, the anode is of lithium and the cathode is, for example, of thionyl chloride, of sulphur dioxide, manganese dioxide or of iron sulphide. A nonaqueous electrolyte is used because of the solubility and reactivity of lithium in aqueous solutions. In air-zinc primary cells, an alkaline or neutral electrolyte is generally used. The zinc is used as the anode, oxygen diffuses into the cell and is used as the cathode. Each electrode is provided with a terminal or other arrangement for connection to an external circuit. The principal characteristic of a primary cell is that it is not readily or efficiently recharged. Primary cells are used for supplying current for a number of purposes (for bells, telephones, hearing aids, cameras, watches, calculators, heart pacemakers, radios, toys, portable lamps, electric prods for cattle, etc.). Cells may be grouped together in batteries, either in series or in parallel or a combination of both. Cells and batteries remain classified here irrespective of the use for which they are intended (e.g., standard cells for laboratory work producing a constant known voltage fall in the heading).

Heading 8504, HTSUS, provides, in relevant part, for static converters. The ENs to heading 8504, HTSUS, provide: "The apparatus of this group are used to convert electrical energy in order to adapt it for further use. They incorporate converting elements (e.g., valves) of different types. They may also incorporate various auxiliary devices (e.g., transformers, induction coils, resistors, command regulators, etc.). Their operation is based on the principle that the converting elements act alternately as conductors and non-conductors."

A review of the product literature and specifications indicates that the instant merchandise does not incorporate any converting elements, and is not used to convert electrical energy in order to adapt it for further use. Instead, the subject DS9034PC/PCI PowerCap and the DS90349PCX PowerCap with Crystal generate electrical energy by means of a chemical reaction involving lithium cells. Therefore, neither product falls within the EN's delineation of static converters.

The subject DS9034PC/PCI PowerCap consists of a lithium battery, connectors, and a plastic cap attached to a printed circuit board. The subject DS90349PCX PowerCap with Crystal consists of a lithium battery, connectors, a plastic cap, and a crystal attached to a printed circuit board. Section XVI, Note 3, HTSUS, which governs the classification of goods in heading 8504, among others, states that unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a

whole and other machines adapted for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function. Both products qualify under Section XVI, Note 3, HTSUS, as composite machines that are to be classified as if consisting of that component or as being that machine which performs the principal function. The principal function of the merchandise is to provide a source of current. Based on its description and function, the lithium battery is the source of the current.

The lithium battery is designed to provide 10 years of battery backup power. It is a primary (non-chargeable) battery. Therefore, the subject merchandise is classifiable in heading 8506, HTSUS.

HOLDING:

By application of GRIs 1 and 6, we find the PowerCap and PowerCap with Crystal are classified in heading 8506, HTSUS, and subheading 8506.50.00, HTSUS, which provides for “Primary cells and primary batteries; parts thereof: Lithium.” The column one, general rate of duty is 2.7 percent *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 on the World Wide Web at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY N093423, dated February 18, 2010 is hereby REVOKED.

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

Sincerely,

JACINTO JUAREZ

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**REVOCATION OF A RULING LETTER AND REVOCATION
OF TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF MOBILE PHONE KITS**

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

ACTION: Notice of revocation of a ruling letter and revocation of treatment relating to the classification of mobile phone kits.

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 CBP is revoking NY N049055, dated February 4,

2009, concerning the tariff classification of mobile phone kits under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. One comment opposing the proposed revocation 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 December 28, 2015.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Tariff Classification and Marking Branch: (202) 325-0024

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (“Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the *Customs Bulletin*, Vol. 49, No. 26, on July July 1, 2015, proposing to revoke one ruling letter pertaining to the tariff classification of mobile phone kits. As stated in the proposed notice, this action will cover NY N049055, dated February 4, 2009, as well as any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified.

No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. §1625(c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved 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 N049055, CBP classified various mobile phone components (including mobile phone handsets, mobile phone batteries, mobile phone battery covers, mobile phone chargers, and mobile phone instruction manuals), imported together in bulk but packaged separately, in heading 8517, HTSUS, as an unassembled set. It is now CBP's position that the various mobile phone components are not unassembled sets pursuant to either GRI 2 or GRI 3.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N049055, and any other ruling not specifically identified, to reflect the tariff classification of the subject merchandise according to the analysis contained in Headquarters Ruling Letter (HQ) H252291, which is attached 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: September 30, 2015

JACINTO JUAREZ
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

HQ H252291

September 30, 2015

CLA-2 OT:RR:CTF:TCM H252291 CkG

CATEGORY: Classification

TARIFF NO: 4901.99.00, 8504.40.85, 8517.12.00

MR. DAVID LIM

SENIOR DIRECTOR, SUPPLY CHAIN DIVISION

LG ELECTRONICS MOBILECOMM U.S.A., INC.

10101 OLD GROVE ROAD

SAN DIEGO, CA 92131

RE: Revocation of NY N049055; classification of mobile phone kits

DEAR MR. LIM,

This is in reference to New York Ruling Letter (NY) N049055, issued by Customs and Border Protection (CBP) on February 4, 2009, regarding the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of mobile phone kits. We have reconsidered this decision, and for the reasons set forth below, have determined that classification of the mobile phone kits as unassembled GRI 3(b) sets in heading 8517, HTSUS, was incorrect.

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 NY N049055 was published on July 1, 2015, in Volume 49, Number 26, of the *Customs Bulletin*. One comment was received in response to this Notice, and is addressed in the ruling below.

FACTS:

NY N049055 described the subject merchandise as follows:

The merchandise subject to this ruling is mobile phone kits. You indicate in your letter that the mobile phone kits will be imported in a single shipment with each of the components, accessories, and point of sale packing material imported in bulk in separate shipping boxes at the time of entry and subsequently assembled together into retail mobile phone kits immediately after entry into the United States

The items that comprise the mobile phone kits are mobile phone handsets, mobile phone batteries, mobile phone battery covers, mobile phone chargers, and mobile phone instruction manuals. Each of these items will be packaged with several other identical items in cardboard shipping cartons, i.e., one carton containing batteries, another carton containing handsets, etc. Each of the shipping cartons will be placed on separate pallets with several other shipping cartons containing identical items and shrink-wrapped, i.e., one pallet containing several shipping cartons full of batteries, another pallet containing several cartons full of handsets, etc. All of the pallets will be imported within the same shipment in proportionate quantities, i.e., 1,000 batteries, 1,000 handsets, etc. All of the five items will be imported in this manner for convenience of packing, handling, and transport. However, after importation the merchandise will only be sold as mobile phone kits each consisting of a handset, battery, battery cover, charger, and instruction manual.

ISSUE:

Whether the instant kits can be classified as unassembled GRI 3(b) sets in heading 8517, HTSUS.

LAW AND ANALYSIS:

The HTSUS provisions at issue are as follows:

4901:	Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets:
	Other:
4901.99:	Other: * * * * *
8504:	Electrical transformers, static converters (for example, rectifiers) and inductors; parts thereof:
8504.40:	Static converters:
8504.40.85:	For telecommunication apparatus . . . * * * * *
8507:	Electric storage batteries, including separators therefor, whether or not rectangular (including square); parts thereof:
8507.60.00:	Lithium-ion batteries . . . * * * * *
8517:	Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 8443, 8525, 8527 or 8528; parts thereof: Telephone sets, including telephones for cellular networks or for other wireless networks:
8517.12.00:	Telephones for cellular networks or for other wireless networks: * * * * *

GRI 2 provides, in relevant part:

- (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), entered unassembled or disassembled.

GRI 3 provides, in pertinent part:

- 3. When, by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

...

- (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be

classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

* * * * *

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 the headings. It is CBP's practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The EN to GRI 2(a) provides:

(VII) For the purposes of this Rule, “articles presented unassembled or disassembled” means articles the components of which are to be assembled either by means of fixing devices (screws, nuts, bolts, etc.) or by riveting or welding, for example, **provided** only assembly operations are involved. No account is to be taken in that regard of the complexity of the assembly method. However, the components shall not be subjected to any further working operation for completion into the finished state. Unassembled components of an article which are in excess of the number required for that article when complete are to be classified separately.

(IX) In view of the scope of the headings of Sections I to VI, this part of the Rule does not normally apply to goods of these Sections.

The EN to GRI 3(b) provides, in pertinent part:

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

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

* * * * *

In NY N049055, CBP classified various mobile phone components (including mobile phone handsets, mobile phone batteries, mobile phone battery covers, mobile phone chargers, and mobile phone instruction manuals), imported together in bulk but packaged separately, in heading 8517, HTSUS. The ruling applied GRI 2(a) to classify all of the components together as unassembled “kits”. For the reasons set forth below, this analysis is incorrect.

GRI 2(a) provides, in pertinent part, that “Any reference in a heading to an article shall be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), entered unassembled or disassembled.”

GRI 3(b) provides that “[m]ixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.” In addition, the Explanatory Note to GRI 3(b) holds that: “[f]or the purposes of this Rule, the term “goods put up in sets for retail sale” shall be taken to mean goods which:

- (a) consist of at least two different articles which are, *prima facie*, classifiable in different headings.
- (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and
- (c) are put up in a manner suitable for sale directly to users without repacking.”

The instant mobile phone kit components imported by LG are not classifiable under a single heading pursuant to either GRI 2 or GRI 3. The components do not constitute an unassembled mobile phone pursuant to GRI 2(a), because the charger and the instruction manual are not parts of a fully assembled phone. Furthermore, the imported mobile phone kit components are not “goods put up in sets for retail sale” because they are not put up in a manner suitable for sale directly to users without repacking. Instead, the various components are all packaged separately and in bulk at the time of importation. Only after importation are the components repacked for sale directly to consumers. Despite these facts, NY N049055 nonetheless concluded that the LG phone kit components are “unassembled mobile phone kits” to be classified together in a single heading pursuant to GRI 2(a). This conclusion is incorrect.

First, we note that GRI 2(a) refers specifically to individual articles, not sets or “kits”, which are governed by GRI 3(b). A composite good can be an article, but a set is by definition, several articles. GRI 2(a) and GRI 3 can therefore be read together, and frequently have been with respect to composite goods, but the language of GRI 2(a) does not support extending this rule to GRI 3(b) sets. Second, it is an established rule of tariff classification, set forth in the EN to GRI 3(b) and CBP rulings, that “goods put up in sets for retail sale” “must be put up in a manner suitable for sale directly to users without repacking”. Such goods must meet all three of the criteria listed in the EN to GRI 3(b) in order to be classified as a GRI 3(b) set. *See e.g.*, HQ H236637, dated June 28, 2013; HQ H179957, dated September 20, 2012; HQ H081686, dated August 15, 2012; HQ 950667, dated January 17, 1992; HQ 088681, dated May 14, 1991; NY E87868 October 15, 1999; and NY J85398 ; June 26, 2003. Thus, if at the time of importation a kit lacks any of the essential elements of a set, it cannot be classified as such under either GRI 2 or GRI 3. For example, in HQ 088681, CBP considered a similar scenario, in which various components of a portfolio were imported in separate cartons in the same container. These components were not, at the time of importation, “put up in a manner suitable for sale directly to users without repacking.” Thus, CBP concluded that the portfolio components did not constitute a set under GRI 3(b), and that GRI 3 should not have been considered in the classification of the merchandise. Similarly, in HQ 950667, CBP concluded that medicine cabinets with built-in mirrors and over the cabinet lights

packaged separately were not GRI 3(b) sets because “that the goods may be sold as “sets” after importation is of no importance where those same goods are not “packaged as sets” upon importation.”

NY N049055 cites to *HQ 951511*, dated June 1, 1992, for the proposition that goods do not have to be in “kit” form, nor do they have to be shipped in the same packing container, to be unassembled for the purposes of GRI 2(a).

HQ 951511 classified unassembled motor vehicle wiring harnesses and lamps used for lighting in subheading 8512.20.20, HTSUS, which provides for [e]lectrical lighting or signaling equipment of a kind used for motor vehicles, by GRI 2(a). However, we note that HQ 951511 only describes unassembled motor vehicle wiring harnesses and lamps, and does not address the classification of a GRI 3(b) set. HQ 951511 merely states that the unassembled components of an article of heading 8512, HTSUS, do not have to be in kit form to satisfy GRI 2(a). It does not provide any support for concluding that GRI 2(a) can be used to circumvent the requirements of GRI 3(b). GRI 3(b) requires that the components of a set be put up for sale directly to users without repacking. The instant kits are not put up in a manner suitable for sale directly to users without repacking, because they are packaged separately at importation and are repackaged after importation. Thus, the instant LG kits do not meet the essential elements of a GRI 3(b) set, and the imported articles are not classifiable under the same heading pursuant to either GRI 2 or 3.

The comment received in response to this notice agrees that the subject kits are not classified as sets under GRI 3(b), but argues that the mobile phone handset, battery and battery cover constitute an unassembled phone pursuant to GRI 2(a). The commenter points to HQ H245902, dated January 28, 2015, in support of classification of the mobile phone handset, battery and battery cover in heading 8517, HTSUS, as an unassembled phone. HQ H245902 classified shipments of equal numbers of mobile phone handsets, batteries, and Bluetooth wireless earphones, imported in the same shipping container but in separate shipping boxes, in heading 8517, HTSUS. HQ H245902 concluded that the mobile phone handsets and batteries constituted an unassembled phone of heading 8517 pursuant to GRI 2(a). Because the wireless earphones were not a component of a completed phone, and because the merchandise was not packaged together for retail sale pursuant to GRI 3(b), the wireless earphones were classified separately. We agree that in this case, the LG mobile phone handset, battery and battery cover constitute an unassembled cellular telephone pursuant to GRI 2(a). Because the manual and charger are not parts of a cellular telephone, and are not put up together with the phone handsets and batteries for retail sale pursuant to GRI 3(b), they will be classified separately.

The LG mobile phone handset, battery and battery cover are classified in heading 8517, HTSUS, by application of GRI 2(a), as a telephone for a cellular or other wireless network.

The mobile phone battery charger will be classified in heading 8504, HTUS, which provides for ““Electrical transformers, static converters (for example, rectifiers) and inductors; parts thereof.”

The instruction manual will be classified in heading 4901, HTSUS, which provides for “Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets.”

HOLDING:

By application of GRIs 1, 2(a) and 6, the LG mobile phone handsets, battery and battery covers are classified in heading 8517, HTSUS, specifically subheading 8517.12.00, HTSUS, which provides for “Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 8443, 8525, 8527 or 8528; parts thereof: Telephone sets, including telephones for cellular networks or for other wireless networks : Telephones for cellular networks or for other wireless networks.” The 2015 column one, general rate of duty is Free.

The battery charger is classified in heading 8504, HTSUS, specifically subheading 8504.40.85, HTSUS, which provides for “Electrical transformers, static converters (for example, rectifiers) and inductors; parts thereof: Static converters: For telecommunication apparatus.” The 2015, column one, general rate of duty is Free.

The instruction manual is classified in heading 4901, HTSUS, specifically subheading 4901.99.00, HTSUS, which provides for “Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets: Other: Other.” The 2015 column one, general rate of duty is Free.

EFFECT ON OTHER RULINGS:

NY N049055, dated February 4, 2009, 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,

JACINTO JUAREZ

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



REVOCATION OR MODIFICATION OF SEVEN RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF ELECTRONIC LEARNING DEVICES

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

ACTION: Notice of revocation of six ruling letters, modification of one ruling letter, and revocation of treatment relating to tariff classification of electronic learning devices for children.

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 Implementa-

tion Act (Pub.L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) is revoking New York Ruling Letters (NY) I84192, dated July 22, 2002; NY E84480, dated August 6, 1999; NY F85877, dated May 9, 2000; NY J84806, dated May 23, 2003; NY L85697, dated June 20, 2005; and NY L86633, dated August 3, 2005. CBP is modifying NY E86264, dated September 20, 1999. CBP is also revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 49, No. 25, on June 24, 2015. One comment opposing the proposed revocation 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 December 28, 2015.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Tariff Classification and Marking Branch: (202) 325–0024

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (“Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, a notice was

published in the *Customs Bulletin*, Vol. 49, No. 25, on June 24, 2015, proposing to revoke six ruling letters and to modify one ruling letter pertaining to the classification of electronic learning devices for children. As stated in the proposed notice, this action will cover NY E86264, dated September 20, 1999; NY I84192, dated July 22, 2002; NY E84480, dated August 6, 1999; NY F85877, dated May 9, 2000; NY J84806, dated May 23, 2003; NY L85697, dated June 20, 2005; and NY L86633, dated August 3, 2005, as well as any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the seven identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. §1625(c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved 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 E84480, NY E86264, NY F85877, NY I84192, NY J84806, NY L85697, and NY L86633, CBP determined that various electronic learning devices for children were classified in heading 9503, HTSUS, as toys.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY E84480, NY F85877, NY I84192, NY J84806, NY L85697, and NY L86633, and is modifying NY E86264, in order to reflect the proper classification of the electronic learning devices at issue in heading 8543, HTSUS, as electrical machines and apparatus having individual functions, according to the analysis contained in Headquarters Ruling Letter (HQ) H039058, which is attached to this document. 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: September 30, 2015

ALLYSON MATTANAH
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

HQ H039058

September 30, 2015

CLA-2 OT:RR:CTF:TCM H039058 CkG

CATEGORY: Classification

TARIFF NO: 8543.70.96

MR. DAVID PRATA

OHL INTERNATIONAL AT CVS HEALTH

1 CVS DRIVE - MAIL CODE 1049

WOONSOCKET, RI 02895

Re: Revocation of NY E84480, NY F85877, NY I84192, NY J84806, NY L85697, NY L86633; Modification of NY E86264

DEAR MR. PRATA:

This is in reference to New York Ruling Letter (NY) I84192, issued to CVS Pharmacy on July 22, 2002. In NY I84192, CBP classified an electronic learning device for children, the “Alphabet Apple”, in heading 9503, HTSUS, as a toy. We have reviewed NY I84192 and find it to be in error. For the reasons set forth below, we hereby revoke NY I84192 and six other rulings classifying similar learning devices in heading 9503, HTSUS: NY E84480, dated August 6, 1999 (“Pooh Learning Pond”, “Pooh Counting Carrots”, and the “100 Acre Wood”); NY F85877, dated May 9, 2000, concerning the classification of a “Phonics Board”; NY J84806, dated May 23, 2003 “Magnaphonics”; NY L85697, dated June 20, 2005 (the “Alphabet Machine Try Me”); and NY L86633, dated August 3, 2005 (“Talk ‘n Learn Alphabet” and the “Talk ‘n Learn Numbers”). In addition, we hereby modify one ruling, NY E86264, dated September 20, 1999, with respect to the “ABC Tutor”.¹

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 NY E84480, NY F85877, NY I84192, NY J84806, NY L85697, and NY L86633, and to modify NY E86264 was published on June 24, 2015, in Volume 49, Number 25, of the *Customs Bulletin*. One comment was received in opposition to the proposed action, and is addressed in the body of the ruling below.

FACTS:

In NY I84192, CBP classified the V-Tech “Alphabet Apple” in heading 9503, HTSUS. The Alphabet Apple is a plastic electronic device in the shape of an apple with a handle designed for instructing children aged 3 years and older in the fundamentals of reading. The device has 26 letter buttons on its surface for learning the alphabet, and other built-in activities such as phonics and vowel sounds.

ISSUE:

Whether the electric learning devices at issue are classifiable as toys of heading 9503, HTSUS, or electric devices of heading 8543, HTSUS.

¹ In NY E86264, CBP classified the “ABC Tutor” and the “Magnetic Spelling Board” in heading 9503, HTSUS. Only the “ABC Tutor” is subject to this revocation.

LAW AND ANALYSIS:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (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 and, provided such headings or notes do not otherwise require, according to the remaining GRIs 2 through 6.

The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System represent the official interpretation of the tariff 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).

The HTSUS provisions under consideration are as follows:

- 8543: Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof:
- 8543.70: Other machines and apparatus
- Other:
- Other:
- 8543.70.96: Other.....
- * * * * *
- 9503: Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls, other toys; reduced-scale ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof.....
- 9503.00.0080: Other....
- * * * * *

Section XVI, Note 1(p) provides:

This section does not cover... Articles of chapter 95.

* * * * *

EN 95.03(D), which provides for "other toys," states, in pertinent part:

This group covers toys intended essentially for the amusement of persons (children or adults)...This group includes:

- (xvi) Toy sewing machines.
- (xvii) Educational toys (e.g., toy chemistry, printing, sewing and knitting sets).

Certain toys (e.g., electric irons, sewing machines, musical instruments, etc.) may be capable of a limited use; but they are generally distinguishable by their size and limited capacity from real sewing machines, etc.

* * * * *

Section XVI, Note 1(p), HTSUS, which includes chapter 85, HTSUS, states that it does not cover articles of Chapter 95, HTSUS. Accordingly, we must first determine whether the subject articles are toys of heading 9503, HTSUS. Heading 9503, HTSUS, provides for toys.

Although the term “toy” is not defined in the HTSUS, EN 95.03 provides that heading 9503, HTSUS, covers toys intended essentially for the amusement of persons. In *Minnetonka Brands v. United States*, 110 F. Supp. 2d 1020, 1026 (CIT 2000), the court held that an object is a toy only if it is designed and used for amusement, diversion or play, rather than practicality. In *Ideal Toy Corp. v. United States*, 78 Cust. Ct. 28 C.D. 4688 (1977), the Customs Court similarly held that when amusement and utility become locked in controversy, the question becomes one of determining whether the amusement is incidental to the utilitarian purpose, or whether the utility is incidental to the amusement provided.

The *Minnetonka* court concluded that heading 9503, HTSUS, is a “principal use” provision within the meaning of Additional U.S. Rule of Interpretation 1(a)², HTSUS. Therefore, classification under the heading 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. In determining the class or kind of goods, the Court examines factors which may include: (1) the general physical characteristics of the merchandise; (2) the expectation of the ultimate purchasers; (3) the channels of trade in which the merchandise moves; (4) the environment of the sale (e.g. the manner in which the merchandise is advertised and displayed); (5) the usage of the merchandise; (6) the economic practicality of so using the import; and (7) the recognition in the trade of this use. See *United States v. Carborundum Co.*, 63 CCPA 98, 102, 536 F.2d 373, 377 (1976), cert denied, 429 U.S. 979 (1976); *Lennox Collections v. United States*, 20 CIT 194, 196 (1996).

The physical characteristics of the articles of are not those of a toy of heading 9503, HTSUS. While the instant merchandise is often colorful, it does not otherwise have the physical characteristics of a toy. Instead, it contains a screen and controls like a machine. It is not used as a toy, mainly for amusement, but rather to teach a child the alphabet, arithmetic or other age-appropriate lessons in an engaging way. While there is no evidence regarding the manner in which the merchandise is displayed in retail stores, on-line advertisements emphasize the processing component and “engine”, and ease of use of the keyboard. These qualities are not indicative of toys either.

The instant articles are sold in toy stores or the toys department of major retailers, and thus move in the same channels of trade as toys. However, the marketing and advertisement generally reveals a focus primarily on the educational value of the systems. Product descriptions from the manufacturer or other sellers as well as user or editorial reviews place only secondary importance on the amusing or entertaining properties of the merchandise at issue, as compared to the instructional value. This indicates that the mer-

² Additional U.S. Rule of Interpretation 1(a) states: “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.”

chandise at issue is intended to supplement the education a child receives at school (or, for younger children, to get a head start on their education), rather than for play. For example, the product description on Amazon.com for the Alphabet Apple encourages customers to “Take a bite out of learning with the Alphabet Apple by VTech! Eight learning activities teach letters, spelling, time concepts and so much more. The Alphabet Apple by VTech will introduce your child to a whole new world of learning! Eight learning activities teach animals, objects and words, phonics, letters, spelling and time concepts. Press the light-up alphabet buttons to hear the 26 cheerful melodies and sound effects. This fun learning toy also features a cute singing worm that sings songs and interacts with your child.”

While the marketing of the product as well as the expectation of the ultimate purchaser (as demonstrated by product reviews online), emphasize both the learning and the amusing aspects of the device, the focus is on the educational and learning activities. As noted by the comment received in response to the proposed revocation, any amusement experienced by the child is therefore meant to facilitate the learning process and thus make the system a better learning tool, but not to change its nature as a learning device. The merchandise is used as a learning tool, and therefore its primary purpose is not that of amusement.

CBP has repeatedly rejected classification in heading 9503 for similar electronic learning devices, placing them instead in Chapter 85. *See* HQ H123917, dated March 28, 2011; HQ 966721, dated April 14, 2004; HQ 965734, dated September 5, 2002; HQ 962582, March 27, 2000; HQ 960279, dated December 9, 1997; HQ 956518, dated September 22, 1994; HQ 955845 dated August 22, 1994; HQ 951507 dated July 2, 1992; HQ 088494, dated April 19, 1991; HQ 087599, dated March 5, 1991; HQ 088086, dated February 7, 1991; HQ 086649, dated May 4, 1990; and HQ 086577, dated May 4, 1990.

In HQ 966721, Customs considered the LeapPad® Learning System, which taught subjects such as reading, phonics, vocabulary, foreign languages, geography, science and music, and consisted of an electronic pad, book and stylus. The book was to be placed on the pad while the stylus was used to scan words and pictures within the book, resulting in various audible responses from the electronic pad in the form of words or music. CBP noted that the device had amusement and/or entertainment value for children, but concluded that any amusement experienced by the child was secondary to the primary purpose of the system, which is to educate. The same reasoning applies to the instant articles. As CBP declared in HQ 966721, “any amusement experienced by the child is therefore meant to facilitate the learning process and thus make the system a better learning tool, but not to change its nature as a learning device.”

HQ 962582, using a similar analysis, classified another electronic learning device, the Leapfrog Create-a-Word Travel Mat, in heading 8543, HTSUS. This device was an interactive electronic talking system that taught the alphabet, phonics, spelling and reading through games and quizzes. CBP found that the device’s design and marketing suggested that it would be used principally to teach the alphabet and words, and therefore the educational value of the speller predominated over whatever play value the frog-like features provide to the speller.

Furthermore, EN 95.03 refers to toy chemistry, printing, sewing and knitting sets as examples of educational toys. However, the educational value of

such devices is—intentionally—more limited. As semi-functional representations of the actual products, the “educational” toys listed in EN 95.03 are capable of a “limited use,” but are generally distinguishable by their size and limited capacity from real sewing machines, etc. They are designed to allow the user to mimic or even undertake the basic activities of actual chemistry, printing, sewing or knitting sets. They take advantage of a child’s natural curiosity and desire to role-play at being an adult. The actual learning of principles of chemistry or development of sewing skills is thus secondary to the entertainment value of role-playing and exploding volcanoes. Therefore, products similar to the devices at issue are still not classifiable as toys if the amusement they might provide is plainly secondary to the products’ primary purpose, unless the product is a limited use representation that provides for role-playing. The subject articles are not limited use devices of a kind with those enumerated in EN 95.03, and do not provide the role-play value of the exemplars listed in the ENs. One commenter argues that the Alphabet Apple device does allow a child to mimic the adult behavior of using a laptop because it has a keyboard. However, the design of the Alphabet Apple does not resemble a laptop. CBP has classified toy laptops modeled after actual laptops in heading 9503, HTSUS (*see e.g.*, NY N008122, dated March 15, 2007). The Alphabet Apple and the other devices at issue are thus not classifiable as educational toys under heading 9503, HTSUS.

HQ 960279 December 9, 1997, further clarified the difference between an “educational toy” of heading 9503, and an educational device:

Not all articles with educational elements are considered “educational toys” for tariff purposes. Articles which act primarily as surrogate instructors are not considered educational toys for tariff purposes. The act of surrogate instruction involves the giving of instructions or asking of questions and the confirmation of the correct answer. Such confirmation may have an element of “positive reinforcement” such as a pleasant sound versus a “sour” note. Unlike a child’s own natural curiosity in an educational toy, it is this positive reinforcement which is offered to keep the child interested in the process.

The subject articles also fall into the category of “surrogate instructor” rather than that of educational toy of the kind listed in EN 95.03. The device is intended to help the child learn the same basic skills taught in school, and as Customs noted in HQ 088494, “Although certain aspects of school can be amusing, we do not agree that school is designed for the amusement of children.”

Thus, the Alphabet Apple is not designed or used primarily for the amusement of children or adults and is therefore not classifiable in Chapter 95. There is no provision in the HTSUS for educational articles per se. Therefore the subject merchandise is classified as an electrical machine or apparatus of heading 8543, HTSUS.

In contrast, we note that educational devices are properly classified as toys when they satisfy the principal use criteria outlines in *United States v. Carborundum Co.*, and when they share the characteristics of educational toys laid out in EN 95.03 and HQ 966721 and HQ 960279. For example, in HQ H195956, dated February 27, 2012, CBP classified a science kit in heading 9503, HTSUS, because it satisfied the criteria laid out in previous rulings for toys of heading 9503, as an article of: 1) limited use, 2) limited capacity and 3) representational of a grown-up version of the same article. Similarly,

CBP has classified educational toys such as chemistry sets (*see e.g.*, NY B85837, dated June 5, 1997) and a toy ATM (*see e.g.*, NY N202159, dated February 17, 2012). These articles are clearly limited-use representations of adult versions of the same article.

CBP has also classified other devices with an educational aspect in heading 9503, HTSUS, because their design indicated that their principal use was for amusement. NY N174233, dated August 2, 2011, CBP classified the “Musical Bubbles Octopus in heading 9503, HTSUS. The brightly colored waterproof plastic toy shaped like an octopus is a battery operated interactive toddler bath toy. The toddler presses the shape buttons to interact with the sea creatures and learn about the instruments they are playing, along with the shapes, characteristics and sounds of the sea creatures. When the bubble making mechanism is engaged a stream of bubbles cascades into the tub while the toy plays music, says fun phrases and makes sounds.

Similarly, in NY N262498, dated April 3, 2015, CBP classified the “Adventure Bus” and “Alphapup” as toys of heading 9503, HTSUS. The “Adventure Bus” is a plastic yellow bus, approximately 10”(L) x 4.5”(W) x 7”(H), with working doors and wheels, a fold out picnic table, a STOP sign that folds out, and 3 animal figures that fit into spaces on the bus which all provide for imaginary play. When the bus sign atop the bus is rotated it reveals 3 different locations that also produce songs and phrases relating to each location. Additional songs and phrases are sounded when the driver of the bus is pressed. The “Adventure Bus” can be used to teach a toddler vocabulary and motor skills. The “Alphapup” is a plastic dog measuring approximately 12”(L) x 4.5”(W) x 7”(H) that contains wheels that turn, a tail that wags, and soft floppy fabric ears. It can be pulled by means of a short leash attached to a plastic handheld bone. On the “body” of the pup there are 28 “keys” (14 on each side), that have the letters of the alphabet on them. When depressed they produce sayings that teach the alphabet through phonics. There are also two extra keys that play songs and sayings that a dog would say.

The “Musical Bubbles Octopus”, “Adventure Bus” and “Alphapup” are examples of educational toys principally designed for the amusement of children. Unlike the Alphabet Apple, these devices offer instruction ancillary to their ability to amuse, and use the child’s own natural curiosity to stimulate learning rather than quizzing the child. The “Musical Bubbles Octopus”, “Adventure Bus” and “Alphapup” can also be used for play without any instruction.

HOLDING:

By application of GRI 1, the Alphabet Apple is classified in heading 8543, HTSUS, and is specifically provided for 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.” The 2015, column one, general rate of duty is 2.6%.

EFFECT ON OTHER RULINGS:

NY E84480, dated August 6, 1999, NY F85877, dated May 9, 2000, NY I84192, dated July 22, 2002, NY J84806, dated May 23, 2003, NY L85697, dated June 20, 2005, and NY L86633, dated August 3, 2005, are hereby revoked. NY E86264, dated September 20, 1999, is hereby modified with respect to the “ABC Tutor”.

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

cc:

Mr. Andy Hong
Navystar (USA), Inc.
5026 Kendrick Court SE
Grand Rapids, MI 49512-9649

Ms. Lorianne Aldinger
Rite Aid Corporation
P.O. Box 3165
Harrisburg, PA 17105

Ms. Patty Kittel
Target Customs Brokers, Inc.
1000 Nicollet Mall
Minneapolis, MN 55403

Ms. Joanne Harmon
CVS/Pharmacy
One CVS Drive
Woonsocket, RI 02895



**REVOCATION OF A RULING LETTER AND REVOCATION
OF TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF LINZESS® (LINACLOTIDE)**

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

ACTION: Revocation of a ruling letter and modification of treatment concerning the tariff classification of tariff classification of Linzess® (Linaclotide) from Sweden.

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 CBP is revoking one ruling letter pertaining to the tariff classification of Linzess® (Linacotide), 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 this proposed action was published in the Customs Bulletin, Vol. 49, No. 26, July 1, 2015. No comments were received in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 28, 2015.

FOR FURTHER INFORMATION CONTACT: Lynne O. Robinson, Tariff Classification and Marking Branch: (202) 325–0067.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the Customs Bulletin, Vol. 49, No. 26, on July 1, 2015, proposing to revoke New York Ruling Letter (NY) N233631, dated October 23, 2012, in which CBP determined that the subject merchandise was properly classified under subheading 3004.90.91, HTSUS, which provides for “Medicaments...consisting of mixed or un-

mixed products for therapeutic or prophylactic uses, put up in measured doses or in forms or packings for retail sale: Other: Other: Other: Medicaments primarily affecting the digestive system: Other.”

As stated in the proposed notice, this action will cover any rulings on the subject merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ruling identified above. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. § 1625(c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved 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 his agents for importations of merchandise subsequent to the effective date of this final decision.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N233631 to reflect the proper tariff classification of this merchandise under sub-heading 3002.90.51, HTSUS, which provides for “Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes; vaccines, toxins, cultures of micro-organisms (excluding yeasts) and similar products: Other: Other.”

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

Dated: September 30, 2015

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H250309

September 30, 2015

CLA-2 OT:RR:CTF:TCM H250309 LOR

CATEGORY: Classification

TARIFF NO.: 3002.90.50

MR. MARK HUNTEBRINKER
FOREST PHARMACEUTICALS, INC.
13600 SHORELINE DRIVE
EARTH CITY, MO 63045

RE: Revocation of New York Ruling Letter N233631; classification of Linzess® (Linaclotide) (CAS-851199-59-2); Guanylate Cyclase-C Agonist

DEAR MR. HUNTEBRINKER,

This is in reference to New York Ruling Letter (NY) N233631, dated October 23, 2012, regarding the classification under the Harmonized Tariff Schedule of the United States (HTSUS) Linaclotide. In NY N233631, U.S. Customs and Border Protection (CBP) classified Linzess® (Linaclotide) under subheading 3004.90.9160, HTSUS (Annotated). We have reconsidered this ruling and have determined that product is provided for in heading 3002, HTSUS, and that it is excluded from classification in heading 3004, HTSUS. Therefore, this ruling revokes NY N233631.

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 (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057),), a notice was published in the CUSTOMS BULLETIN, Vol. 49, No. 26, on July 1, 2015, proposing to revoke New York Ruling Letter (NY) N233631, dated October 23, 2012, and any treatment accorded to substantially identical transactions. No comments were received in response to this notice.

FACTS:

Linzess®, which has Linaclotide as its active ingredient, is a guanylate cyclase-c agonist product, which acts locally in the intestine to reduce intestinal pain and accelerate gastrointestinal transit. It is indicated for the treatment of irritable bowel syndrome with constipation (IBS-C) or chronic idiopathic constipation (CIC) in adults. The U.S. Food and Drug Administration has approved the use of Linzess® (Linaclotide). Linzess® (Linaclotide) is imported in 145 mcg and 290 mcg capsules.

The CBP Laboratory and Scientific and Services Division (LSSD) examined Linzess® (Linaclotide). In LSSD Report No. NY20131257, the report states the following, in pertinent part:

CAS No.: 851199-59-2; Listed in Pharmaceutical Appendix to the HTSUS

Uses: Treatment of irritable bowel syndrome with constipation (IBS-C) and chronic idiopathic constipation (CIC)

Linaclotide is a peptide consisting of 14 amino acids and three disulfide bonds. It is an analog of the naturally occurring E-Coli heat stable enterotoxin ST 1b, differing in a single amino acid (leucine to tyrosine at position four).

Functional Groups: amino acids, phenol, hetrocyclic compound containing both nitrogen and sulfur.

Linaclotide: C-C-E-Y-C-C-N-P-A-C-T-G-C-Y

Heat stable enterotoxin: C-C-E-L-C-C-N-P-A-C-G-G-C-Y

Linaclotide exerts its biological effect in a similar manner as E. coli heat-stable enterotoxin.

* * *

NY N233631 classified Linaclotide under subheading 3004.90.91, HTSUS, which provides for: “Medicaments ... consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale: Other: Other”.

ISSUE:

Whether Linzess®, which contains Linaclotide as its active ingredient, is properly classified in heading 3002, HTSUS, as a toxin; or in heading 3004, HTSUS, as a medicament (excluding goods of heading 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale?

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 GRI may then be applied.

The HTSUS provisions at issue are as follows:

3002 Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes; vaccines, toxins, cultures of micro-organisms (excluding yeasts) and similar products:

3004 Medicaments (excluding goods of heading 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale:

Note 2 to Chapter 30, HTSUS, states, in pertinent part: “For the purposes of heading 3002, the expression “immunological products” applies to peptides and proteins (other than goods of heading 2937) which are directly involved in the regulation of immunological processes, such as ... interleukins, inter

ferons (IFN), chemokines and certain tumor necrosis factors (TNF), growth factors (GF), hematopoietins and colony stimulating factors (CSF).¹

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

The EN to Heading 30.02 provides, in pertinent part:

This heading covers:

(D) Vaccines, **toxins**, cultures of micro-organisms (excluding yeasts) and similar products. [Emphasis added]

These products include:

(2) **Toxins** (poisons), toxoids, crypto-toxins and anti-toxins.

* * * *

The products of this heading remain classified here whether or not in measured doses or put up for retail sale and whether in bulk or in small packings.

* * * *

Ruling N233631 classified the above-identified products under heading 3004, HTSUS. However, the heading specifically excludes goods which can be classified under heading 3002, HTSUS. Therefore, if the above-identified product can be properly classified under heading 3002 HTSUS, it is precluded from classification under heading 3004, HTSUS.²

An enterotoxin is a protein toxin released by a microorganism in the intestine. *Escherichia coli*, also known as *E. coli*, is a bacterium that is commonly found in the gut of warm blooded animals. *E. coli* is a heat stable enterotoxin. Linaclotide is produced by genetically modifying *E. coli* bacteria by substituting two amino acids. Linaclotide maintains some of the effect of an enterotoxin and is an analog of naturally occurring *E. coli*. As toxoids³ are named as an example under the included products of heading 3002, HTSUS, the attenuated effects of Linaclotide is not precluded from classification under this heading. Accordingly, Linzess® (Linaclotide), which is imported in measured dosages, is properly classified under heading 3002, HTSUS. Therefore, Linzess® (Linaclotide) is not classifiable under heading 3004, HTSUS, or in Chapter 29, HTSUS. *See* heading 3004, HTSUS and Note 2 to Chapter 29, HTSUS.

We note that this ruling is in accord with the recent decision of the Harmonized System Committee to classify Linaclotide in heading 3002, HTSUS, (*See*, HSC Report NC1443B1b Ann. P/2, HSC/43) and with NY N243162, dated August 6, 2013.

¹ Although the instant merchandise is a peptide, it is not primarily used as a hormone, but rather as an immunological product, and is thus excluded from classification in heading 2937, HTSUS, under Chapter 29 notes 2(e) and 8(b).

² Additionally, if it is an immunological product of heading 3002, HTSUS, it is excluded from classification in Chapter 29, HTSUS, under Note 2 to that chapter.

³ A toxoid is a chemically modified toxin without any toxic effect.

HOLDING:

By application of GRI 1, the instant product Linzess® (Linaclotide) is properly classified under subheading 3002.90.51, HTSUS, which provides for “Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera, other blood fractions and immunological products, whether or not modified or obtained by means of biotechnological processes; vaccines, toxins, cultures of micro-organisms (excluding yeasts) and similar products: Other: Other. The rate of duty is free.

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

EFFECT ON OTHER RULINGS:

New York Ruling Letter N233631, dated October 23, 2012, 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



GENERAL NOTICE

19 CFR PART 177

**MODIFICATION OF THREE RULING LETTERS AND
REVOCATION OF TREATMENT RELATING TO THE
CLASSIFICATION OF SLICED AND DICED POTATOES**

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

ACTION: Modification of three ruling letters and revocation of treatment relating to the classification of sliced and diced potatoes.

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 CBP is modifying three ruling letters concerning the classification of sliced and diced potatoes 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. 49, No. 16, on April 22, 2015. CBP received no comments in response to this notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 28, 2015.

FOR FURTHER INFORMATION CONTACT: Tamar Anolic, Tariff Classification and Marking Branch: (202) 325-0036.

SUPPLEMENTARY INFORMATION:

Background

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), notice proposing to modify Headquarters Ruling Letter (“HQ”) 966202, dated February 21, 2003, New York Ruling Letter (“NY”) I89048, dated December 23, 2002, and HQ 954208, dated September 14, 1993, was published in the Customs Bulletin, Vol. 49, No. 16, on April 22, 2015. No comments were received in response to this notice.

Although in this notice CBP is specifically referring to HQ 966202, NY I89048, and HQ 954208, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing data

bases for rulings in addition to the one identified. No further rulings have been found. This notice will cover any rulings on this merchandise that may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should have advised CBP during the notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, 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 notice period. An importer's failure to have advised 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 his agents for importations of merchandise subsequent to this notice.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying HQ 966202, NY 189048, and HQ 954208 in order to reflect the proper classification of this merchandise pursuant to the analysis set forth in Headquarters Ruling Letter ("HQ") H243645, set forth as an attachment to this document. 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 action will become effective 60 days after publication in the Customs Bulletin.

Dated: September 30, 2015

IEVA K. O'ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H243645

September 30, 2015

CLA-2 OT:RR:CTF:TCM H243645 TNA

CATEGORY: Classification

TARIFF NO.: 0712.90.30

MS. JOYCE MIKESELL
 BASIC AMERICAN FOODS
 2999 OAK ROAD, SUITE 400
 WALNUT CREEK, CA 95496

RE: Modification of HQ 966202, NY I89048, and HQ H954208; Classification of dried potatoes

DEAR MS. MIKESELL:

This letter is in reference to Headquarters Ruling Letter (“HQ”) 966202, issued to you on February 21, 2003, and New York Ruling Letter (“NY”) I89048, issued to you on December 23, 2002, concerning the tariff classification of dried potatoes. There, U.S. Customs and Border Protection (“CBP”) classified the subject potatoes in subheading 2005.20.00, Harmonized Tariff Schedule of the United States (“HTSUS”), as potatoes, “prepared or preserved otherwise than by vinegar or acetic acid, other.”

This letter also concerns HQ 954208, dated September 14, 1993, which also classified dehydrated diced potatoes in subheading 2005.20.00, HTSUS.¹ We have reviewed HQ 966202, NY I89048, and HQ 954208 and found them to be partly in error. For the reasons set forth below, we hereby modify HQ 966202, NY I89048, and HQ 954208.

Notice of the proposed action was published in the Customs Bulletin, Vol. 49, No. 16, on April 22, 2015. CBP received no comments in response to this notice.

FACTS:

In HQ 966202 and NY I89048, CBP classified dried, sliced potatoes and diced potatoes, each with added sodium bisulfite.² Both are packed in multi-wall paper bags containing from 20 to 45 kilograms, net weight. In addition, the diced potatoes measure 3/8 inch by 3/8 inch by 3/8 inch. In HQ 966202 and NY I89048, CBP classified this merchandise in subheading 2005.20.00, HTSUS, as “Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006: potatoes.”

In HQ 954208, CBP classified dried, diced potatoes, which measure 3/8 inch by 3/8 inch by 3/8 inch and contained the preservative sodium bisulfite. In HQ 954208, CBP also classified potatoes called “Slice-1/8” Random cut,” which were also treated with sodium bisulfite. CBP classified this merchandise in subheading 2005.20.00, HTSUS.³

¹ We note that HQ 954208, which was decided in 1993, classified the subject dehydrated diced potatoes in subheading 2005.20.60, HTSUS, which has become subheading 2005.20.00 in the 2015 nomenclature.

² HQ 966202 and NY I89048 both classified five different types of potato products. Only the Sliced Potatoes and the Diced Potatoes are at issue in this reconsideration.

³ HQ 954208 also classified several other potato products, but only these two products are at issue here.

ISSUE:

Whether dried potatoes treated with sodium bisulfate are classified in heading 0711, HTSUS, as provisionally preserved vegetables that are unsuitable for immediate consumption, in heading 0712, HTSUS, as dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared, or in heading 2005, HTSUS, as other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006?

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 GRI may then be applied.

The HTSUS provisions under consideration are as follows:

- | | |
|------|--|
| 0711 | Vegetables provisionally preserved (for example, by sulfur dioxide gas, in brine, in sulfur water or in other preservative solutions), but unsuitable in that state for immediate consumption: |
| 0712 | Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared: |
| 2005 | Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006: |

Note 3 to Chapter 7, HTSUS, provides, in pertinent part, that:

Heading 0712 covers all dried vegetables of the kinds falling in headings 0701 to 0711, other than:...

(c) Flour, meal, powder, flakes, granules and pellets of potatoes (heading 1105);

Note 1 to Chapter 20, HTSUS, provides, in pertinent part, that:

This chapter does not cover:

(a) Vegetables, fruit or nuts, prepared or preserved by the processes specified in chapter 7, 8 or 11;

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

The General EN to Chapter 7, HTSUS, provides, in pertinent part, the following:

This Chapter covers vegetables, including the products listed in Note 2 to the Chapter, whether fresh, chilled, frozen (uncooked or cooked by steaming or boiling in water), provisionally preserved or dried (including dehydrated, evaporated or freeze-dried). It should be noted that some of these products when dried and powdered are sometimes used as flavouring materials but nevertheless remain classified in heading 07.12...

Vegetables not presented in a state covered by any heading of this Chapter are classified in Chapter 11 or Section IV. For example, flour, meal and powder of dried leguminous vegetables and flour, meal, powder, flakes, granules and pellets of potatoes are classified in Chapter 11, and vegetables prepared or preserved by any process not provided for in this Chapter fall in Chapter 20.

The EN to heading 0711, HTSUS, states the following:

This heading applies to vegetables which have been treated solely to ensure their provisional preservation during transport or storage prior to use (e.g., by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), provided they remain unsuitable for immediate consumption in that state.

Vegetables covered by this heading are generally packed in casks or barrels, and are mainly used as raw materials for manufacturing purposes; the principal varieties are onions, olives, capers, cucumbers, gherkins, mushrooms, truffles and tomatoes.

However the heading excludes goods which, in addition to having been provisionally preserved in brine, have also been specially treated (e.g., by soda solution, by lactic fermentation); these fall in Chapter 20 (for example, olives, sauerkraut, gherkins and green beans).

The EN to heading 0712, HTSUS, provides, in pertinent part, the following:

This heading covers vegetables of headings 07.01 to 07.09 which have been dried (including dehydrated, evaporated or freeze-dried) i.e., with their natural water content removed by various processes. The principal kinds of vegetables treated in this way are potatoes, onions, mushrooms, wood ears (*Auricularia* spp.), jelly fungi (*Tremella* spp.), truffles, carrots, cabbage and spinach. They are usually prepared in strips or slices, either of one variety or mixed (*julienne*).

The heading also covers dried vegetables, broken or powdered, such as asparagus, cauliflower, parsley, chervil, onion, garlic, celery, generally used either as flavouring materials or in the preparation of soups.

The EN to heading 2005, HTSUS, provides, in pertinent part, the following:

The term “vegetables” in this heading is limited to the products referred to in Note 3 to this Chapter. These products (other than vegetables prepared or preserved by vinegar or acetic acid of heading 20.01, frozen vegetables of heading 20.04 and vegetables preserved by sugar of heading 20.06) are classified in the heading when they have been prepared or preserved by processes not provided for in Chapter 7 or 11.

Such products fall in the heading irrespective of the type of container in which they are put up (often in cans or other airtight containers).

These products, whole, in pieces or crushed, may be preserved in water, in tomato sauce or with other ingredients ready for immediate consumption. They may also be homogenised or mixed together (salads).

In HQ 966202, NY I89048, and HQ 954208, CBP classified the subject merchandise in subheading 2005.20.00, HTSUS, which provides for “Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006: Potatoes.” In HQ 954208, we reasoned that because these products were excluded from heading 0712,

HTSUS, because they have been prepared or preserved further than the level contemplated by the heading. We also reasoned that sodium bisulfite is a preservative that prevents the loss of color during storage and helps retain flavor.

Upon reconsideration, we note that in HQ H226236, dated July 29, 2013, CBP defined to the term “preserved” by stating that:

It has been held that preservation in a tariff sense ordinarily involves cooking, salting, drying, smoking, curing, or the application of some method or process whereby the fresh or natural condition of the article is so changed as to be more or less a permanent preservation and that something more must be done to it than merely to arrest change and decomposition while in transit.

See HQ H226236, *citing Crawfish Processors Alliance v. United States*, 431 F. Supp. 2d 1342, 1349 (Ct. Int’l. Trade 2006), *aff’d* 483 F.3d 1358 (Fed. Cir. 2007) (*quoting Frosted Fruit Prods. Co. v. United States*, 18 Cust. Ct. 119, 120 (1947)). *See also Bruce Duncan Co., Inc., a/c Staalkat of America, Inc. v. United States*, 67 Cust. Ct. 430, 434 (1971) (*citing Stone & Downer Co. v. United States*, 17 CCPA 34 (1929); *United States v. J.H. Brown*, 46 CCPA 1, 8 (1958)).

Sodium bisulfite is widely used in food to preserve color and flavor. *See Food Chemicals Codex* at 1075 (9th Ed. 2014); <http://www.veggie-sensations.com/sodium-bisulfite/>; http://www.foodinsight.org/IFIC_Review_Sodium_in_Food_and_Health. The instant dried potatoes with sodium bisulfite are imported ready to be eaten, and are not used as raw materials for manufacturing purposes. As such, they do not meet the terms of heading 0711, HTSUS. *See also* EN 07.11.

In HQ H226236, CBP states that “the word ‘prepared,’ in a tariff sense, means, ordinarily, that a commodity has been so processed as to be advanced in condition and made more valuable for its intended use.” *See* HQ H226236, *citing Crawfish Processors Alliance*, 431 F. Supp. 2d 1342, 1349 (Ct. Int’l. Trade 2006), *aff’d* 483 F.3d 1358 (Fed. Cir. 2007) (*quoting Frosted Fruit Prods.*, 18 Cust. Ct. 119, 120 (1947)). *See also Bruce Duncan Co., Inc.*, 67 Cust. Ct. 430, 434 (1971) (*citing Stone & Downer Co.*, 17 CCPA 34 (1929); *United States v. J.H. Brown*, 46 CCPA 1, 8 (1958)). We further stated that:

CBP has previously found that processes which change the taste of a food product, or render it suitable for a particular use, can alter its essential character, such that it becomes a “prepared fish” of heading 1604, HTSUS. *See* HQ 560931, dated July 8, 1998 (where the spicing and breeding of crawfish tails altered the taste and use of the product such that it resulted “in the creation of a new article with a character and use which is different from that possessed by the article prior to processing.”); HQ H034679, dated September 15, 2008 (“The process by which the breeding is added to the subject [cod] fillets indicates that the resulting products are permanently changed in terms of their taste and end-use.”).

See HQ H226236. In HQ H226263, CBP classified fish that had been treated with a “tasteless smoke” which was designed only to preserve the color of the

fish for up to a year. This process was not designed to change the taste or anything else about the fish. As a result, CBP stated that:

fillets treated with tasteless smoke are suitable for any of the same uses that untreated fillets can be subject to. The process does not render the treated fillets suitable for any particular purpose. The red color is specifically intended to make the tuna fillets appear fresh, and thus more attractive to the average consumer, but does not extend the shelf life of the product. Fillets that are treated or untreated can be put to all the same uses, whether fried, baked, broiled, or eaten raw. The fact that the color makes the product appear to be of a higher quality has no effect on the uses of the product. Hence, the tasteless smoke process does not advance the tuna in condition so as to make it more valuable under *Frosted Fruit*. Therefore, it is CBP's conclusion that the tasteless smoke process does not create a "prepared tuna."

See HQ H226236.

Similarly, in the present case, the sodium bisulfite with which the subject potatoes have been treated simply preserves the color and taste of these potatoes without actually changing the taste. Thus, it does not actively produce a considerably longer shelf life. In fact, in its ruling request for NY I89048 and its request for reconsideration in HQ 966202, the importer of these products notes that the sodium bisulfite is used to "preserve freshness, color and flavor, not to enhance the product." Furthermore, potatoes that are treated with sodium bisulfite can be put to all the same uses as fresh potatoes, whether fried, baked, or turned into potato chips, hash browns, or any of the other myriad uses of potatoes. As a result, potatoes treated with sodium bisulfite do not meet the definitions of "prepared" or "preserved."

The subject potatoes have been dried, cut and sliced, but they have not been further prepared within the meaning of this heading. As a result, we find that these potatoes meet the terms of heading 0712, HTSUS, and will be classified there. Classification in heading 0712, HTSUS, is also consistent with prior CBP rulings that have classified tomatoes preserved with sodium bisulfite or a similar preservative in heading 0712, HTSUS. See NY N239661, dated March 26, 2013. Because the subject potatoes are classified in heading 0712, HTSUS, they cannot be classified in heading 2005, HTSUS, under Note 1 to Chapter 20, HTSUS.

HOLDING:

Under the authority of GRI 1, the subject potatoes are classified in heading 0712, HTSUS. They are specifically classified in subheading 0712.90.30, HTSUS, which provides for "Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared: Other vegetables; mixtures of vegetables: Potatoes whether or not cut or sliced but not further prepared." The column one general rate of duty is 2.3¢/kg.

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:

HQ 966202, dated February 21, 2003, NY I89048, dated December 23, 2002, and HQ 954208, dated September 14, 1993, are MODIFIED with respect to the diced or sliced potatoes with added sodium bisulfite.

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

Sincerely,

IEVA K. O'ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



**PROPOSED REVOCATION OF A RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
CLASSIFICATION OF AUTOMOBILE CYLINDER LOCK
SETS**

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

ACTION: Notice of proposed modification of a classification ruling letter and revocation of treatment relating to the classification of automotive cylinder lock sets.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is proposing to revoke one ruling letter relating to the classification of automotive cylinder lock sets. CBP is also proposing to revoke any treatment previously accorded by it to substantially identical merchandise.

DATES: Comments must be received on or before November 27, 2015.

ADDRESSES: Written comments are to be addressed to the U.S. Customs and Border Protection, Office of International Trade, Regulations & Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229-1179. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325-0118.

FOR FURTHER INFORMATION CONTACT: Michelle Garcia, Tariff Classification and Marking Branch: (202) 325-1115.

SUPPLEMENTARY INFORMATION:**BACKGROUND**

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the classification of automotive cylinder lock sets. Although in this notice, CBP is specifically referring to the revocation of New York Ruling Letter (NY) I84093, dated July 25, 2002 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during the notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer’s failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of

reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY I84093, the components of automotive cylinder lock sets were separately classified. The lock assembly/ignition switch/wire harness was classified as a switch in heading 8536, Harmonized Tariff Schedule of the United States (HTSUS), as “Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders, junction boxes), for a voltage not exceeding 1,000 V” and the actual locks and articles containing locks and keys were classified in heading 8301, which provides for “Padlocks and locks (key, combination or electrically operated), of base metal; clasps and frames with clasps, incorporating locks, of base metal; keys and parts of any of the foregoing articles, of base metal.” Since the issuance of that ruling, CBP has reviewed the classification of the automobile cylinder lock sets and has determined that the cited ruling is in error.

It is now CBP’s position that the merchandise described in NY I84093, is properly classified, by application of GRI 3(b) in heading 8301, HTSUS. It is specifically provided for in subheading 8301.20.0060, HTSUS, which provides for: “Padlocks and locks (key, combination or electrically operated), of base metal; clasps and frames with clasps, incorporating locks, of base metal; keys and parts of any of the foregoing articles, of base metal: Locks of a kind used on motor vehicles.....: Other.”

Pursuant to 19 U.S.C. 1625(c)(1), CBP is proposing to revoke I84093, dated July 25, 2002, and revoke or modify any other ruling not specifically identified, to reflect the classification of the automobile cylinder lock sets according to the analysis contained in proposed Headquarters Ruling Letter (HQ) H060579, set forth as Attachment B to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

Dated: September 30, 2015

IEVA K. O’ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

NY I84093

July 25, 2002

CLA-2-83:RR:NC:N1:113 I84093

CATEGORY: Classification

TARIFF NO.: 8301.20.0060; 8536.50.9065

MS. MARY ELIZABETH STROM
AMERICAN HONDA MOTOR, INC.
1919 TORRANCE BLVD.
TORRANCE, CA 90501

RE: The tariff classification of automobile service parts from Japan.

DEAR MS. STROM:

In your letter dated July 8, 2002, you requested a ruling on tariff classification.

The samples you provided are two collections of service parts, marked #35010-SA6-674, and 35010-SB0-674ZZ. Box 35010-SA6-674 contains 1 lock assembly/ignition switch/wire harness, 1 glove box latch, 2 locks for doors, 1 lock cylinder for the tail gate, 1 lock for the fuel filler door, 1 cylinder lock for the trunk, and 3 keys. Box 35010-SB0-674ZZ contains 1 lock assembly/ignition switch/wire harness, 2 handles with cylinder locks, 1 trunk lock cylinder, 1 glove box lock, 1 cylinder trunk lock remote control, 1 lock cylinder rear seat, and 3 keys.

The applicable subheading for each lock assembly/ignition switch/wire harness will be 8536.50.9065, Harmonized Tariff Schedule of the United States (HTS), which provides for other switches: other: other. The general rate of duty will be 2.7 percent ad valorem.

The applicable subheading for the locks and articles containing locks and the accompanying keys, will be 8301.20.0060, Harmonized Tariff Schedule of the United States (HTS), which provides for locks of a kind used on motor vehicles. The general rate of duty will be 5.7 percent ad valorem.

In an earlier ruling, NY I81366, we responded to your original request. We assumed from the information given at that time that there were door handles included that did not contain locks. The classification given for door handles was accurate for door handles without locks. The classification for handles with locks is given above.

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

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

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT B]

HQ H060579

CLA-2: OT:RR:CTF:TCM H060579 MG

CATEGORY: Classification

TARIFF NO.: 8301.20.0060

LAURIE PEACH
NATIONAL CUSTOMS MANAGER
AMERICAN HONDA MOTOR CO., INC.
1919 TORRANCE BOULEVARD
TORRANCE, CA 90501-2746

RE: Revocation of NY I84093, dated July 25, 2002; tariff classification of Honda automobile cylinder lock sets

DEAR MS. PEACH:

This is in reply to your letter dated May 8, 2009, in which you have requested reconsideration of New York Ruling Letter (NY) I84093, dated July 25, 2002, as it pertains to the classification of two automotive cylinder lock sets (the “lock sets”) imported by American Honda. In accordance with your request for reconsideration of NY I84093, CBP has reviewed the classification of these items and has determined that the cited ruling is in error.

FACTS:

As detailed in the diagrams and pictures contained in your letter, the merchandise at issue are two lock sets used in the Honda Accord and the Honda Prelude, which consist of a lock assembly/ignition switch/wire harness that is packaged together with lock cylinders used in various locations on the vehicle and three identical keys that operate each of these locks.

According to your submission, part number 35010-SA6-674 is described in the Honda Parts Catalog as a “Lock Set, Cylinder” and is used for the 1982 Honda Accord. This lock set includes the following components: (1) One lock assembly/ignition switch/wire harness combination; (2) One lock cylinder for the glove box; (3) Two door lock cylinders; (4) One lock cylinder for the remote handle that operates the trunk release; (5) One lock cylinder for the fuel filler door; (6) One lock cylinder for the trunk; and (7) Three identical keys that operate each of the locks.

Part number 35010-SB0-67422 described in the Honda Parts Catalog as a “Lock Set, Cylinder” and is used for the 1985 Honda Prelude. This lock set includes the following components: (1) One lock assembly/ignition switch/wire harness combination; (2) One lock cylinder for the glove box; (3) Two door lock handles incorporating lock cylinders; (4) One lock cylinder for the remote handle that operates the trunk release; (5) One lock cylinder for the trunk; (6) One lock cylinder for the rear seat release mechanism; and (7) Three identical keys that operate each of the locks.

As stated in your letter, American Honda imports and packages all of the lock sets components in a single package and resells them to Honda automobile dealers as sets. This allows the automobile owner to change the locks on the vehicle, while ensuring that all locks operate from the same key.

In I84093, the components of the lock sets were separately classified. The lock assembly/ignition switch/wire harness was classified as a switch in heading 8536, Harmonized Tariff Schedule of the United States (HTSUS), as “Electrical apparatus for switching or protecting electrical circuits, or for

making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders, junction boxes), for a voltage not exceeding 1,000 V.” The actual locks and articles containing locks and keys were classified in heading 8301, HTSUS, which provides for “Padlocks and locks (key, combination or electrically operated), of base metal; clasps and frames with clasps, incorporating locks, of base metal; keys and parts of any of the foregoing articles, of base metal.”

ISSUE:

- 1) Is the merchandise a set under GRI 3(b)?
- 2) If a set, is the essential character imparted by the locks and keys of heading 8301, HTSUS, or by the switch of heading 8436, HTSUS?

LAW AND ANALYSIS:

Classification of goods under the HTSUS is governed by the 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 GRI may then be applied.

The HTSUS provisions under consideration are as follows:

8301	Padlocks and locks (key, combination or electrically operated), of base metal; clasps and frames with clasps, incorporating locks, of base metal; keys and parts of any of the foregoing articles, of base metal:
8301.20.00	Locks of a kind used on motor vehicles....
8301.20.0060	Other
* * * *	
8536	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders, junction boxes), for a voltage not exceeding 1,000 V; connectors for optical fibers, optical fiber bundles or cables:
8536.50	Other switches:
	Other:
8536.50.90	Other:
8536.50.9065	Lamp-holders, plugs and sockets.

Inasmuch as the Lock Set is composed of goods that are *prima facie* classifiable in more than one heading, classification cannot be resolved under GRI 1. GRI 2(b) directs that the “classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.” GRI 3 provides that:

When by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

- (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings refer to only part of the materials

or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to the goods, even if one of them gives a more complete or precise description of the good.

- (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.
- (c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

The headings at issue only refer to part of the items in the set put up for retail sale. As such, they are regarded as equally specific and resort must be made to GRI 3(b).

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the HTSUS. 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 the headings. It is Customs and Border Protection (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. *See*, T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN X to GRI 3(b) provides guidance as to whether the Lock Set constitutes “goods put up in sets for retail sale”:

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

- (a) consist of at least two different articles which are, *prima facie*, classifiable in different headings . . .;
- (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and
- (c) are put up in a manner suitable for sale directly to users without repacking (*e.g.*, in boxes or cases or on boards).

As previously explained, the items comprising the lock sets are *prima facie* classifiable under different headings of the HTSUS. In this regard, the circumstances of these lock sets are analogous to those of the lock set at issue in HQ H009850, dated January 15, 2009. In that ruling, CBP determined that the motorcycle lock set (comprised of an ignition cylinder attached to an ignition switch and contact base with wire harness, a locking gas cap, and a seat lock cylinder) met the requirements as a set as it “is intended for installation on a single motorcycle to meet the need of an owner to carry a single key that will operate multiple functions of the motorcycle, all of which require the use of a key,” explaining further that “[r]equiring the use of a key to access the ignition, gas tank and storage compartment provides the owner with security for the motorcycle,” and that “[t]he use of one key for accessing all three of these functions also fulfills the owner’s need for convenience, so that the owner is not obligated to carry multiple keys for each function.” CBP

concluded that “[a]ccordingly, the Lock Set is put up together to meet an owner’s need for convenience and security, through the use of a single key.” In this regard, just like the motorcycle lock set, the instant lock sets are also put together to meet an owner’s need for convenience and security, through the use of a single key.

Finally, the lock sets satisfy the third requirement for treatment as “goods put up in sets for retail sale. At importation, the lock set is packaged in a box labeled with a singular part number which American Honda sells to Honda dealers in the same packaging. It has been a long-standing position of CBP that “there is no requirement that sets actually be sold at retail.” In HQ 083968, dated July 6, 1989, CBP found that an installation kit comprised of a variety of retaining clips, hoses, clamps, brackets, connectors, tee fittings, fuel line covers and valve covers with gaskets, and delivered directly to an automobile dealer for installation into a recalled vehicle free of charge was “put up in a manner suitable for sale directly to users” and was therefore classifiable as a set (all other conditions being satisfied). *See*, HQ H011015, dated July 28, 2008. In sum, as with the Lock Set at issue in HQ H009850, the Cylinder Lock Sets qualify as “goods put up in sets for retail sale” under GRI 3(b).

Because the three criteria under EN X to GRI 3(b) are satisfied, the three items are considered “goods put up in sets for retail sale” and will be “classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.”

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

We stated in HQ H009850 that the principal reason for purchasing the lock set is to obtain three items that utilize the same key and that the common feature in all three “distinct articles” is the locking mechanism. In this regard, CBP classified the three articles incorporating the lock mechanism, rather than classifying divergent articles as locks. The reasoning in that ruling is that each of the distinct articles provide different purposes, none of which is more important than the others and, therefore, the set was not classifiable on the basis of its essential character by reference to GRI 3(b), but in accordance with GRI 3(c) under Heading 8714, HTSUS, which was last in numerical order.

Unlike the situation in HQ H009850, where the lock cylinders were integrated, each of the instant lock sets includes one wire harness assembly, six separate locks and three keys (which are classified with the locks). Therefore, taken together, the locks impart the essential character to these sets. They are greater in number, bulk and likely value. They also play a greater role in relation to the use of the good in that they are the actual lock.

Accordingly, by application of GRI 3(b), lock set 35010-SA6-674 for the 1982 Honda Accord and lock set 35010-SB0-67422 for the 1985 Honda Prelude are classified in heading 8301, HTSUS. They are specifically provided for in subheading 8301.20.0060, HTSUSA (Annotated), which provides for: “Padlocks and locks (key, combination or electrically operated), of base metal;

clasps and frames with clasps, incorporating locks, of base metal; keys and parts of any of the foregoing articles, of base metal: Locks of a kind used on motor vehicles....: Other.”

HOLDING:

By application of GRI 3(b), lock set 35010-SA6-674 for the 1982 Honda Accord and lock set 35010-SB0-67422 for the 1985 Honda Prelude the Cylinder Lock Sets are classified in heading 8301, HTSUS. It is specifically provided for in subheading 8301.20.0060, HTSUSA, which provides for: “Padlocks and locks (key, combination or electrically operated), of base metal; clasps and frames with clasps, incorporating locks, of base metal; keys and parts of any of the foregoing articles, of base metal: Locks of a kind used on motor vehicles....: Other.” The general, column one rate of duty is 5.7, *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY I84093, dated July 25, 2002, is hereby REVOKED.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**MODIFICATION OF THE NATIONAL CUSTOMS
AUTOMATION PROGRAM (NCAP) TEST CONCERNING
THE AUTOMATED COMMERCIAL ENVIRONMENT (ACE)
DOCUMENT IMAGE SYSTEM (DIS) REGARDING FUTURE
UPDATES AND NEW METHOD OF SUBMISSION OF
ACCEPTED DOCUMENTS**

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

ACTION: General notice.

SUMMARY: This document announces U.S. Customs and Border Protection’s (CBP’s) plan to modify the National Customs Automation Program (NCAP) test concerning document imaging, known as the Document Image System (DIS) test. The DIS test allows Automated Commercial Environment (ACE) participants to submit electronic images of a specific set of CBP and Partner Government Agency (PGA) forms, documents, and supporting information to CBP via a CBP-approved Electronic Data Interchange (EDI).

This notice announces several changes to the DIS test. First, eligibility to participate in the test is being expanded to include anyone

transmitting cargo release or entry summary information to ACE. Second, CBP has added forms to the list of forms and documents supported by the DIS test. Third, the list of eligible forms and documents will now be maintained on the CBP Web site. Fourth, all future additions and changes to the list of eligible forms and documents will be announced on the CBP Web site, rather than by **Federal Register** notice. Finally, the DIS test is being amended to permit participants to submit all DIS eligible forms and documents as attachments to email, in addition to the methods of transmission previously authorized. This notice provides DIS test details including commencement date for the modifications announced herein, eligibility, procedural and documentation requirements, and test development and evaluation methods.

DATES: The modifications of the DIS test made by this notice are effective on October 15, 2015. The test will continue until concluded by way of announcement in the **Federal Register**.

ADDRESSES: Comments concerning this notice and any aspect of the test may be submitted at any time during the test via email to Monica Crockett at *monica.v.crockett@cbp.dhs.gov*. In the subject line of your email, please indicate “*Comment on Document Image System (DIS)*.”

FOR FURTHER INFORMATION CONTACT: For policy-related questions, contact Monica Crockett at *monica.v.crockett@cbp.dhs.gov*. For technical questions related to Automated Broker Interface (ABI) transmissions, contact your assigned client representative. Interested parties without an assigned client representative should direct their questions to Steven Zaccaro at *steven.j.zaccaro@cbp.dhs.gov*. Any partner government agency (PGA) interested in participating in DIS should contact Elizabeth McQueen at *elizabeth.mcqueen@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

The National Customs Automation Program (NCAP) was established in Subtitle B of Title VI—Customs Modernization, in the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, 2170, December 8, 1993) (Customs Modernization Act) (19 U.S.C. 1411–14). Through NCAP, the initial thrust of customs modernization was on trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the Automated Commercial System (ACS). ACE is an automated and electronic system for commercial trade processing

which is intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for U.S. Customs and Border Protection (CBP) and all of its communities of interest.

The ability to meet these objectives depends on successfully modernizing CBP's business functions and the information technology that supports those functions. CBP's modernization efforts are accomplished through phased releases of ACE component functionality designed to introduce new functionality or to replace a specific legacy ACS function. Each release will begin with a test and will end with mandatory compliance with the new ACE feature and the retirement of the legacy ACS function. Each release builds on previous releases and sets the foundation for subsequent releases.

On April 6, 2012, CBP published a notice in the **Federal Register** announcing a NCAP test called the Document Image System (DIS) test. *See* 77 FR 20835. The DIS test notice allowed ACE participants to submit electronic images of a specific set of CBP and Partner Government Agency (PGA) forms and supporting information to CBP via a CBP-approved Electronic Data Interchange (EDI).

On July 23, 2013, CBP published a subsequent notice in the **Federal Register** announcing a second phase, Phase II, of the DIS test and modifications to both the DIS test and the ACE Cargo Release test (formerly known as the Simplified Entry test). That notice reduced the metadata elements required for each DIS transmission and allowed the submission of certain documents through DIS earlier in the importation process, *i.e.* at the time of manifest. In Phase II, CBP also expanded the pool of eligible participants to include software providers who merely transmit data electronically on behalf of ACE participating importers or brokers. Finally, in Phase II, CBP specified forms that were eligible to be transmitted via a CBP-approved EDI to support ACE Cargo Release filings (previously known as Simplified Entry filings). *See* 78 FR 44142.

On June 25, 2014, CBP published a notice in the **Federal Register** announcing a third phase, Phase III, of the DIS test and adding to the list of documents and forms supported by the DIS test. *See* 79 FR 36083. In addition to the new documents and forms, that notice listed all CBP and PGA forms and documents which the DIS test supported as of that date. On January 30, 2015, CBP published a notice modifying Phase III of the DIS test to permit importers and brokers participating in the DIS test to file DIS test-supported APHIS documents in Portable Document Format (PDF) file format, via email to

docs@cbp.dhs.gov. See 80 FR 5126. The list of APHIS documents which may be sent in PDF file format is set forth in the January 30, 2015 notice.

For the convenience of the public, a chronological listing of **Federal Register** publications detailing ACE test developments is set forth below in *Section VI*, entitled, “*Development of ACE Prototypes*.”

The procedures, terms, conditions and rules set forth in the previous DIS notices remain in effect unless otherwise explicitly changed by this or subsequent notices published in the **Federal Register**.

Authorization for the Test

The Customs Modernization Act authorizes the Commissioner of CBP to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. This test is authorized pursuant to section 101.9(b) of the CBP Regulations (19 CFR 101.9(b)) which provides for the testing of NCAP programs or procedures. See Treasury Decision (T.D.) 95–21, 60 FR 14211 (March 16, 1995).

Document Image System (DIS) Test Program

This notice announces Phase IV of the DIS test. Under the DIS test, parties who file entry or entry summaries in ACE are allowed to submit specified CBP and PGA forms and documents via a CBP-approved EDI. DIS capabilities will continue to be delivered in multiple phases. As PGA Message Sets are programmed into ACE, CBP envisions that the documentation filed in DIS will be significantly reduced to only those documents that continue to be paper based (*e.g.* foreign certificates).

The first phase of the DIS test enabled participating importers and brokers to transmit images of specified CBP and PGA forms and documents with supporting information via a CBP-approved EDI in an Extensible Markup Language (XML) format, in lieu of conventional paper methods. See 77 FR 20835 (April 6, 2012). In Phase II, CBP reduced the number of metadata elements required for each document and specified forms that were eligible to be submitted earlier, *i.e.*, at the time of manifest, or transmitted via a CBP-approved EDI to support ACE Cargo Release filings (previously known as Simplified Entry filings). See 78 FR 44142 (July 23, 2013). Additionally, the pool of eligible participants was expanded to include software providers that merely transmitted electronic data received from filers for transmission to CBP. In Phase III, CBP added forms and documents to the list of documentation supported by the DIS test and provided alternative methods of transmission. See 79 FR 36083 (June 25, 2014). Phase III was further modified to allow transmission

of limited documents via email. *See* 80 FR 5126 (January 30, 2015).

This notice announces Phase IV of the DIS test. In Phase IV, the eligibility requirements are modified to permit any filer transmitting cargo release or entry summary data, information, forms, or documents to use DIS. Phase IV also expands the list of documents eligible for submission under the DIS test. Because CBP frequently updates the list of forms and documents eligible to be transmitted using DIS, the complete list will be maintained on the CBP Web site, at the following address: <http://www.cbp.gov/trade/ace/features> under the Document Image System tab. CBP will no longer publish announcements in the **Federal Register** to notify ACE participants when new CBP or PGA forms may be submitted pursuant to the DIS test, or when DIS test-supported forms may be submitted via email. All future additions and changes to the list of forms and documents eligible to be transmitted under the DIS test will be announced on the CBP Web site. Finally, this notice announces that DIS eligible forms and documents may be submitted as attachments to an email as an alternative submission via DIS.

Test Participation

I. Eligibility Requirements

As announced in this notice, Phase IV of the DIS test alters the eligibility requirements for participation in the DIS test. Now, any filer transmitting cargo release or entry summary data, information, forms or documents to ACE pursuant to the Cargo Release (80 FR 16414), or Entry Summary, Accounts and Revenue (76 FR 37136) tests is eligible to use DIS. Such filers must use a software program that has completed ACE certification testing. Additionally, CBP is expanding the list of CBP- and PGA-approved forms and documents that may be submitted as part of the DIS test. All other eligibility criteria as specified in prior DIS test notices remain the same, to the extent they are not inconsistent with this notice.

II. Rules for Submitting Images in Document Image System (DIS)

The following rules apply to all participants involved in the DIS testing process:

- In Phase II of the DIS test, CBP indicated two categories of documents which could be transmitted through DIS: (1) Documents that require a request from CBP or a PGA prior to transmission; and (2) documents that may be transmitted without a prior request. Beginning with Phase III, the rules for submitting images through DIS were updated as follows: (1) If the document

transmitted is required to obtain the release of merchandise, including a release certified from ACE entry summary, the document may be transmitted without a prior request from CBP or the PGA; and (2) if the document is transmitted in support of entry summary pursuant to a request from CBP or the PGA, the document may be transmitted. Only eligible documents and forms required for the release of merchandise or requested by CBP should be transmitted using DIS. ACE will acknowledge every successful DIS transmission. Any form or document submitted via DIS is an electronic copy of an original document or form and both the original and the imaged copy are subject to the recordkeeping requirements of 19 CFR part 163 and any applicable PGA recordkeeping requirements.

- Test participants may only transmit forms and documents that CBP has permitted to be transmitted under this test. *See* documents supported in *Section III* below. If CBP cannot accept the form, document or information electronically, the filer must file using paper.
- Every form or document transmitted through DIS must be legible and must be a complete, accurate, and unaltered copy of the original document.

III. Documents Supported in the Fourth Phase of the Test

The forms and documents listed in the first, second and third phases of the DIS test may continue to be transmitted using DIS. Upon the effective date of this notice, CBP is permitting additional forms and documents to be transmitted using DIS. For a complete list of forms and documents that may be submitted using DIS, please go to the Document Image System tab at: <http://www.cbp.gov/trade/ace/features>. To ensure the availability of the most up-to-date information regarding DIS-eligible forms, CBP will maintain the list of forms and documents on the Web page. The list is frequently updated as PGA functionality in ACE increases, and as more PGAs become operational in ACE. ACE participants should check the Web site on a regular basis to determine whether a particular form or document may be transmitted using DIS. As changes are made to the list of eligible forms, they will be announced on the CBP Web site and may also be announced via the Cargo Systems Messaging Service (CSMS). Therefore, CBP also recommends that trade members subscribe to CSMS to receive email notifications from CBP regarding important information posted to CBP.gov. For information about subscribing to

CSMS, please go to: http://apps.cbp.gov/csms/csms.asp?display_page=1. The DIS test is limited to the forms listed on the Web site. Please note that not all forms referenced in the DIS Implementation Guidelines are currently eligible for the DIS test. The DIS Implementation Guidelines are available on CBP.gov at: <http://www.cbp.gov/document/forms/dis-implementation-guide>.

IV. Recordkeeping

Any form or document submitted via DIS is an electronic copy of an original document or form and both the original and the imaged copy are subject to the recordkeeping requirements of 19 CFR part 163 and any applicable PGA recordkeeping requirements. Original documents transmitted via this test must be retained under the general CBP recordkeeping requirements in 19 CFR part 163, and any PGA's recordkeeping requirements, and made available upon request by CBP or a PGA.

V. Technical Specifications

In Phase II, the DIS test reduced the number of metadata elements required for each document to only those necessary to identify the transmitter, the document preparer, the CBP request (if applicable), the document and description, and the associated transaction. Documents submitted in an XML format must be sent via secure File Transfer Protocol (FTP), Secure Web Services, or existing EDI Message Queue (MQ) interfaces. All responses back to test participants who submit using this format will also be sent in the form of an XML message. For additional information pertaining to technical specifications, please see the DIS Implementation Guidelines which can be accessed on CBP.gov at the following link: <http://www.cbp.gov/document/forms/dis-implementation-guide>.

This notice also announces that, in addition to the manner of transmission authorized in previous DIS test notices, test participants may send DIS authorized forms and documents as an attachment to an email. Test participants may, at their option, transmit any authorized forms and documents in XML format, as specified in prior DIS test notices, or as an attachment to an email, pursuant to this notice. Emails should be submitted as follows:

- Submit to docs@cbp.dhs.gov.
- The subject line should begin with CAT=GEN and be followed by either: The bill of lading number, the SCAC code, and the action requested (add, delete or replace), separated by semi-colons; or

the entry number, the filer code, and the action requested (add, delete or replace), separated by semi-colons.

- The body of the email should contain the following information, separated by semi-colons: A point of contact and submitter email address, and the agency or agencies that should receive or review the information submitted.
- The name of the attachment should begin with an alphanumeric Document Code (Documents Codes may be found in the DIS Implementation Guidelines) and may be followed by whatever name the submitter wishes to use.

CBP prefers that attachments to emails use the Portable Document Format (PDF) file format; however, the following file formats are also allowed: Joint Photographic Experts Group (JPEG), Graphics Interchange Format (GIF), MS Word Documents and MS Excel Spreadsheets. The Tagged Image Format (TIF) file format is *not* allowed. Emails and their attachments cannot exceed 10 megabytes (MBs). If the 10 MB limit is insufficient, the email/ attachment submission must be broken down into smaller submissions/files.

VI. *Development of ACE Prototypes*

A chronological listing of **Federal Register** publications detailing ACE test developments is set forth below.

- ACE Portal Accounts and Subsequent Revision Notices: 67 FR 21800 (May 1, 2002); 69 FR 5360 and 69 FR 5362 (February 4, 2004); 69 FR 54302 (September 8, 2004); 70 FR 5199 (February 1, 2005).
- ACE System of Records Notice: 71 FR 3109 (January 19, 2006).
- Terms/Conditions for Access to the ACE Portal and Subsequent Revisions: 72 FR 27632 (May 16, 2007); 73 FR 38464 (July 7, 2008).
- ACE Non-Portal Accounts and Related Notice: 70 FR 61466 (October 24, 2005); 71 FR 15756 (March 29, 2006).
- ACE Entry Summary, Accounts and Revenue (ESAR I) Capabilities: 72 FR 59105 (October 18, 2007).
- ACE Entry Summary, Accounts and Revenue (ESAR II) Capabilities: 73 FR 50337 (August 26, 2008); 74 FR 9826 (March 6, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR III) Capabilities: 74 FR 69129 (December 30, 2009).

- ACE Entry Summary, Accounts and Revenue (ESAR IV) Capabilities: 76 FR 37136 (June 24, 2011).
- Post-Entry Amendment (PEA) Processing Test: 76 FR 37136 (June 24, 2011).
- ACE Announcement of a New Start Date for the National Customs Automation Program Test of Automated Manifest Capabilities for Ocean and Rail Carriers: 76 FR 42721 (July 19, 2011).
- ACE Simplified Entry: 76 FR 69755 (November 9, 2011).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS): 77 FR 20835 (April 6, 2012).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Simplified Entry: Modification of Participant Selection Criteria and Application Process: 77 FR 48527 (August 14, 2012).
- Modification of NCAP Test Regarding Reconciliation for Filing Certain Post-Importation Preferential Tariff Treatment Claims under Certain FTAs: 78 FR 27984 (May 13, 2013).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE): 78 FR 44142 (July 23, 2013).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE); Correction: 78 FR 53466 (August 29, 2013).
- Modification of NCAP Test Concerning Automated Commercial Environment (ACE) Cargo Release (formerly known as Simplified Entry): 78 FR 66039 (November 4, 2013).
- Post-Summary Corrections to Entry Summaries Filed in ACE Pursuant to the ESAR IV Test: Modifications and Clarifications: 78 FR 69434 (November 19, 2013).
- National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Environmental Protection Agency and the Food Safety and Inspection Service Using the Partner Government Agency Message Set Through the Automated Commercial Environment (ACE): 78 FR 75931 (December 13, 2013).

- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Ocean and Rail Carriers: 79 FR 6210 (February 3, 2014).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release to Allow Importers and Brokers to Certify From ACE Entry Summary: 79 FR 24744 (May 1, 2014).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Truck Carriers: 79 FR 25142 (May 2, 2014).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Document Image System: 79 FR 36083 (June 25, 2014).
- Announcement of eBond Test: 79 FR 70881 (November 28, 2014).
- eBond Test Modifications and Clarifications: Continuous Bond Executed Prior to or Outside the eBond Test May Be Converted to an eBond by the Surety and Principal, Termination of an eBond by Filing Identification Number, and Email Address Correction: 80 FR 899 (January 7, 2015).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Document Image System Relating to Animal and Plant Health Inspection Service (APHIS) Document Submissions: 80 FR 5126 (January 30, 2015).
- Modification of National Customs Automation Program (NCAP) Test Concerning the use of Partner Government Agency Message Set through the Automated Commercial Environment (ACE) for the Submission of Certain Data Required by the Environmental Protection Agency (EPA): 80 FR 6098 (February 4, 2015).
- Announcement of Modification of ACE Cargo Release Test to Permit the Combined Filing of Cargo Release and Importer Security Filing (ISF) Data: 80 FR 7487 (February 10, 2015).
- Modification of NCAP Test Concerning ACE Cargo Release for Type 03 Entries and Advanced Capabilities for Truck Carriers: 80 FR 16414 (March 27, 2015).
- Automated Commercial Environment (ACE) Export Manifest for Air Cargo Test: 80 FR 39790 (July 10, 2015).

- National Customs Automation Program (NCAP) Concerning Remote Location Filing Entry Procedures in the Automated Commercial Environment (ACE) and the Use of the Document Image System for the Submission of Invoices and the Use of eBonds for the Transmission of Single Transaction Bonds: 80 FR 40079 (July 13, 2015).
- Modification of National Customs Automation Program (NCAP) Test Concerning the Automated Commercial Environment (ACE) Partner Government Agency (PGA) Message Set Regarding Types of Transportation Modes and Certain Data Required by the National Highway Traffic Safety Administration (NHTSA): 80 FR 47938 (August 10, 2015).
- Automated Commercial Environment (ACE) Export Manifest for Vessel Cargo Test: 80 FR 50644 (August 20, 2015).
- Modification of National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Food and Drug Administration (FDA) Using the Partner Government Agency Message Set through the Automated Commercial Environment (ACE): 80 FR 52051 (August 27, 2015).

Dated: October 8, 2015.

BRENDA B. SMITH,
Assistant Commissioner
Office of International Trade.

[Published in the Federal Register, October 15, 2015 (80 FR 62082)]

**COPYRIGHT, TRADEMARK, AND TRADE NAME
RECORDATIONS**

(No. 9 2015)

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

SUMMARY: The following copyrights, trademarks, and trade names were recorded with U.S. Customs and Border Protection in September 2015. The last notice was published in the CUSTOMS BULLETIN on September 23, 2015.

Corrections or updates may be sent to: Intellectual Property Rights Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street, NE., 10th Floor, Washington, D.C. 20229-1177.

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

Dated: October 6, 2015

CHARLES R. STEUART
Chief,
Intellectual Property Rights Branch
Regulations & Rulings
Office of International Trade

CBP IPR RECORDATION — OCTOBER 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
COP 15–00133	09/01/2015	09/01/2035	Cisco IOS 11.0.	Cisco Technology, Inc.	No
COP 15–00134	09/01/2015	09/01/2035	Cisco IOS 11.2.	Cisco Technology, Inc.	No
COP 15–00135	09/03/2015	09/02/2035	Splatoon amiibo Figures: Inkling Boy, Inkling Girl, Inkling Squid Nintendo of America Inc.	Nintendo of America Inc.	No
COP 15–00136	09/03/2015	09/02/2035	SPLATOON (U.S. Commercial Packaging)	Nintendo of America Inc.	No
COP 15–00137	09/04/2015	09/04/2035	Flowers on Squares	NICOLE, INC. DBA NICOLE LEE.	No
COP 15–00138	09/09/2015	09/09/2035	Victoria's Secret Pink Dogs	Limited New York, Inc.	No
COP 15–00139	09/10/2015	09/10/2035	Victoria's Secret Pink dogs.	Limited New York, Inc.	No
COP 15–00140	09/10/2015	09/10/2035	VS Fantasies Bow and Crest Design	Victoria's Secret Stores Brand Management, Inc.	No
COP 15–00141	09/10/2015	09/10/2035	VS Fantasies Bow and Crest Design (Ravishing Love, Wild Scarlet)	Victoria's Secret Stores Brand Management, Inc.	No
COP 15–00142	09/10/2015	09/10/2035	VS Fantasies Bow and Crest Design (Vanilla Lace, Mango Temptation)	Victoria's Secret Stores Brand Management, Inc.	No
COP 15–00143	09/10/2015	09/10/2035	Victoria's Secret Pink Crests & Stamps	Victoria's Secret Stores Brand Management, Inc.	No
COP 15–00144	09/16/2015	09/16/2035	Reggie	Refrigiwear, Inc.	No
COP 15–00145	09/16/2015	09/16/2035	Reggie II.	Refrigiwear, Inc.	No
COP 15–00146	09/16/2015	09/16/2035	Heart stuffed toy.	Weeber LLC.	No
COP 15–00147	09/16/2015	09/16/2035	PLANTLIFE 1 Fabric Design	Huf Worldwide, LLC.	No
COP 15–00148	09/22/2015	09/22/2035	Cisco IOS 11.1	Cisco Technology, Inc.	No
COP 15–00149	09/22/2015	09/22/2035	Cisco IOS 11.3	Cisco Technology, Inc.	No
COP 15–00150	09/23/2015	09/23/2035	The Sweetest, Softest Lambie Slippers on Earth	Bath & Body Works Brand Management, Inc.	No

CBP IPR RECORDATION — OCTOBER 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
COP 15-00151	09/23/2015	09/23/2035	Lambie Mesh Sponge.	Bath & Body Works Brand Management, Inc.	No
COP 15-00152	09/24/2015	09/24/2035	Lambie Plush Pillow.	Bath & Body Works Brand Management, Inc.	No
TMK 02-00108	09/24/2015	10/11/2025	DENVER NUGGETS AND DESIGN	THE DENVER NUGGETS LIMITED PARTNERSHIP	No
TMK 02-00108	09/24/2015	10/11/2025	DENVER NUGGETS AND DESIGN	THE DENVER NUGGETS LIMITED PARTNERSHIP	No
TMK 05-00196	09/10/2015	05/14/2025	MINNESOTA VIKINGS	MINNESOTA VIKINGS FOOTBALL, LLC	No
TMK 05-00196	09/10/2015	05/14/2025	MINNESOTA VIKINGS	MINNESOTA VIKINGS FOOTBALL, LLC	No
TMK 05-00556	09/01/2015	11/22/2025	TIGER WITH DESIGN	TIGER BRAND CHENG TUNG INDUSTRIAL CO., LTD.	No
TMK 05-00556	09/01/2015	11/22/2025	TIGER WITH DESIGN	TIGER BRAND CHENG TUNG INDUSTRIAL CO., LTD.	No
TMK 06-00261	09/24/2015	10/19/2025	NEW ORLEANS HORNETS AND DESIGN	NEW ORLEANS PELICANS NBA, LLC	No
TMK 06-00261	09/24/2015	10/19/2025	NEW ORLEANS HORNETS AND DESIGN	NEW ORLEANS PELICANS NBA, LLC	No
TMK 06-00984	09/04/2015	05/26/2025	GUCCI	Gucci America, Inc.	No
TMK 06-00984	09/04/2015	05/26/2025	GUCCI	Gucci America, Inc.	No
TMK 06-01009	09/22/2015	02/01/2025	DARPHIN	ELCO LTD	No
TMK 06-01009	09/22/2015	02/01/2025	DARPHIN	ELCO LTD	No
TMK 06-01060	09/22/2015	09/11/2025	LA MER	La Mer Technology, Inc.	No
TMK 06-01060	09/22/2015	09/11/2025	LA MER	La Mer Technology, Inc.	No
TMK 07-00224	09/22/2015	12/05/2025	NIVEA CREME and Design	BEIERSDORF AKTIENGESELLSCHAFT	No

CBP IPR RECORDATION — OCTOBER 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 07-00224	09/22/2015	12/05/2025	NIVEA CREME and Design	BEIERSDORF AKTIENGESELLSCHAFT	No
TMK 07-00426	09/22/2015	10/11/2025	XILINX	Xilinx, Inc.	No
TMK 07-00426	09/22/2015	10/11/2025	XILINX	Xilinx, Inc.	No
TMK 07-00742	09/16/2015	07/24/2017	DAISY and design	DAISY BRAND, LLC	No
TMK 07-00742	09/16/2015	07/24/2017	DAISY and design	DAISY BRAND, LLC	No
TMK 07-00954	09/22/2015	12/28/2025	VOX	VOX AMPLIFICATION LIMITED	No
TMK 07-00954	09/22/2015	12/28/2025	VOX	VOX AMPLIFICATION LIMITED	No
TMK 07-01042	09/16/2015	10/02/2025	LANDAU	LANDAU UNIFORMS, INC.	No
TMK 07-01042	09/16/2015	10/02/2025	LANDAU	LANDAU UNIFORMS, INC.	No
TMK 08-00067	09/10/2015	02/15/2026	WEBKINZ	Ganz Ganz Holdings, Inc.,	No
TMK 08-00067	09/10/2015	02/15/2026	WEBKINZ	Ganz Ganz Holdings, Inc.,	No
TMK 08-00195	09/22/2015	11/10/2025	SUTENT	C.P. PHARMACEUTICALS INTERNATIONAL C.V.	No
TMK 08-00195	09/22/2015	11/10/2025	SUTENT	C.P. PHARMACEUTICALS INTERNATIONAL C.V.	No
TMK 08-01037	09/16/2015	08/28/2025	MAXIM	MAXIM INTEGRATED PRODUCTS, INC.	No
TMK 08-01037	09/16/2015	08/28/2025	MAXIM	MAXIM INTEGRATED PRODUCTS, INC.	No
TMK 09-00165	09/04/2015	08/02/2020	TAPOUT	AGB TAPOUT LLC	No
TMK 09-00165	09/04/2015	08/02/2020	TAPOUT	AGB TAPOUT LLC	No
TMK 09-00893	09/16/2015	10/21/2019	HAWG TOOLS	HAWG TOOLS LLC	No
TMK 09-00893	09/16/2015	10/21/2019	HAWG TOOLS	HAWG TOOLS LLC	No
TMK 09-00961	09/16/2015	12/23/2018	BIO CLAIRE	NOUVELLE PARFUMERIE GANDOUR	No
TMK 09-00961	09/16/2015	12/23/2018	BIO CLAIRE	NOUVELLE PARFUMERIE GANDOUR	No
TMK 09-01040	09/16/2015	08/23/2025	NEORAL	NOVARTIS AG	No

CBP IPR RECORDATION — OCTOBER 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 09-01040	09/16/2015	08/23/2025	NEORAL	NOVARTIS AG	No
TMK 10-00114	09/24/2015	11/02/2025	YAZ	BAYER PHARMA AKTIENGESELL-SCHAFT	No
TMK 10-00114	09/24/2015	11/02/2025	YAZ	BAYER PHARMA AKTIENGESELL-SCHAFT	No
TMK 10-00423	09/24/2015	12/17/2025	CITRACAL	BAYER CONSUMER CARE AG	No
TMK 10-00423	09/24/2015	12/17/2025	CITRACAL	BAYER CONSUMER CARE AG	No
TMK 10-00428	09/22/2015	11/29/2025	Alka-Seltzer (stylized)	Bayer HealthCare LLC	No
TMK 10-00428	09/22/2015	11/29/2025	Alka-Seltzer (stylized)	Bayer HealthCare LLC	No
TMK 10-01066	09/10/2015	02/25/2024	Snake Bite (word & design)	BIGFOOT 4X4, INC.	No
TMK 10-01066	09/10/2015	02/25/2024	Snake Bite (word & design)	BIGFOOT 4X4, INC.	No
TMK 11-00279	09/22/2015	11/27/2025	DESIGN ONLY (HEN & ROOSTER LOGO)	FROST CUTLERY COMPANY LLC	No
TMK 11-00279	09/22/2015	11/27/2025	DESIGN ONLY (HEN & ROOSTER LOGO)	FROST CUTLERY COMPANY LLC	No
TMK 11-01053	09/16/2015	11/30/2025	F-16	Lockheed Martin Corporation	No
TMK 11-01053	09/16/2015	11/30/2025	F-16	Lockheed Martin Corporation	No
TMK 11-01056	09/16/2015	11/30/2025	F-16 FIGHTING FALCON	Lockheed Martin Corporation	No
TMK 11-01056	09/16/2015	11/30/2025	F-16 FIGHTING FALCON	Lockheed Martin Corporation	No
TMK 12-00572	09/01/2015	12/27/2025	BEYBLADE	TOMY COMPANY, LTD.	No
TMK 12-00572	09/01/2015	12/27/2025	BEYBLADE	TOMY COMPANY, LTD.	No
TMK 12-01158	09/10/2015	09/18/2025	CESAR	MARS, INCORPORATED	No
TMK 12-01158	09/10/2015	09/18/2025	CESAR	MARS, INCORPORATED	No
TMK 12-01352	09/04/2015	09/08/2025	MARATHON	FORT JAMES OPERATING COMPANY	No

CBP IPR RECORDATION — OCTOBER 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 12–01352	09/04/2015	09/08/2025	MARATHON	FORT JAMES OPERATING COMPANY	No
TMK 13–00201	09/01/2015	12/27/2025	VICTORINOX	VICTORINOX AG	No
TMK 13–00201	09/01/2015	12/27/2025	VICTORINOX	VICTORINOX AG	No
TMK 13–00208	09/10/2015	11/17/2024	PRADAXA	Boehringer Ingelheim Pharma GmbH & Co. KG	No
TMK 13–00208	09/10/2015	11/17/2024	PRADAXA	Boehringer Ingelheim Pharma GmbH & Co. KG	No
TMK 13–00235	09/01/2015	12/16/2023	HANDIHALER	BOEHRINGER INGELHEIM PHRMA GMBH & CO. KG	No
TMK 13–00235	09/01/2015	12/16/2023	HANDIHALER	BOEHRINGER INGELHEIM PHRMA GMBH & CO. KG	No
TMK 13–00259	09/03/2015	01/07/2026	BIC & BOY DESIGN	BIC CORPORATION	No
TMK 13–00259	09/03/2015	01/07/2026	BIC & BOY DESIGN	BIC CORPORATION	No
TMK 13–00815	09/04/2015	09/11/2025	PECORINO ROMANO AND DESIGN	CONSORZIO PER LA TUTELA DEL FORMAGGIO PERCORINOROMANO	No
TMK 13–00815	09/04/2015	09/11/2025	PECORINO ROMANO AND DESIGN	CONSORZIO PER LA TUTELA DEL FORMAGGIO PERCORINOROMANO	No
TMK 13–00975	09/24/2015	10/13/2024	DESIGN	Tervis Tumbler Company	No
TMK 13–00975	09/24/2015	10/13/2024	DESIGN	Tervis Tumbler Company	No
TMK 13–01101	09/04/2015	12/24/2025	LE COMFORT	OLEM SHOE CORP	No
TMK 13–01101	09/04/2015	12/24/2025	LE COMFORT	OLEM SHOE CORP	No
TMK 13–01125	09/10/2015	09/11/2025	CHIVAS REGAL	CHIVAS HOLDINGS (IP)	No
TMK 13–01125	09/10/2015	09/11/2025	CHIVA5 REGAL	CHIVAS HOLDINGS (IP)	No
TMK 13–01176	09/04/2015	11/30/2025	ABRAXANE	ABRAXIS BIOSCIENCE, LLC	No
TMK 13–01176	09/04/2015	11/30/2025	ABRAXANE	ABRAXIS BIOSCIENCE, LLC	No

CBP IPR RECORDATION — OCTOBER 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 15-00471	09/04/2015	09/03/2025	SPEEDO	SPEEDO INTERNATIONAL LIMITED	No
TMK 15-00471	09/04/2015	09/03/2025	SPEEDO	SPEEDO INTERNATIONAL LIMITED	No
TMK 15-00472	09/10/2015	08/20/2025	SPEEDO	SPEEDO INTERNATIONAL LIMITED	No
TMK 15-00472	09/10/2015	08/20/2025	SPEEDO	SPEEDO INTERNATIONAL LIMITED	No
TMK 15-00751	09/24/2015	11/16/2025	GMT-MASTER II	Rolex Watch U.S.A., Inc.	No
TMK 15-00751	09/24/2015	11/16/2025	GMT-MASTER II	Rolex Watch U.S.A., Inc.	No
TMK 15-00814	09/01/2015	01/26/2021	SPOTLITE	Tech 4 Kids Inc.	No
TMK 15-00815	09/01/2015	03/10/2023	PADDINGTON	Paddington & Company	No
TMK 15-00816	09/01/2015	12/20/2025	PADDINGTON BEAR	Paddington & Company	No
TMK 15-00817	09/01/2015	07/08/2018	PADDINGTON	PADDINGTON & COMPANY	No
TMK 15-00818	09/01/2015	02/05/2024	PADDINGTON	PADDINGTON & COMPANY	No
TMK 15-00819	09/01/2015	03/18/2022	PADDINGTON	Paddington & Company	No
TMK 15-00820	09/01/2015	06/03/2017	PADDINGTON STN	PADDINGTON AND COMPANY LIMITED	No
TMK 15-00821	09/01/2015	02/05/2024	LOKAI	Lokai Holdings LLC	
TMK 15-00822	09/03/2015	01/22/2024	PADDINGTON BEAR	Paddington and Company Limited	No
TMK 15-00823	09/03/2015	09/29/2020	H8O	GOLDWELL ENTERPRISES, INC.	
TMK 15-00824	09/03/2015	10/07/2017	BOEING	THE BOEING COMPANY	
TMK 15-00825	09/03/2015	11/26/2016	PLEASE LOOK AFTER THIS BEAR THANK YOU. (Stylized)	PADDINGTON AND COMPANY LIMITED	No
TMK 15-00826	09/03/2015	08/07/2023	TRUSTED TROJAN QUALITY and Seal Design	CHURCH & DWIGHT CO., INC.	
TMK 15-00827	09/03/2015	04/03/2022	ARMOR	CHURCH & DWIGHT CO., INC.	
TMK 15-00828	09/04/2015	10/21/2025	QMULOS	Qmulos LLC	
TMK 15-00829	09/04/2015	02/18/2025	lokai (Stylized)	Lokai Holdings LLC	

CBP IPR RECORDATION — OCTOBER 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 15-00830	09/04/2015	02/11/2025	Water Droplet Logo	Lokai Holdings LLC	
TMK 15-00831	09/04/2015	06/20/2022	LOOPDEDOO	Ann Williams Group LLC	
TMK 15-00832	09/04/2015	07/07/2025	LETRONE (Word Mark)	Letrone Properties, Inc.	
TMK 15-00833	09/04/2015	07/07/2025	ELPHY and Design	Crosta, Zachary	
TMK 15-00834	09/04/2015	11/18/2025	NSK	NSK Americas, Inc.	
TMK 15-00835	09/04/2015	04/22/2023	HERMES	Hermes International	No
TMK 15-00836	09/04/2015	08/25/2020	INKBLOT	Michael-David, LLC	
TMK 15-00837	09/04/2015	10/07/2025	Inkblot design	Michael-David, LLC	
TMK 15-00838	09/04/2015	12/25/2022	VALHALLA MOTION PICTURES and Design	Valhalla Motion Pictures, Inc.	
TMK 15-00839	09/04/2015	02/06/2023	VALHALLA TELEVISION and Design	Valhalla Motion Pictures, Inc.	
TMK 15-00840	09/04/2015	10/28/2025	1 ONE ROSE and Design	Arijon, Maria del Rosario	No
TMK 15-00841	09/04/2015	11/04/2019	AEC-USA ATLANTIC ENGINEERING CHAIN	Atlantic Bearing Services	
TMK 15-00842	09/04/2015	11/28/2022	TECHONE	Egrandbuy, Inc	
TMK 15-00843	09/04/2015	09/02/2025	MAX FILTER (Stylized)	Greentec Truck Parts, Inc.	
TMK 15-00844	09/04/2015	07/07/2025	QUALITY BIOLOGICAL	Quality Biological, Inc.	
TMK 15-00845	09/04/2015	07/14/2025	OPTIMIZE AGING	Optimize Aging, LLC	
TMK 15-00846	09/04/2015	07/28/2025	XISE	Zhou, Jie	
TMK 15-00847	09/04/2015	07/14/2025	THREAT STACK	Threat Stack, Inc.	
TMK 15-00848	09/04/2015	05/16/2020	BOEING	THE BOEING COMPANY	
TMK 15-00849	09/04/2015	07/28/2025	SHE.RISE	She.Rise LLC	
TMK 15-00850	09/04/2015	07/28/2025	POWERTOFLY	PowerToFly Inc	
TMK 15-00851	09/04/2015	07/07/2025	HEALTHCOVER	Mattress Safe, Inc.	

CBP IPR RECORDATION — OCTOBER 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 15-00852	09/04/2015	05/26/2018	Bluetooth Oval and "B" Design (figure mark)	BLUETOOTH SIG, INC.	
TMK 15-00853	09/04/2015	07/07/2025	GOPINION	Gopinion, Inc.	
TMK 15-00854	09/04/2015	09/30/2025	FAHRENHEIT PLUMBING and Design	Fahrenheit Plumbing, LLC	
TMK 15-00855	09/04/2015	07/28/2025	NAKEDME TEA	Naked Me Tea LLC	
TMK 15-00856	09/04/2015	09/23/2025	JACKSON HOLESOME	Caroline Markowitz	
TMK 15-00857	09/04/2015	09/30/2025	WOVENAIRE	Rothbard, Michael	
TMK 15-00858	09/04/2015	07/28/2025	BRAND TUCK-BELL BY: E JOANJA ENTERPRISES, INC. and Design	Joanja Enterprises, Inc.	
TMK 15-00859	09/04/2015	07/07/2025	BACKPACK SNACKERS	Red Mill Farms, Inc.	
TMK 15-00860	09/04/2015	10/23/2023	BLUEWAVE LIFESTYLE	BLUEWAVE LIFESTYLE INC.	
TMK 15-00861	09/04/2015	10/06/2020	BLUEWAVE WATER BOTTLES, INC. and Design	BLUEWAVE LIFESTYLE INC.	
TMK 15-00862	09/04/2015	11/26/2024	BLUEWAVE	BLUEWAVE LIFESTYLE INC.	
TMK 15-00863	09/04/2015	09/29/2020	DRINK YOUR DAILY 8 GLASSES OF WATER	GOLDWELL ENTERPRISES, INC.	
TMK 15-00864	09/04/2015	12/09/2024	GOLDWELL DESIGNS	GOLDWELL ENTERPRISES, INC.	
TMK 15-00865	09/04/2015	09/30/2025	CHARGEWORX	FOTO ELECTRIC SUPPLY CO., INC.	
TMK 15-00866	09/04/2015	09/30/2025	TUBI TV	Adrise, Inc.	
TMK 15-00867	09/04/2015	09/02/2025	DATLOOK	Denise Cheng	
TMK 15-00868	09/04/2015	09/23/2025	A LIFE WELL REMEMBERED	Bradley & Son Funeral Homes, LLC	
TMK 15-00869	09/04/2015	08/12/2025	WEALTHFARE	Shepherd Financial Partners R Mark Shepherd	
TMK 15-00870	09/04/2015	07/28/2025	LUVAFOODIE	Luv A Foodle LIMITED LIABILITY COMPANY	

CBP IPR RECORDATION — OCTOBER 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/TmK/Tnm	Owner Name	GM Restricted
TMK 15-00871	09/04/2015	07/28/2025	IMPACTLIFE	The Research Valley Partnership, Inc.	
TMK 15-00872	09/04/2015	08/27/2024	IT'S EASY...JUST PUT IT TO YOUR LIPS AND SUCK!	Fullips, LLC	
TMK 15-00873	09/04/2015	11/04/2025	INVIGOFLEX	John Barone	
TMK 15-00874	09/04/2015	11/25/2025	G17	Glock, Inc.	
TMK 15-00875	09/04/2015	06/11/2024	DULCOEASE PINK	Boehringer Ingelheim International GmbH	No
TMK 15-00876	09/04/2015	11/25/2025	G18	Glock, Inc.	
TMK 15-00877	09/04/2015	05/25/2024	DULCOGAS	Boehringer Ingelheim International GmbH	No
TMK 15-00878	09/04/2015	09/30/2025	DULCOGLIDE	Boehringer Ingelheim International GmbH	No
TMK 15-00879	09/04/2015	06/30/2020	ublox and logo Design	u-blox Holding AG	No
TMK 15-00880	09/04/2015	10/14/2025	CAPTAIN TOAD	Nintendo of America Inc.	
TMK 15-00881	09/04/2015	11/18/2025	AGRI SUPPLY	Agri-Supply Company	
TMK 15-00882	09/04/2015	06/03/2025	PS4 (Stylized)	Kabushiki Kaisha Sony Computer Entertainment TA Sony Computer Entertainment Inc.	No
TMK 15-00883	09/08/2015	09/02/2025	ASSOCIATION OF PLAINTIFFS' SKI ACCIDENT ATTORNEYS (APSAA)	Chalat, James H.	
TMK 15-00884	09/09/2015	10/19/2015	CB	(REGISTRANT) YELLOWSTONE BRANDS, LLC LIMITED LIABILITY COMPANY NEW JERSEY 3140 ROUTE 33 WEST C/O ROSS HOLDINGS, LLC SOMERVILLE NEW JERSEY 08826	Yes
TMK 15-00885	09/10/2015	11/18/2025	PS	Kabushiki Kaisha Sony Computer Entertainment TA Sony Computer Entertainment Inc.	No
TMK 15-00886	09/10/2015	07/08/2018	MYPILLOW	MYPILLOW, INC.	

CBP IPR RECORDATION — OCTOBER 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 15-00887	09/10/2015	10/21/2025	DDI and Design	First Corp International Inc.	
TMK 15-00888	09/10/2015	10/21/2025	DDI	First Corp International inc.	
TMK 15-00889	09/10/2015	07/24/2022	FASHION BRACES	Alignco Orthodontics Corporation	
TMK 15-00890	09/10/2015	12/01/2025	Looka Patisserie	The French Patisserie, Inc.	
TMK 15-00891	09/10/2015	11/11/2025	DESIGN ONLY (Three Hole Grab Folding Step)	The Eastern Company DBA Eberhard Manufacturing Company	
TMK 15-00892	09/10/2015	01/02/2018	TEA OF LIFE	Hall, Linneth D. (INDIVIDUAL UNITED STATES)	
TMK 15-00893	09/10/2015	01/26/2025	FOREFATHERS	GOLDSCHMIDT VINEYARDS LLC	
TMK 15-00894	09/10/2015	01/02/2018	VOLK	Volk Optical Inc.	
TMK 15-00895	09/10/2015	10/13/2023	VOLK (stylized)	VOLK OPTICAL, INC.	
TMK 15-00896	09/10/2015	10/10/2022	OLD SOLES	Full Range Clothing Company Pty Ltd	No
TMK 15-00897	09/10/2015	07/28/2019	ZHF	Zhao Hui Filters (US) Inc.	
TMK 15-00898	09/10/2015	11/25/2025	CORK CAGE	Epic Products, Inc.	
TMK 15-00899	09/16/2015	12/02/2024	BULLHEAD DENIM CO.	Pacific Sunwear of California, Inc.	
TMK 15-00900	09/16/2015	12/02/2024	LA HEARTS	Pacific Sunwear of California, Inc.	
TMK 15-00901	09/16/2015	09/01/2019	DRAGON BALL Z	KABUSHIKI KAISHA SHUEISHA TASHUEISHA INC.	No
TMK 15-00902	09/16/2015	05/28/2020	DRAGON BALL Z	KABUSHIKI KAISHA SHUEISHA	No
TMK 15-00903	09/16/2015	06/07/2020	DRAGON BALL Z	KABUSHIKI KAISHA SHUEISHA, ALSO TRADING AS SHUEISHA INC.	No
TMK 15-00904	09/16/2015	07/19/2025	DRAGON BALL Z	Kabushiki Kaisha Shueisha TASHueisha Inc.	No
TMK 15-00905	09/16/2015	07/12/2025	DRAGON BALL	Kabushiki Kaisha Shueisha TASHueisha Inc.	No

CBP IPR RECORDATION — OCTOBER 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 15-00906	09/16/2015	04/07/2024	SONEROS	Soneros Cigars Zone, Inc.	No
TMK 15-00907	09/16/2015	04/14/2024	SONEROS and Design	Soneros Cigars Zone, Inc.	No
TMK 15-00908	09/16/2015	02/04/2019	I HEART GUTS	Weeber, LLC DBA I Heart Guts	
TMK 15-00909	09/16/2015	03/29/2020	FITBIT	FITBIT, INC.	
TMK 15-00910	09/16/2015	10/06/2020	HUF H	Hufnagel, Keith	
TMK 15-00911	09/16/2015	01/08/2024	FITBIT ZIP	Fitbit, Inc.	
TMK 15-00912	09/16/2015	08/28/2023	ARIA	Fitbit, Inc.	
TMK 15-00913	09/16/2015	08/28/2023	FITBIT	Fitbit, Inc.	
TMK 15-00914	09/16/2015	06/04/2024	FITBIT FORCE	FITBIT, INC.	
TMK 15-00915	09/16/2015	11/06/2023	FITBIT ONE	FITBIT, INC.	
TMK 15-00916	09/16/2015	07/01/2024	FITBIT FLEX	FITBIT, INC.	
TMK 15-00917	09/16/2015	04/13/2025	MOBILERUN	FITBIT, INC.	
TMK 15-00918	09/16/2015	11/28/2017	PAGECENTERX	LEVI, RAY & SHOUP, INC.	
TMK 15-00919	09/16/2015	06/19/2022	ANYQUEUE	LEVI, RAY & SHOUP, INC.	
TMK 15-00920	09/16/2015	05/14/2022	WildSmiles	Alignco Orthodontics	
TMK 15-00921	09/16/2015	11/05/2018	DEMET'S	DEMET'S CANDY COMPANY	
TMK 15-00922	09/16/2015	02/19/2022	VPS	LEVI, RAY & SHOUP, INC.	
TMK 15-00923	09/16/2015	08/23/2026	VPSX	Levi, Ray & Shoup, Inc.	
TMK 15-00924	09/16/2015	11/17/2024	FLIPZ	DEMET'S CANDY COMPANY	
TMK 15-00925	09/16/2015	11/25/2025	"Banana Joe"	Opimus Co. Ltd.	No
TMK 15-00926	09/16/2015	03/16/2019	TRANSFORM/IMPRESS	Levi, Ray & Shoup, Inc.	
TMK 15-00927	09/16/2015	09/02/2019	INNOVATE/MILL	Levi, Ray & Shoup, Inc.	
TMK 15-00928	09/16/2015	12/01/2025	ELEMENTARY	GOLDSCHMIDT VINEYARDS, LLC	

CBP IPR RECORDATION — OCTOBER 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 15-00929	09/22/2015	07/17/2022	WildSmiles Braces	Alignco Orthodontics	
TMK 15-00930	09/22/2015	11/18/2025	ITRAX	Daniel Nelson	
TMK 15-00931	09/22/2015	03/16/2024	JO MALONE	JO MALONE LIMITED	No
TMK 15-00932	09/22/2015	04/04/2021	GLAMGLOW	GLAMGLOW LLC	
TMK 15-00933	09/22/2015	04/03/2016	LAB SERIES	Aramis Inc.	
TMK 15-00934	09/22/2015	10/07/2025	EATWITH	EatWith Media Ltd.	
TMK 15-00935	09/22/2015	10/14/2025	SALUTE	Salute Products, Inc.	
TMK 15-00936	09/22/2015	10/21/2025	OMN and Design	Oromia Media Network Inc.	
TMK 15-00937	09/22/2015	10/07/2025	INTERLINK and Design	Concord Servicing Corporation	
TMK 15-00938	09/22/2015	09/23/2025	EARTH CORE ENERGY SERVICES and Design	Earth Core Energy Services, LLC	
TMK 15-00939	09/22/2015	11/04/2025	THE ANTI-PSYCHOTICS	Johns, Eric	
TMK 15-00940	09/23/2015	08/23/2016	DESIGN ONLY	Winner International Royalty LLC	
TMK 15-00942	09/24/2015	09/30/2025	HUSKIE'Z LANDSCAPING "WE LOVE WHAT WE DO" & Design	Huskie'z Landscaping, Inc.	No
TMK 15-00943	09/24/2015	10/21/2025	EVERY TUBE. EVERY CORE. EVERY CUSTOMER. EVERY TIME.	Ox Paper Tube & Core, LLC	
TMK 15-00944	09/24/2015	10/28/2025	GEE & Design	Global Efficient Energy	No
TMK 15-00945	09/24/2015	09/10/2024	WILDSEX	Amethyst Enterprise, Inc.	
TMK 15-00946	09/24/2015	09/30/2025	CARBON38	Carbon 38, Inc.	
TMK 15-00947	09/24/2015	03/14/2015	steve test	(REGISTRANT) J.A. Thomas & Associates, Inc. CORPORATION GEORGIA 100 Northcreek, Suite 200 3715 Northside Parkway Atlanta GEORGIA 30327	No
TMK 87-00071	09/03/2015	11/06/2025	BOEING	THE BOEING COMPANY	No

CBP IPR RECORDATION — OCTOBER 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 87-00071	09/03/2015	11/06/2025	BOEING	THE BOEING COMPANY	No
TMK 91-00583	09/04/2015	08/28/2025	SHEBA	MARS INCORPORATED	No
TMK 91-00583	09/04/2015	08/28/2025	SHEBA	MARS INCORPORATED	No
TMK 93-00489	09/09/2015	09/04/2025	FERRAGAMO STYLIZED	SALVATORE FERRAGAMO S.P.A.	No
TMK 93-00489	09/09/2015	09/04/2025	FERRAGAMO STYLIZED	SALVATORE FERRAGAMO S.P.A.	No
TMK 99-00071	09/22/2015	02/21/2026	T (Stylized)	RANGERS BASEBALL LLC	No
TMK 99-00071	09/22/2015	02/21/2026	T (Stylized)	RANGERS BASEBALL LLC	No

Total Records: 243

Date as of: 10/6/2015

AGENCY INFORMATION COLLECTION ACTIVITIES:

Certificate of Registration

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

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

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Certificate of Registration (CBP Forms 4455 and 4457). CBP is proposing that this information collection be extended with no change to the burden hours or to the Information required. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before December 8, 2015 to be assured of consideration.

ADDRESSES: Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229– 1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229– 1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION:

CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total

capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Certificate of Registration.

OMB Number: 1651-0010.

Form Number: CBP Forms 4455 and 4457.

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

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

CBP Forms 4455 and 4457 are provided for by 19 CFR 10.8, 10.9, 10.68, 148.1, 148.8, 148.32 and 148.37.

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 on CBP Forms 4455 and 4457.

Type of Review: Extension (with no change).

Affected Public: Businesses.

CBP Form 4455

Estimated Number of Respondents: 60,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 9,960.

CBP Form 4457

Estimated Number of Respondents: 140,000.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 7,000.

Dated: October 5, 2015.

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

[Published in the Federal Register, October 9, 2015 (80 FR 61221)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Application for Exportation of Articles Under Special Bond

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

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

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Application for Exportation of Articles under Special Bond (CBP Form 3495). CBP is proposing that this information collection be extended with no change to the burden hours or Information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before December 14, 2015 to be assured of consideration.

ADDRESSES: Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229– 1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229– 1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION:

CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104– 13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the

accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Application for Exportation of Articles under Special Bond.

OMB Number: 1651-0004.

Form Number: CBP Form 3495.

Abstract: CBP Form 3495, *Application for Exportation of Articles Under Special Bond*, is an application for exportation of articles entered under temporary bond pursuant to 19 U.S.C. 1202, Chapter 98, subchapter XIII, Harmonized Tariff Schedule of the United States, and 19 CFR 10.38. CBP Form 3495 is used by importers to notify CBP that the importer intends to export goods that were subject to a duty exemption based on a temporary stay in this country. It also serves as a permit to export in order to satisfy the importer's obligation to export the same goods and thereby get a duty exemption. This form is accessible at: <http://www.cbp.gov/newsroom/publications/forms?title=3495&=Apply>.

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

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 500.

Estimated Number of Responses per Respondent: 30.

Estimated Total Annual Responses: 15,000.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 2,000.

Dated: October 7, 2015.

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