

U.S. Customs and Border Protection



GENERAL NOTICE

19 CFR PART 177

MODIFICATION OF RULING LETTER AND REVOCATION OF TREATMENT RELATING TO CLASSIFICATION OF A PLASTIC BUSHING WITH A LIP

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

ACTION: Notice of modification of one ruling letter and revocation of treatment relating to the classification of a plastic bushing with a lip.

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 one ruling letter concerning the classification of a plastic bushing with a lip 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. 47, No. 32, on July 31, 2013. 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EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after September 2, 2014.

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), this notice advises interested parties that CBP is modifying a ruling pertaining to the classification of a plastic bushing with a lip. Although in this notice CBP is specifically referring to New York Ruling Letter (NY) N041816, dated November 13, 2008, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. 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 NY N041816 in order to reflect the proper classification of a plastic bushing with a lip in subheading 8483.30.80, HTSUS, according to the analysis contained in Headquarters Ruling Letter (HQ) H230059, 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 action will become effective 60 days after publication in the Customs Bulletin.

Dated: May 15, 2014

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H230059
CLA-2: OT:RR:CTF:TCM H230059 TNA
CATEGORY: Classification
TARIFF NO.: 8483.30.80

MR. JON R. WEINER
CUSTOMS COMPLIANCE SPECIALIST
ROLLS ROYCE NORTH AMERICA
2001 S. TIBBS AVENUE
SPEED CODE S36
INDIANAPOLIS, IN 46241

RE: Modification of NY N041816; Classification of a plastic bushing with a lip

DEAR MR. WEINER:

This is in response to your request, dated May 30, 2012, filed on behalf of Rolls Royce, North America (“Rolls Royce”) for reconsideration of New York Ruling Letter (“NY”) N041816, dated November 13, 2008, as it pertains to the classification of a plastic bushing with a lip under the Harmonized Tariff Schedule of the United States (HTSUS). We have found this ruling to be partly in error. For the reasons that follow, we hereby modify NY N041816.

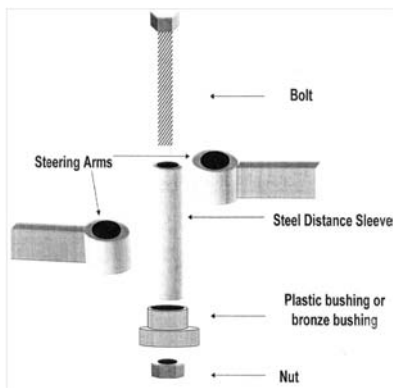
Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to modify NY N041816 was published on July 31, 2013, in Volume 47, Number 32, of the Customs Bulletin. CBP received no comments in response to this notice.

FACTS:

The subject merchandise consists of a plastic bushing with a lip or flange that is used in a steering assembly for a marine water-jet propulsion system. The principal function of this component is to provide a smooth interface between the moving surface of the water-jet’s steering arms and the fixed surface of the distance sleeve. It consists of a base and a top that has a circular opening. When fitted together with the rest of the steering assembly, a steel distance sleeve is inserted into the bushing, and a nut is affixed to the bottom of the bushing. Steering arms fit around the distance sleeve and are fixed on top by a bolt. When finished, the steering assembly functions by way of the steering arms rotating on the outer surface of the bushing and on the axis formed by the bolt, nut, bushings and distance sleeve.

The subject bushing provides a smooth sliding surface between the moving components to mediate against the friction inherent in the rotation of the steering arms. Even the flanged surface of the bushing serves to mediate against friction, allowing the flat surfaces of the steering arms to move with respect to each other and with respect to the flat surfaces of the fixing bolt assembly.

The following is a picture of the components of the steering assembly:



ISSUE:

Whether a plastic bushing that is used in a marine water jet propulsion system is classified in heading 3926, HTSUS, as an “Other article of plastics,” or in heading 8483, HTSUS, as “Transmission shafts (including camshafts and crankshafts) and cranks”?

LAW AND ANALYSIS:

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

The HTSUS headings at issue are as follows:

3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
8483	Transmission shafts (including camshafts and crankshafts) and cranks; bearing housings, housed bearings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints); parts thereof:

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. While not legally binding, and therefore not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System at the international level. CBP believes the ENs should always be consulted. See T.D. 89–80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

The EN to heading 3926, HTSUS, states, in pertinent part:

This heading covers articles, not elsewhere specified or included, of plastics (as defined in Note 1 to the Chapter) or of other materials of headings 39.01 to 39.14.

The EN to heading 8483, HTSUS, states, in pertinent part, that:

(B) BEARING HOUSINGS AND PLAIN SHAFT BEARINGS

... On the other hand plain shaft bearings are classified in this heading even if they are presented without housings. They consist of rings of anti-friction metal or other material (e.g., sintered metal or plastics). They may be in one piece or in several pieces clamped together, and form a smooth bearing in which a shaft or axle turns.

NY N041816 classified two different components of the steering gear of a marine water-jet propulsion system: a bronze bushing, classified in heading 8483, HTSUS, as a plain shaft bearing, and a plastic bushing, classified in heading 3926, HTSUS, as an article of plastic. You state that both bushings function the same way and should both be classified as shaft bearings of heading 8483, HTSUS.

In NY N041816, we stated that the bronze bushing was “a part of lifting arm mechanism of the reversing bucket. It may also be used on the steering gear mechanism of some water-jets in place of plastic bushings.” This supports Rolls’ Royce’s contention that the two types of bushings perform the same functions.

The plastic bushing works to alleviate friction in the steering assembly. It also forms a smooth bearing on which the steering arms turn. Thus, in the functioning of the steering assembly as described above, the subject plastic bushing serves as both a radial and an axial bearing, the form and function of which are both described by heading 8483, HTSUS. *See* EN 84.83. Furthermore, in NY N041816, CBP ruled that the bronze bushing may take the place of the plastic bushing on the steering gear mechanism of some water jets. Therefore, both the plastic and the bronze bushing should be classified in the same provision of the HTSUS. As such, the plastic bushing is classified in heading 8483, HTSUS. This conclusion is consistent with prior CBP rulings. *See, e.g.*, NY N051335, dated February 26, 2009; NY E82314, dated June 10, 1999; NY E89673, dated November 22, 1999.

Lastly, we note that heading 3926, HTSUS, where NY N041816 classified the subject merchandise, is a residual heading. Merchandise is only classified there when it is not described elsewhere in the nomenclature. *See* EN 39.26. Because we have found the subject bushing to be classified in heading 8483, HTSUS, it is precluded from classification in heading 3926, HTSUS.

HOLDING:

Under the authority of GRI 1, the subject plastic bushing is provided for in heading 8483, HTSUS. Specifically, it is classified in subheading 8483.30.80, HTSUS, which provides for “Transmission shafts (including camshafts and crankshafts) and cranks; bearing housings, housed bearings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints); parts thereof: Bearing housings; plain shaft bearings: Other.” The column one, general rate of duty is 4.5%.

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 N041816, dated November 13, 2008, is modified with respect to the classification of the plastic bushing with a lip. The classification of the other items described therein remains unchanged.

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

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

REVOCATION OF A RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF A FILE ORGANIZER

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

ACTION: Notice of revocation of a ruling letter relating to the tariff classification of an expanding file organizer.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking a ruling letter relating to the tariff classification of an expanding file organizer 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. 47, No. 37, on September 4, 2013. One comment was received in opposition to this notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after September 2, 2014.

FOR FURTHER INFORMATION CONTACT: Beth Jenior, Tariff Classification and Marking Branch: (202) 325–0347.

SUPPLEMENTARY INFORMATION:

Background

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

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the *Customs Bulletin*, Volume 47, No. 37, on September 4, 2013, proposing to revoke New York Ruling Letter (NY) N073247, dated September 10, 2009, in which CBP determined that an expanding file organizer was classified in subheading 4819.60.00, HTSUS. One comment was received in response to this notice.

As stated in the proposed notice, this revocation 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, as amended (19 U.S.C. 1625 (c)(2)), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during 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 this final decision.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY N073247, in order to reflect the proper classification of the file organizer in subheading 4202.19.00, HTSUS, according to the analysis contained in Headquarters Ruling Letter (HQ) H235455, 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), the attached ruling will become effective 60 days after publication in the Customs Bulletin.

Dated: May 12, 2014

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H235455
CLA-2 OT:RR:CTF:TCM H235455 EGJ
CATEGORY: Classification
TARIFF NO.: 4202.19.00
May 12, 2014

MS. DENISE YOUNG-SANG
OFFICE DEPOT
6600 NORTH MILITARY TRAIL
MAIL CODE: N516E
BOCA RATON, FL 33496

RE: Revocation of NY N073247: Classification of an Expanding File Organizer

DEAR MS. YOUNG-SANG:

This is in reference to New York Ruling Letter (NY) N073247, dated September 10, 2009, issued to you concerning the tariff classification of an expanding file organizer under the Harmonized Tariff Schedule of the United States (HTSUS). In that ruling, U.S. Customs and Border Protection (CBP) classified the subject article in heading 4819, HTSUS, which provides for box files and similar articles of paperboard. We have reviewed NY N073247 and find it to be in error. For the reasons set forth below, we hereby revoke NY N073247.

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 N073247 was published on September 4, 2013, in Volume 47, Number 37, of the *Customs Bulletin*. One comment was received in opposition to this notice; it is addressed in this decision.

FACTS:

In NY N073247, CBP identified the subject merchandise as the “19 Pocket Expanding File Organizer,” which has a design-printed and surface-colored exterior constructed of a rigid, paperboard. The container is designed with a fold-over lid that has a metal carry handle and twist lock. The box top unlocks and opens up to display nineteen permanently mounted, accordion style pocket files with an expanding side gusset. The inner pockets have indented thumb tabs and are constructed of a thin cardboard material. The rectangular expanding file organizer measures approximately 15” (w) x 4 ½” (d) x 10” (h). The 19 pocket expanding file organizer is designed for use in the home or office.

ISSUE:

Is the file organizer classified under heading 4819, HTSUS, as a box file or similar article of paperboard, or under heading 4202, HTSUS, as a container similar to briefcases and attaché cases?

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. GRI 1 requires that classification be determined first accord-

ing to the terms of the headings of the tariff schedule and any relative section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in their appropriate order.

The relevant HTSUS provisions are:

4202	Trunks, suitcases, vanity cases, attaché cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Trunks, suitcases, vanity cases, attaché cases, briefcases, school satchels and similar containers:
4202.19.00	Other .. * * *
4819	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibers; box files, letter trays and similar articles, of paper or paperboard of a kind used in offices, shops or the like:
4819.60.00	Box files, letter trays, storage boxes and similar articles, of a kind used in offices, shops or the like ... * * *

Note 2(h) to Chapter 48 states that:

2. This chapter does not cover:

(h) Articles of heading 4202 (for example, travel goods) ...

* * *

According to GRI 1, we must first examine section notes, chapter notes and the text of the headings. Note 2(h) to Chapter 48 states that articles of heading 4202, HTSUS, are excluded from classification in Chapter 48. Thus, if the file organizer is classifiable under heading 4202, HTSUS, it cannot be classified in heading 4819, HTSUS.

Heading 4202, HTSUS, sets forth two lists of containers which are classifiable under that heading. The lists are separated by a semicolon, and each list includes the phrase “and similar containers.” Heading 4202, HTSUS, does not specifically name file organizers. Therefore, we must look to the meaning of the phrase “and similar containers.”

The term “container” is not defined in the HTSUS.¹ In *Webster’s New World Dictionary of American English*, 300 (3d. College Ed. 1988), a container is “a thing that contains or can contain something.” To contain means “to

¹ When, as in this case, a tariff term is not defined by the HTSUS or its legislative history, “the term’s correct meaning is its common meaning.” *Mita Copystar Am. v. United States*, 21 F.3d 1079, 1082 (Fed. Cir. 1994). The common meaning of a term used in commerce is presumed to be the same as its commercial meaning. *Simod Am. Corp. v. United States*, 872 F.2d 1572, 1576 (Fed. Cir. 1989). To ascertain the common meaning of a term, a court may consult “dictionaries, scientific authorities, and other reliable information sources” and “lexicographic and other materials.” *C.J. Tower & Sons v. United States*, 673 F.2d 1268, 1271 (CCPA 1982); *Simod*, 872 F.2d at 1576.

hold; 1. to have in it; hold, enclose, or include.” *Id.* In *Merriam-Webster’s Collegiate Dictionary*, 249 (10th ed. 2001), to contain means “to hold together, hold in, contain; 1. to keep within limits.” The file organizer holds or encloses documents and files. As such, the file organizer is a type of container.

In addition to being a container, the file organizer must be “similar” to the other containers listed in heading 4202, HTSUS. The term “and similar containers” requires that we apply the rule of *ejusdem generis* to determine the scope of heading 4202, HTSUS. Under the rule of *ejusdem generis*, where an enumeration of specific things is followed by a general word or phrase, the general word or phrase is held to refer to things of the same kind as those specified. With respect to classification analysis, *ejusdem generis* requires that the imported merchandise possess the essential characteristics or purposes that unite the articles enumerated *eo nomine* in order to be classified under the general terms. See *Sports Graphics, Inc. v. United States*, 24 F.3d 1390, 1392 (Fed. Cir. 1994).

In *Totes, Inc. v. United States*, (*Totes I*) 18 C.I.T. 919, 924 (1994), the Court of International Trade (CIT) held that the essential characteristics which unite the containers of heading 4202, HTSUS, are that the containers “organize, store, protect and carry various items.” *Id. aff’d by Totes, Inc. v. United States*, (*Totes II*) 69 F.3d 495 (Fed. Cir. 1995). We also note that the courts have applied these four unifying characteristics to containers listed both before and after the semicolon. See, e.g. *Avenues in Leather, Inc. v. United States*, 11 F.Supp. 2d 719, 723 – 724 (Ct. Int’l Trade 1998) (applied the four characteristics to a leather folio case classified before the semicolon in subheading 4202.11.00, HTSUS); *Totes II*, 69 F.3d at 500 (applied the four characteristics to a trunk organizer classified after the semicolon in subheading 4202.92.90, HTSUS).

In *Firstrax v. United States* (*Firstrax*), 45 Cust. B. & Dec. 46 (Ct. Int’l Trade 2011), the CIT elaborated upon the meaning of the terms “organize” and “store”. The CIT stated that “[i]n the context of heading 4202, organization implies multiple items placed together in a single container.” *Id.* at 68. The CIT stated that “to ‘store’ is to keep or set aside for future use.” *Id.* at 69 citing *Webster’s Third New International Dictionary, Unabridged*, p.2252 (1981). The courts have not yet addressed definitions of “protect” or “carry.” In *Webster’s New World Dictionary*, 215 (3d. College Ed. 1988), “carry” is defined as “to hold or support while moving.” The same dictionary defines “protect” as “to shield from injury, danger or loss.” *Id.* at 1081.

We must apply the principle of *ejusdem generis* to determine if the file organizer has the same essential characteristics as the named containers of heading 4202, HTSUS. Namely, we must determine if the primary purpose of the file organizer is to organize, store, protect and carry. The file organizer has nineteen pocket files, which enable it to organize documents under nineteen different categories. As such, the file organizer is designed for organization. Next, the file organizer has a fold over lid and twist lock. As such, the documents inside of it can be set aside and out of sight for future use. Therefore, the file organizer is designed for storage.

The file organizer is comprised of paperboard. As such, it would not provide the best protection against rain or other inclement weather. However, the file

organizer would protect documents from every day wear and tear. As such, the file organizer has a limited protective quality. Finally, the file organizer has a metal carry handle. This enables the file organizer to carry documents from one location to another. As such, the file organizer does organize, store, protect and carry filed documents.

As the file organizer shares the same essential characteristics as the named containers of heading 4202, HTSUS, we find that the file organizer is classified under heading 4202, HTSUS. Note 2(h) to Chapter 48 states that articles of heading 4202, HTSUS, are excluded from classification in Chapter 48. As such, the file organizer cannot be classified under heading 4819, HTSUS. CBP has classified similar document carrying cases under heading 4202, HTSUS. *See, e.g.* HQ 968068, dated July 25, 2006, NY N007787, dated April 3, 2007, and NY N042888, dated November 21, 2008.

The comment consists of two major arguments. First, the comment states that CBP has erroneously applied the legal test that the file organizer need only organize, store, protect *or* carry its contents in order to be classified under heading 4202, HTSUS. Citing to *Firststrax*, 45 Cust. B. & Dec. 46, the comment states that the file organizer must organize, store, protect *and* carry its contents in order to be classified under heading 4202, HTSUS (emphasis added). This argument is misplaced as the file organizer satisfies all four essential characteristics.

Next, the comment argues that the file organizer does not belong in sub-heading 4202.19.00, HTSUS, which provides, in pertinent part, for “Trunks, suitcases, vanity cases, attaché cases, briefcases, school satchels and similar containers.” The comment states that the file organizer cannot be classified in this subheading because it does not share the four essential characteristics *in the same manner* as the named examples in the subheading (emphasis added). For example, the file organizer does not protect its contents to the extent that a trunk protects its contents. In another example, while the file organizer has a handle, it is not designed to carry its contents the same distance that a briefcase is designed to carry its contents.

As the test enunciated by the CIT does not include a “manner of use” requirement, we cannot apply such a test to the instant merchandise. However, we do find that the instant file organizer does meet all four of the unifying characteristics set forth by the CIT. As such, the file organizer is properly classified as a container of heading 4202, HTSUS.

HOLDING:

By application of GRI 1 (Note 2(h) to Chapter 48), the file organizer is classified in heading 4202, HTSUS. It is specifically classified under sub-heading 4202.19.00, HTSUS, which provides, in pertinent part, for “Trunks, suitcases, vanity cases, attaché cases, briefcases: Trunks, suitcases, vanity cases, attaché cases ...: Other ...” The 2013 column one, general rate of duty is twenty percent *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY N073247, dated September 10, 2009, is hereby revoked.

Sincerely,


IEVA K. O'ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



**PROPOSED REVOCATION OF RULING LETTER AND
PROPOSED MODIFICATION OF TREATMENT RELATING
TO THE TARIFF CLASSIFICATION OF CERTAIN LIGHT
EMITTING DIODE LIGHT BULBS**

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

ACTION: Notice of proposed revocation of ruling letters and treatment relating to tariff classification of certain light emitting diode (LED) light bulbs.

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) proposes to revoke one ruling letter relating to the tariff classification of certain light-emitting diode light bulbs under the Harmonized Tariff Schedule of the United States (HTSUS). CBP also proposes 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 August 1, 2014.

ADDRESSES: Written comments are to be addressed to Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St. NE, 10th Floor, Washington, D.C. 20229. Submitted comments may be inspected at Customs and Border Protection, 90 K St. NE, 10th Floor, Washington, D.C. 20001 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: Aaron Marx, Tariff Classification and Marking Branch: (202) 325-0195

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, as amended (19 U.S.C. 1625 (c)(1)), this notice advises interested parties that CBP intends to revoke one ruling letter pertaining to the tariff classification of certain light emitting diode light bulbs. Although in this notice, CBP is specifically referring to the revocation of New York Ruling Letter (NY) N233864, dated October 18, 2012, (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, 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, as amended (19 U.S.C. 1625 (c)(2)), CBP proposes 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 notice of this proposed action.

In NY N233864, CBP determined that the LR6C LED Lamp was classified in the heading 9405, HTSUS, specifically 9405.40.60, HTSUS, which provides for: "Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included: Other electric lamps and lighting fittings: Of base metal: Other".

It is now CBP's position that these LED lamps are properly classified in heading 8543, HTSUS, specifically under subheading 8543.70.70, 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: Electric luminescent lamps".

Pursuant to 19 U.S.C. 1625(c)(1), CBP proposes to revoke NY N233864, and to revoke or modify any other ruling not specifically identified, in order to reflect the proper classification of the subject LED light bulbs according to the analysis contained in proposed Headquarters Ruling Letters (HQ) H237734 (Attachment B). 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: June 10, 2014

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N233864

October 18, 2012

CLA-2-94:OT:RR:NC:1:110

CATEGORY: Classification

TARIFF NO.: 9405.40.6000

MS. LESLIE VAUGHN
TECHNICAL CONSUMER PRODUCTS, INC.
325 CAMPUS DRIVE
AURORA, OH 44202-6662

RE: The tariff classification of LED light bulbs from China

DEAR MS. VAUGHN:

In your letter dated October 1, 2012, you requested a tariff classification ruling. Photographs of the LED light bulbs (lamps) were submitted with your letter.

The articles under consideration are five styles of LED light bulbs (lamps).

Item number LED11E26BR4041K features a dimmable flood light and it is rated at 11 Watts at 120 Volts. The bulb is designed as a replacement for traditional commercial and residential fluorescent, incandescent, or halogen lamps. It is suitable for BR40, BR30 and R20 flood and spot light applications such as, recessed downlights, track light fixtures, and display fixtures. The bulb has an E26 base for standard Edison-style base socket. The LEDs and the driver are contained in a cast aluminum housing with a polycarbonate lens that performs as a diffuser.

Item number LED17E26P3830KFLA features a dimmable flood light and it is rated 17 Watts at 120 Volts. The bulb is designed as a replacement lamp for traditional commercial and residential fluorescent, incandescent, or halogen lamps. It has an E26 base for standard Edison-style base sockets. The LEDs and driver are housed in a white enamel cast aluminum heatsink housing with a clear prismatic polycarbonate plastic lens that performs as a light diffuser.

Item number LED8E26A21950K is a dimmable LED A-lamp (bulb). It is comparable to a 60 Watt incandescent lamp and it is recommended for general lighting, table lamps, chandeliers, ceiling fans and wall sconces. The light bulb has a standard Edison-style base socket and it is available in 8 or 12 Watts and 120 Volts. The LEDs and the driver are contained in a white enamel cast aluminum heatsink housing with either a clear prismatic polycarbonate plastic lens or glass lens that performs as light diffuser. The bulb is designed as a replacement lamp for traditional commercial and residential fluorescent, incandescent, or halogen lamps.

Item number LED7GU10MR1630KNFL is a narrow spot flood LED light bulb. The bulb is designed as a replacement lamp for traditional commercial and residential fluorescent, incandescent, or halogen lamps. It is recommended for track lighting, recessed downlights, and display lights. The bulb has a GU base for a single plug-in socket. The LEDs and the driver are contained in an aluminum housing with a polycarbonate or glass diffusing lens. It is available in 7 Watts and 120 Volts.

Item number LDT3WH30K represents the dimmable decorative LED light bulb series that are available in torpedo, flame tip and globe styling diffusers. It is a 3 Watt light bulb that has an E12 or E26 base for standard

Edison-style sockets. The bulb is a replacement lamp for traditional commercial and residential incandescent, halogen or fluorescent lamps. It is typically used for chandeliers, ceiling fans and decorative indoor and outdoor fixtures. The LEDs and the driver are contained in an aluminum base polycarbonate housing/globe.

The applicable subheading for the LED light bulbs (Lamps), Items number LED11E26BR4041K, LED17E26P3830KFLA, LED8E26A21950K, LED7GU10MR1630KNFL and LDT3WH30K, will be 9405.40.6000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “Lamps and lighting fittings...: Other electric lamps and lighting fittings: Of base metal: Other.” The general rate of duty will be 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 Hope Abada at (646) 733-3016.

Sincerely,

THOMAS J. RUSSO

Director

National Commodity Specialist Division

[ATTACHMENT B]

HQ H237734

CLA-2 OT:RR:CTF:TCM H237734 AMM

CATEGORY: Classification

TARIFF NO.: 8543.70.70

Ms. LESLIE VAUGHN
TECHNICAL CONSUMER PRODUCTS, INC.
325 CAMPUS DRIVE
AURORA, OH 44202-6662

RE: Revocation of New York Ruling Letter N233864; Tariff Classification of a Light Emitting Diode Light Bulbs

DEAR Ms. VAUGHN,

This is in reference to New York Ruling Letter (NY) N233864, dated October 18, 2012, regarding the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of five light-emitting diode (LED) light bulbs. In that ruling, Customs and Border Protection (CBP) classified the LED light bulbs under heading 9405, HTSUS, which provides in pertinent part for "Lamps and lighting fittings including searchlights and spot-lights and parts thereof, not elsewhere specified or included; ...". We have reviewed NY N233864 and found it to be incorrect. For the reasons set forth below, we intend to revoke that ruling.

FACTS:

In NY N233864, CBP described the merchandise as follows:

Item number LED11E26BR4041K features a dimmable flood light and it is rated at 11 Watts at 120 Volts. The bulb is designed as a replacement for traditional commercial and residential fluorescent, incandescent, or halogen lamps. It is suitable for BR40, BR30 and R20 flood and spot light applications such as, recessed downlights, track light fixtures, and display fixtures. The bulb has an E26 base for standard Edison-style base socket. The LEDs and the driver are contained in a cast aluminum housing with a polycarbonate lens that performs as a diffuser.

Item number LED17E26P3830KFLA features a dimmable flood light and it is rated 17 Watts at 120 Volts. The bulb is designed as a replacement lamp for traditional commercial and residential fluorescent, incandescent, or halogen lamps. It has an E26 base for standard Edison-style base sockets. The LEDs and driver are housed in a white enamel cast aluminum heatsink housing with a clear prismatic polycarbonate plastic lens that performs as a light diffuser.

Item number LED8E26A21950K is a dimmable LED A-lamp (bulb). It is comparable to a 60 Watt incandescent lamp and it is recommended for general lighting, table lamps, chandeliers, ceiling fans and wall scones. The light bulb has a standard Edison-style base socket and it is available in 8 or 12 Watts and 120 Volts. The LEDs and the driver are contained in a white enamel cast aluminum heatsink housing with either a clear prismatic polycarbonate plastic lens or glass lens that performs as light diffuser. The bulb is designed as a replacement lamp for traditional commercial and residential fluorescent, incandescent, or halogen lamps.

Item number LED7GU10MR1630KNFL is a narrow spot flood LED light bulb. The bulb is designed as a replacement lamp for traditional commercial

and residential fluorescent, incandescent, or halogen lamps. It is recommended for track lighting, recessed downlights, and display lights. The bulb has a GU base for a single plug-in socket. The LEDs and the driver are contained in an aluminum housing with a polycarbonate or glass diffusing lens. It is available in 7 Watts and 120 Volts.

Item number LDT3WH30K represents the dimmable decorative LED light bulb series that are available in torpedo, flame tip and globe styling diffusers. It is a 3 Watt light bulb that has an E12 or E26 base for standard Edison-style sockets. The bulb is a replacement lamp for traditional commercial and residential incandescent, halogen or fluorescent lamps. It is typically used for chandeliers, ceiling fans and decorative indoor and outdoor fixtures. The LEDs and the driver are contained in an aluminum base polycarbonate housing/globe.

In NY N233864, CBP classified these five products under heading 9405, HTSUS, which provides in pertinent part for “Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; ...”.

In your submission dated January 14, 2013, you note that Item No. LED8E26A21950K is an invalid number, and the correct Item No. is LED8E26A1950K. The instant products are pictured below:



ISSUE:

What is the correct classification under the HTSUS of the LED Light Bulbs identified by Item Nos. LED11E26BR4041K, LED17E26P3830KFLA, LED8E26A1950K, LED7GU10MR1630KNFL, and LDT3WH30K?

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 2014 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:
8543.70.70	Electric luminescent lamps

9405	Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included:
9405.40	Other electric lamps and lighting fittings: Of base metal:
9405.40.60	Other

Note 1 to Chapter 94, HTSUS, states, in part: “This chapter does not cover: ... (f) Lamps or lighting fittings of chapter 85 ...”.

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 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).

EN 84.79 states, in pertinent part:

For this purpose the following are to be regarded as having “individual functions”:

(B) Mechanical devices which cannot perform their function unless they are mounted on another machine or appliance, or are incorporated in a more complex entity, provided that this function:

(i) is distinct from that which is performed by the machine or appliance whereon they are to be mounted, or by the entity wherein they are to be incorporated, and

(ii) does not play an integral and inseparable part in the operation of such machine, appliance or entity.

* * *

EN 85.43 states, in pertinent part:

This heading covers all electrical appliances and apparatus, not falling in any other heading of this Chapter, nor covered more specifically by a heading of any other Chapter of the Nomenclature, nor excluded by the operation of a Legal Note to Section XVI or to this Chapter.

* * *

The electrical appliances and apparatus of this heading must have individual functions. The introductory provisions of Explanatory Note to heading 84.79 concerning machines and mechanical appliances having individual

functions apply, *mutatis mutandis*, to the appliances and apparatus of this heading.

* * *
 The heading includes, *inter alia* :

* * *

(16) Electro-luminescent devices, generally in strips, plates or panels, and based on electro-luminescent substances (e.g., zinc sulphide) placed between two layers of conductive material.

* * *

The General ENs to Chapter 94, state, in pertinent part:

This Chapter covers, subject to the exclusions listed in the Explanatory Notes to this Chapter:

* * *

(3) Lamps and lighting fittings and parts thereof, not elsewhere specified or included, of any material (excluding those of materials described in Note 1 to Chapter 71)

* * *

CBP has previously determined that a “lamp” is a device which provides an isolated source of heat or light. *See* HQ H024878, dated March 31, 2010 (LED module for ornaments); HQ H024876, dated March 31, 2010 (LED modules for promotional buttons and displays); HQ H095035, dated March 31, 2010 (LED light set for bike handlebars); HQ H024874, dated March 31, 2010 (various LED modules); HQ H042586, dated January 29, 2009 (fiber optic lamp); and HQ 966952, dated August 18, 2004 (litecube). *See also The Random House College Dictionary* (1973) at 752; *Webster’s New Collegiate Dictionary* (1979) at 639). As entered, the subject LR6C LED Lamp comprises the light source of a lighting fixture. The LR6C LED Lamp is designed with an Edison type screw in base to replace a standard R40 size light bulb. When installed into a lighting fixture, and connected to a power source, it emits light. As such, we conclude that the LR6C LED Lamp meets the definition of “lamp” as enunciated in earlier CBP Rulings, in that it is a device which provides an isolated source of light.

If the instant light bulbs are lamps or lighting fittings of Chapter 85, then they are excluded from heading 9405, HTSUS by Note 1 to Chapter 94, HTSUS. Therefore, our analysis begins with heading 8543, HTSUS.

Heading 8543, HTSUS, provides in relevant part for: “Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter.” The instant product is an “electrical apparatus.” *See Whirlpool Corp. v. United States*, 505 F. Supp. 2d 1358, 1362 (Ct. Int’l. Trade 2007) (defining the term “apparatus” as “a group of devices, or a collection or set of materials, instruments or appliances to be used for a particular purpose or a given end.”). The definition of “individual functions” is contained in the EN to Heading 84.79. *See* EN 85.43. EN(B) to heading 84.79 provides that “Mechanical devices which cannot perform their function unless they are mounted on another machine or appliance, or are incorporated in a more complex entity, provided that this function: (i) is distinct from that which is performed by the machine or appliance whereon they are to be mounted, or by the entity wherein they are to be incorporated, and (ii) does not play an

integral and inseparable part in the operation of such machine, appliance or entity.” Four of the instant LED light bulbs are designed to fit into any lighting fixture which uses an Edison type screw base, while the fifth is designed to fit into any lighting fixture which accepts a standard GU10 two pin connector. These light bulbs cannot perform their function of light generation unless they are connected to a power source. A lighting fixture supplies power to the instant products. As such, the instant light bulbs must be mounted on another machine or appliance, or incorporated into a more complex entity. The function of a lighting fixture is to hold the instant light bulbs, supply power to them, and to direct their light. These functions are separate from the function of the light bulb, whose function is to generate light. Because the lighting fixture performs these functions whether or not a light bulb has been inserted, the bulb itself does not play an integral and inseparable part of the operation of the lighting fixture. Therefore, the instant light bulbs have an “individual function” as defined in EN(B) to 84.79 and within the meaning of heading 8543, HTSUS.

Heading 8543, HTSUS, covers “[e]lectro-luminescent devices, generally in strips, plates or panels, and based on electro-luminescent substances (e.g., zinc sulphide) placed between two layers of conductive material.” See EN(16) to Heading 85.43. “Luminescence” is defined as:

Light emission that cannot be attributed merely to the temperature of the emitting body. Various types of luminescence are often distinguished according to the source of the energy which excites the emission.

* * *

There are also types of luminescence that are initiated by the flow of some form of energy into the body from the outside. According to the source of the exciting energy, the luminescences are designated as ... electroluminescence if the energy comes from the application of an electric field.

* * *

See *McGraw Hill Concise Encyclopedia of Science and Technology*, 6th Edition (2009) at 1361.

CBP also notes that an LED is considered an electroluminescent substance. See *Van Nostrand's Encyclopedia of Chemistry*, 5th Edition (2005) at 947, which defines the operation of LEDs:

Recombination or injection electroluminescence was first observed in 1923 by Lossev, who found that when point electrodes were placed on certain silicon carbide crystals and current passed through them, light was often emitted. Explanation of this emission has been possible only with the development of semiconductor theory. If minority charge carriers are injected into a semiconductor, i.e., electrons are injected into p-type material or “positive holes” into n-type material, they recombine spontaneously with the majority carriers existing in the material. If some of these recombinations result in the emission of radiation, electroluminescence results.

* * *

The subject light bulbs are “electroluminescent devices” as described above because passing electric current through it will generate light that cannot be attributed merely to its temperature. Furthermore, they are based on an “electroluminescent substance,” namely their internal light-emitting diodes.

Accordingly, the instant light bulbs are properly classified under heading 8543, HTSUS. They are therefore, pursuant to Note 1(f) to Chapter 94, HTSUS, excluded from classification in heading 9405, HTSUS. With regard to classification at the subheading level, the instant products are properly classified under subheading 8543.70.70, 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: Electric luminescent lamps”.¹

HOLDING:

By application of GRIs 1 and 6, the LED Light Bulbs identified by Item Nos. LED11E26BR4041K, LED17E26P3830KFLA, LED8E26A1950K, LED7GU10MR1630KNFL, and LDT3WH30K are classified under heading 8543, HTSUS, specifically in subheading 8543.70.70, 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: Electric luminescent lamps”. The column one, general rate of duty is 2% *ad valorem*.

Duty rates are provided for convenience only 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:

NY N233864, dated October 18, 2012, is hereby REVOKED. In accordance with 19 U.S.C. §1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



**PROPOSED REVOCATION AND MODIFICATION OF
SIXTY-SEVEN RULING LETTERS AND REVOCATION OF
TREATMENT RELATING TO THE CLASSIFICATION OF
CERTAIN TEXTILE COSTUMES**

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

¹ We note that this conclusion is consistent with a recent decision taken at the Harmonized System Committee (HSC) of the World Customs Organization (WCO). At the 52nd Session of the HSC, the Committee considered the classification of two LED lamps, one of which was described as an LED bulb in the standard shape of an ‘incandescent bulb,’ composed of several light emitting diodes inside of a plastic envelope, circuitry to rectify AC power and to convert voltage to a level useable by the LEDs, a heat sink and an Edison screw base. After an exchange of views, the HSC voted to reaffirm its previous decision to classify this product under heading 85.43.

ACTION: Proposed revocation and modification of sixty-seven classification ruling letters and revocation of treatment relating to the classification of certain textile costumes.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)), this notice advises interested parties that the Bureau of Customs and Border Protection (CBP) is proposing to revoke or modify sixty-seven ruling letters relating to the classification of certain textile costumes. CBP is also proposing to modify or revoke any treatment previously accorded by it to substantially identical merchandise.

DATES: Comments must be received on or before August 1, 2014.

ADDRESSES: Written comments are to be addressed to the Bureau of Customs and Border Protection, Office of International Trade, Regulations & Rulings, Attention: Trade and Commercial Regulations Branch, 90 K Street, 10th Floor, NE, Washington, D.C. 20229–1177. Submitted comments may be inspected at the offices of Customs and Border Protection, 90 K Street, 10th Floor, NE, Washington, D.C. 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: 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, this notice advises interested parties that CBP is proposing to revoke or modify sixty-five ruling letters pertaining to the classification of certain textile costumes, which are identified in "Attachment A". Attachment "A" includes New York Ruling Letter (NY) N027014, dated May 13, 2008. NY N027014 is set forth at Attachment "B". Although in this notice, CBP is specifically referring to the revocation or modification of the New York Ruling Letters listed in "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 the aforementioned rulings, CBP stated that certain textile costumes were classified in heading 9505, Harmonized Tariff Schedule of the United States (HTSUS), as festive articles. However, after carefully reviewing samples and photos representative of the textile costumes that were classified in heading 9505, HTSUS, and are listed in Attachment "A", CBP believes that these rulings were issued in error and contrary to established precedent. CBP has now determined that these costumes should have been excluded from classification in heading 9505, HTSUS, as "fancy dress" pursuant to Note 1(e), Chapter 95, HTSUS, and that these textile costumes are correctly classified as "wearing apparel" in Chapters 61 and 62, HTSUS.

The correct classification of the costumes which are the subject of the revoked and modified rulings shall be in accordance with the analyses set forth in proposed HQ H217715 set forth in Attachment

“C”. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP proposes to revoke any treatment previously accorded by CBP to substantially identical transactions.

In addition to the opportunity to provide CBP with comments, if importers are uncertain as to application of the criteria described in the classification of textile costumes in the remaining rulings listed in Attachment “A”, requests for tariff classification rulings should be addressed to:

Director, National Commodity Specialist Division
U.S. Customs and Border Protection
Attn: CIE/Ruling Request
One Penn Plaza-10th Floor
New York, NY 10119

the requirements for submission of electronic ruling requests can be found at:

<http://www.cbp.gov/xp/cgov/trade/legal/rulings/eRulingRequirements.xml>

Under 19 U.S.C. 1625(c) Customs is required to give notice of any proposed interpretive ruling that would modify or revoke a prior interpretive ruling. We have found two New York Ruling Letters, identified in “Attachment D”, which classified textile costumes as wearing apparel contrary to earlier New York Ruling Letters on identical merchandise. Therefore, we are revoking these rulings because they were issued without following the procedures set forth in 19 U.S.C. 1625(c). Although in this notice, CBP is specifically referring to the revocation of the New York Ruling Letters listed in “Attachment D”, this notice covers any other inconsistent 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.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is proposing to revoke or modify each of the rulings in Attachments “A”, “B” and “D”, and is proposing to revoke or modify any other ruling not specifically identified, which is not consistent with the analyses in Proposed Headquarters Ruling Letter H217715 (see “Attachment C” 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: June 10, 2014

Sincerely,
IEVA K. O'ROURKE
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

This list represents the CBP Rulings in which all costume classifications in Chapter 95, HTSUS, are hereby being revoked or modified to the extent that they are inconsistent with this Proposed Notice:

- (1) NY K83403, dated March 11, 2004
- (2) NY L81066, dated January 11, 2005
- (3) NY L82278, dated February 18, 2005
- (4) NY L82673, dated March 9, 2005
- (5) NY L84051, dated April 27, 2005
- (6) NY L84065, dated April 27, 2005
- (7) NY L84592, dated May 20, 2005
- (8) NY L86277, dated July 12, 2005
- (9) NY L86408, dated August 3, 2005
- (10) NY L86785, dated August 3, 2005
- (11) NY L88866, dated November 21, 2005
- (12) NY L89162, dated Dec. 19, 2005
- (13) NY L89639, dated January 3, 2006
- (14) NY M80259, dated February 8, 2006
- (15) NY M82564, dated April 20, 2006
- (16) NY M82555, dated April 24, 2006
- (17) NY M82557, dated April 25, 2006
- (18) NY M82870, dated April 25, 2006
- (19) NY M83049, dated May 3, 2006
- (20) NY M83412, dated May 16, 2006
- (21) NY M83459, dated May 17, 2006
- (22) NY M83583, dated May 22, 2006
- (23) NY M83609, dated May 22, 2006
- (24) NY M83667, dated May 23, 2006
- (25) NY M83566, dated May 26, 2006
- (26) NY M83567, dated May 26, 2006

- (27) NY M83296, dated June 2, 2006
- (28) NY M83801, dated June 2, 2006
- (29) NY M84006, dated June 6, 2006
- (30) NY M84061, dated June 7, 2006
- (31) NY M84056, dated June 9, 2006
- (32) NY M84062, dated June 9, 2006
- (33) NY M84282, dated June 16, 2006
- (34) NY M84306, dated June 22, 2006
- (35) NY M84605, dated June 27, 2006
- (36) NY N003786, dated December 4, 2006
- (37) NY N005598, dated January 22, 2007
- (38) NY N008032, dated March 12, 2007
- (39) NY N008367, dated March 19, 2007
- (40) NY N008669, dated March 26, 2007
- (41) NY N008745, dated March 27, 2007
- (42) NY N008373, dated March 30, 2007
- (43) NY N009114, dated April 17, 2007
- (44) NY N009115, dated April 17, 2007
- (45) NY N009917, dated April 23, 2007
- (46) NY N011304, dated May 21, 2007
- (47) NY N016963, dated September 13, 2007
- (48) NY N017888, dated October 3, 2007
- (49) NY N018623, dated October 23, 2007
- (50) NY N018979, dated November 6, 2007
- (51) NY N019574, dated November 13, 2007
- (52) NY N020170, dated November 30, 2007
- (53) NY N021727, dated January 11, 2008
- (54) NY N021728, dated January 11, 2008
- (55) NY N022634, dated February 6, 2008

- (56) NY N023081, dated February 14, 2008
- (57) NY N024183, dated March 6, 2008
- (58) NY N025200, dated March 28, 2008
- (59) NY N027005, dated May 1, 2008
- (60) NY N027014, dated May 13, 2008
- (61) NY N028720, dated May 21, 2008
- (62) NY N029295, dated June 5, 2008
- (63) NY N031058, dated June 18, 2008
- (64) NY N031081, dated July 16, 2008
- (65) NY N042615, dated October 28, 2008

[ATTACHMENT B]

N027014

May 13, 2008

CLA-2-95:OT:RR:NC:N2:225

CATEGORY: Classification

TARIFF NO.: 9505.90.6000

Ms. TRACY BECK

CREATIVE DESIGNS INTERNATIONAL, LTD.

2540 METROPOLITAN DRIVE

TREVOSE, PA 19053-6738

RE: The tariff classification of item numbers 62625, Disney Princess Cinderella Dress, 62785, Disney Princess Snow White Deluxe Dress, 62729, Disney Princess Snow White Deluxe Dress, 62459, Disney Princess Snow White Gem Dress, and item number 62728, Disney Princess Cinderella Dress, from China

DEAR Ms. BECK:

In your letter dated April 24, 2008, you requested a tariff classification ruling.

Item 62625, Disney Princess Cinderella Dress, is a flimsy textile costume comprised of a dress.

Item 62785, Disney Princess Snow White Deluxe Dress, is a flimsy textile costume comprised of a dress.

Item 62729, Disney Princess Snow White Deluxe Dress, is a flimsy textile costume comprised of a dress.

Item 62459, Disney Princess Snow White Gem Dress, is a flimsy textile costume comprised of a dress.

Item 62728, Disney Princess Cinderella Dress, is a flimsy textile costume comprised of a dress.

Although all of these styles have styling features and/or well-made embellishments, the preponderance of their elements is flimsy. The samples are being returned upon your request.

The applicable subheading for item numbers 62625, Disney Princess Cinderella Dress, 62785, Disney Princess Snow White Deluxe Dress, 62729, Disney Princess Snow White Deluxe Dress, 62459, Disney Princess Snow White Gem Dress, and item number 62728, Disney Princess Cinderella Dress, will be 9505.90.6000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Festive, carnival or other entertainment articles, including magic tricks and practical joke articles; parts and accessories thereof: 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/>.

Please note that separate Federal Trade Commission marking requirements exist regarding country of origin, fiber content, and other information that must appear on many textile items. You should contact the Federal Trade Commission, Division of Enforcement, 6th and Pennsylvania Avenue, N.W., Washington, D.C., 20580, for information on the applicability of these requirements to this item. Information can also be found at the FTC website www.ftc.gov (click on "For Business" and then on "Textile, Wool, Fur").

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 Wayne Kessler at 646-733-3026.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT C]

HQ H217715

CLA-2 OT:RR:CTF:TCM H217715 AS

CATEGORY: Classification

TARIFF NO.: 6204.43.4040

Ms. TRACEY BECK

CREATIVE DESIGNS INTERNATIONAL, LTD.

2540 METROPOLITAN DRIVE

TREVOSE, PA 19053-67338

RE: Classification of Textile Costumes; Revocation and Modification of NY N027014; NY K83403; NY L81066; NY L82278; NY L82673; NY L84051; NY L84065; NY L84592; NY L86277, NY L86408; NY L86785; NY L88866; NY L89162; NY L89639; NY M80259; NY M82564; NY M82555; NY M82557; NY M82870; NY M83049; NY M83412; NY M83459; NY M83583; NY M83609; NY M83667; NY M83566; NY M83567; NY M83296; NY M83801; NY M84006; NY M84061; NY M84056; NY M84062; NY M84282; NY M84306; NY M84605; NY N003786; NY N005598; NY N008032; NY N008367; NY N008669; NY N008745; NY N008373; NY N009114; NY N009115; NY N009917; NY N011304; NY N016963; NY N017888; NY N018623; NY N018979; NY N019574; NY N020170; NY N021727; NY N021728; NY N022634; NY N023081; NY N024183; NY N025200; NY N027005; NY N028720; NY N029295; NY N031058; NY N031081; NY N042615; NY N004139; and NY N075960

DEAR Ms. BECK:

This is in reference to New York Ruling Letter (NY) N027014, dated May 13, 2008, issued to you on behalf of Creative Designs International, LTD, concerning the tariff classification of certain Disney Princess Costumes under the Harmonized Tariff Schedule of the United States (HTSUS). In that ruling, U.S. Customs and Border Protection ("CBP") classified the merchandise in the provision for "Other" toys in subheading 9503.70.00, HTSUS. We have reviewed NY N027014 and found it to be incorrect.

For the reasons set forth below, we hereby revoke NY N027014, and 66 other rulings on substantially similar costumes:

NY K83403, dated March 11, 2004
NY L81066, dated January 11, 2005
NY L82278, dated February 18, 2005
NY L82673, dated March 9, 2005
NY L84051, dated April 27, 2005
NY L84065, dated April 27, 2005
NY L84592, dated May 20, 2005
NY L86277, dated July 12, 2005
NY L86408, dated August 3, 2005
NY L86785, dated August 3, 2005
NY L88866, dated November 21, 2005
NY L89162, dated Dec. 19, 2005
NY L89639, dated January 3, 2006
NY M80259, dated February 8, 2006
NY M82564, dated April 20, 2006
NY M82555, dated April 24, 2006
NY M82557, dated April 25, 2006

NY M82870, dated April 25, 2006
NY M83049, dated May 3, 2006
NY M83412, dated May 16, 2006
NY M83459, dated May 17, 2006
NY M83583, dated May 22, 2006
NY M83609, dated May 22, 2006
NY M83667, dated May 23, 2006
NY M83566, dated May 26, 2006
NY M83567, dated May 26, 2006
NY M83296, dated June 2, 2006
NY M83801, dated June 2, 2006
NY M84006, dated June 6, 2006
NY M84061, dated June 7, 2006
NY M84056, dated June 9, 2006
NY M84062, dated June 9, 2006
NY M84282, dated June 16, 2006
NY M84306, dated June 22, 2006
NY M84605, dated June 27, 2006
NY N003786, dated December 4, 2006
* NY N004139, dated December 22, 2006
NY N005598, dated January 22, 2007
NY N008032, dated March 12, 2007
NY N008367, dated March 19, 2007
NY N008669, dated March 26, 2007
NY N008745, dated March 27, 2007
NY N008373, dated March 30, 2007
NY N009114, dated April 17, 2007
NY N009115, dated April 17, 2007
NY N009917, dated April 23, 2007
NY N011304, dated May 21, 2007
NY N016963, dated September 13, 2007
NY N017888, dated October 3, 2007
NY N018623, dated October 23, 2007
NY N018979, dated November 6, 2007
NY N019574, dated November 13, 2007
NY N020170, dated November 30, 2007
NY N021727, dated January 11, 2008
NY N021728, dated January 11, 2008
NY N022634, dated February 6, 2008
NY N023081, dated February 14, 2008
NY N024183, dated March 6, 2008
NY N025200, dated March 28, 2008
NY N027005, dated May 1, 2008
NY N028720, dated May 21, 2008
NY N029295, dated June 5, 2008
NY N031058, dated June 18, 2008
NY N031081, dated July 16, 2008
NY N042615, dated October 28, 2008
* NY N075960, dated September 30, 2009

*Denotes rulings that are being revoked because they were issued without following the provisions of 19 U.S.C. Section 1625.

FACTS:

NY N027014, dated May 13, 2008, classified Disney Princess costumes and Deluxe Disney Princess costumes, which were specifically identified as follows:

- Disney Princess Cinderella Dress (Item 62625);
- Disney Princess Snow White Deluxe Dress (Item 62785);
- Disney Princess Snow White Deluxe Dress (Item 62729);
- Disney Princess Snow White Gem Dress (62459);
- Disney Princess Cinderella Dress (Item 62728).

We have examined a sample of the Disney Princess Snow White Deluxe Dress (Item 62729), which is representative of the Disney Princess and Deluxe Disney Princess costumes that are the subject of this ruling. The sample is described below.

Bodice

The Disney Princess Snow White dress has a bodice that is constructed of three seamed panels in the front and two panels in the back. The front center panel is comprised of woven red satin fabric overlaid with a second sheer woven red fabric that has a raised embroidered (sewn) floral design and gold glitter dot embellished fabric. The front side panels are comprised of blue knit fabric with short raised pile giving it the characteristic of a velvet material that extends to the shoulder seam. The center seams on the bodice have been embellished with ornate gold trim comprised of gold sequins and two types of gold cording firmly sewn to the seam and extending from the waist to the shoulder seam. The neckline of the front bodice has been finished with overlock stitching to secure the red fabric panel at the neck edge. The blue velvet side panels, which extend to the shoulder seam, have been finished with overlock stitching. A gold braid has been sewn to the top edge of the neckline which runs the length of the red panel and this same gold braid has been sewn to the front of the waist seam so it enhances the “v” shape at the center of the waistline. A clear plastic oval shaped brooch, approximately 1 ½ inches tall, has been securely sewn to the center of the bodice at the top edge of the red panel by means of a sewn elastic loop which threads through the raised backing of the brooch. The brooch has been printed with a decorative border and color image of the animated Snow White character. The clear plastic brooch has been sealed to a plastic backing having gold glitter which shines through as the backdrop to the colorful image of Snow white. The back of the bodice has been constructed of two blue knit panels having overlock stitching on the edges and two sewn hook and loop closures at the interior edge of each panel. A ruffled/pleated woven fabric forms a stand-up detachable collar consisting of sheer iridescent white fabric that has been folded over and secured at the raw edge with overlock stitching. A hook and loop tab has been sewn at each end which is designed to attach to the hook and loop tab sewn at the inside of each shoulder panel. Thus, the 3 inch standing collar begins at the front shoulders and extends behind the head of the wearer in a single panel of fabric.

Sleeves

The short puffed sleeves are constructed of woven red satin fabric embellished with six blue woven satin strips (approx. 1 inch wide) that extend from

lower edge to top shoulder seam. The blue satin strips have been applied to the red puffed sleeves and embellished at each side with contrasting yellow overlock stitching at the edges. Each puffed sleeve has been edged with a ½ inch strip of the same blue knit velvet fabric that was used on the bodice. This forms another seam at the lower edge of the red puffed sleeve which has been embellished by a sewn gold braid which completely encircles the seam. A red satin bow has been sewn to the knit blue velvet edge of each puffed sleeve.

Skirt

The voluminous circular skirt is comprised of three layers of fabric. The top layer consists of woven gold iridescent fabric with a gold glitter dot swirl pattern in the front and woven iridescent yellow fabric at the back. The top layer of the skirt has been finished with overlock stitching at the lower edge. The front top layer of the skirt has also been embellished with three sewn gathers at the front lower edge which have a red satin bow sewn to each gather. The second layer of the skirt consists of a woven yellow satin fabric that has a gathered 7 1/2 inch iridescent woven sheer yellow gathered fabric panel sewn to the bottom of the skirt. This gathered panel of fabric is designed to be exposed at the front of the dress as it extends directly below the three raised, gathered motifs with red satin bows. The innermost skirt layer consists of white netting that has a raw edge at the lower hem. The net fabric gives additional volume and lift to the skirt. The voluminous skirt is gathered at the waist and securely sewn to the bodice. It is noted that the interior fabric edges converging at the waist received additional overlock stitching or straight stitch (white netting) for added durability at the waistline (except for the two knit blue velvet bodice panels which were left with raw edges at the interior seam).

ISSUE:

What is the correct classification for the merchandise?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) 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 following HTSUSA provisions are under consideration:

6204	Women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, breeches and shorts (Other than swimwear):
	Dresses:
6204.43	Of synthetic fibers:
	Other:
6204.43.40	Other
6204.43.4040	Girls'

9505	Festive, carnival or other entertainment articles, including magic tricks and practical joke articles; parts and accessories thereof:
9505.90	Other:
9505.90.6000	Other

In *Rubie's Costume Company v. United States*, 337 F.3d 1350 (Fed. Cir. 2003) (*Rubie's Costume Co.*), the Court of Appeals for the Federal Circuit (CAFC) determined that certain textile costumes are excluded from classification in Chapter 95, HTSUS, pursuant to Note 1(e), Chapter 95, HTSUS, which states that:

1. This chapter does not cover:

* * *

(e) Sports clothing or fancy dress, of textiles, of chapter 61 or 62; ...

With regard to “fancy dress” of Note 1(e), Chapter 95, HTSUS, the CAFC noted:

Because the HTSUS offers no definition for the term ‘fancy dress,’ the Court of International Trade correctly consulted the common (dictionary) meaning of the term. *See E.M. Chems. v. United States*, 920 F.2d 910, 913 (Fed. Cir. 1990). As the Court of International Trade found, the relevant definition of ‘fancy dress’ is ‘a costume (as for a masquerade or party) departing from conventional style and usu[ally] representing a fictional or historical character, an animal, the fancy of the wearer, or a particular occupation.’ *Rubie's Costume Co. v. United States*, 196 F. Supp. 2d 1320, 1327 (Ct. Int'l Trade 2002) (citing *Webster's Third New International Dictionary* 822 (1986)). That the term ‘fancy dress,’ as found by the Court of International Trade, includes costumes is plain enough; however, a reading of the exclusion in Note 1(e) to Chapter 95, HTSUS, that focuses solely on the term ‘fancy dress’ and turns a blind eye to the immediately following words ‘of textiles, of chapter 61 or 62’ construes the term fancy dress in disregard of the context of the exclusion as a whole ... Thus, based on the common meaning of ‘fancy dress’ and the ensuing language in Note 1(e), this court concludes that the exclusion to Chapter 95, HTSUS, encompasses textile costumes that are classifiable as ‘wearing apparel’ under Chapter 61 or 62. *Id.* at 1356–1357.

In *Rubie's Costume Co.*, the CAFC set forth a multi-prong test to determine whether a textile costume is “fancy dress” which would be excluded from classification in Chapter 95, HTSUS, pursuant to Note 1(e). *See* 337 F.3d at 1357–1358. The CAFC affirmed CBP’s decision in HQ 961447, dated July 22, 1998, (which affirmed HQ 959545, dated June 2, 1997), which responded to a domestic interested party petition filed pursuant to Section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516) and Title 19 Code of Federal Regulations Section 175.1 (19 C.F.R. 175.1). In HQ 959545, CBP classified one textile costume, identified as the “Cute and Cuddly Clown” (No. 11594), as a normal article of wearing apparel classifiable in heading 6209, HTSUS, because it was well-constructed and had a substantial amount of “finishing work”, i.e., sewing used to construct, tailor, or finish the article. The “Cute and Cuddly Clown” garment, which featured a durable neckline with two

seams and no raw edges on the article, was classified in the provision for “Babies’ garments and clothing accessories . . .” under subheading 6209.30.3040, Harmonized Tariff Schedule of the United States Annotated (HTSUSA). In concurring with CBP’s decision in HQ 961447, the CAFC held that wearing apparel is identified by “such factors as the extent of styling features such as zippers, inset panels, darts or hoops, and whether the edges of the materials [are] left raw or finished.” *Rubie’s Costume Co.*, 337 F.3d at 1357–1358. Conversely, the CAFC stated that “textile costumes of a flimsy nature and construction, lacking in durability, and generally recognized as not being normal articles of apparel,” are classified in heading 9505, HTSUS. *Id. at 1360*. Thus, the CAFC asserted that the tariff classification of a festive costume depends upon this multi-prong test.

CBP has well-established precedent on the classification of textile costumes set forth in numerous Headquarters Rulings Letters (HQ) which identify styling, construction, finishing touches, and embellishments features that CBP has used to determine whether or not a textile costume is excluded from Chapter 95, HTSUS, as “fancy dress”: HQ 957973, August 14, 1995; HQ 958049, August 21, 1995; HQ 958061, dated October 3, 1995; HQ 957952, May 7, 1996; HQ 959545, June 2, 1997; HQ 959064, June 19, 1997; HQ 960805, August 22, 1997; HQ 960107, October 10, 1997; HQ 961447, July 22, 1998; HQ 957705, July 30, 1998; HQ 962081, November 25, 1998; HQ 962184, November 25, 1998; HQ 962441, March 26, 1999; HQ 962232, November 9, 2000; HQ 964623, March 1, 2001; HQ 965455, April 18, 2002; HQ W967728, September 28, 2006; W967834, June 22, 2007; HQ H040032, March 10, 2009; HQ H046715, dated March 16, 2009; HQ H052560, dated June 3, 2009; HQ H126876, dated June 26, 2012; HQ H105997, dated September 4, 2012; and HQ H237067, dated June 20, 2013.

Guidance with respect to the features and characteristics used to distinguish between textile costumes classified as “Festive articles” of Chapter 95, HTSUSA, and “fancy dress” of Chapters 61 or 62, HTSUSA, is set forth in great detail in the CBP Informed Compliance Publication, *What Every Member of the Trade Community Should Know About: Textile Costumes under the HTSUS* (June 2008) (the ICP).¹ As noted in this publication, in our decisions, we generally consider four areas in making classification determinations for textile costumes, i.e., “Styling”, “Construction”, “Finishing Touches”, and “Embellishments”.

I. Styling

The subject article has abundant styling features which include a bodice that is constructed of multiple panels, puff sleeves, and a voluminous skirt. This costume is designed with a skirt that is constructed of three layers of fabric employing four different types of fabric to achieve an extravagantly full and ornate appearance. The top layer of fabric displays three sewn gathers on the lower hem at the front of the skirt. These three gathers have been precisely designed to reveal a sheer iridescent gathered panel sewn to the satin under-layer of the skirt. In addition, the ornate puffed red satin sleeve with applied blue satin strips has a substantial velvet trim edging. The unique detachable collar has been constructed of sheer white iridescent fabric

¹ ICP available at http://www.cbp.gov/xp/cgov/trade/legal/informed_compliance_pubs/

that has been embellished with a permanent folded pleat that allows the fabric to stand upright. Overall, the abundant styling features of this costume demonstrate that it is well-made.

II. Construction

The construction at the neck, waist, and seams is of a tight and uniform gauge at the neck, waist, edges, hems, and interior seams. In addition, the fabric edges converging at the waist received additional overlock stitching or a straight stitch for added durability at the waistline (except for the two knit blue velvet bodice panels which were left with raw edges at the interior seam). Overall, the quality of construction with respect to gauge or tightness of stitches/seams and the enhanced stitching of edges for fabric panels being joined at the waist are indicative of a well-made article that is designed for durability.

III. Finishing Touches

While this article has a hook and loop closure and thin $\frac{1}{4}$ inch elastics at the waist and lower edge of the sleeves, the hook and loop tabs and elastics have all been securely sewn to the fabric with a tight, uniform stitch. Furthermore, the edges/hems have been made durable with overlock stitching. The detachable collar features a turned edge at the exposed edge of the fabric which is typical of a well-made article. With the single exception of the hook and loop closure, all the finishing touches on this article feature well-made stitching, seams, and a turned edge on the collar.

IV. Embellishments

This is a highly embellished costume with ornate gold sequined trim at the two front seams of the bodice. There is matching gold braid at the waist, neck, and sleeves. In addition, the dress features six blue satin stripes which have been sewn using contrasting overlock stitching for embellishment to the red satin sleeves. Red satin bows are sewn to each sleeve and three more red satin bows are sewn to the front of the dress. The costume also features a single elaborate embellishment, i.e., a $1\frac{1}{2}$ inch long, plastic oval brooch, depicting Snow White, which has been sewn to the top edge of the bodice. This costume is highly embellished and every embellishment on this costume is securely sewn and well-made.

V. Conclusion

Finally, the ICP notes that it is important to consider the *garment as a whole*. This is accomplished by considering whether or not it is reasonable to conclude that the subject merchandise is a normal article of wearing apparel. Normal articles of apparel are usually designed for multiple wear and cleaning. Thus, it is necessary to assess the type of fabric used and the appropriateness of finishing elements for that fabric. In this instance, all the edges have been finished with stitching except for the net fabric sewn under the skirt to give the dress volume. However, certain fabrics, such as netting, tightly knit/woven fabrics, or treated fabrics, may be very durable even with a raw edge. On occasion, a raw edge is intended to enhance the styling features on a costume. The net fabric on the subject article resists fraying.

Therefore, if the costume is comparable to a normal article of wearing apparel, it is classified in Chapter 61 or 62, HTSUSA.

It is clear that the five costumes now in question have been designed and constructed as wearing apparel for repetitive use given the elaborate styling features and durable construction. It is the conclusion of CBP, based on the above discussion, that all five of the subject textile costumes are provided for as “well-made” articles of wearing apparel in heading 6204, HTSUSA.

HOLDING:

Under the authority of GRI 1, the subject merchandise, which you have identified as the “Disney Princess Cinderella Dress” (Item 62625), “Disney Princess Snow White Deluxe Dress” (Item 62785), “Disney Princess Snow White Deluxe Dress” (Item 62729), “Disney Princess Snow White Gem Dress” (Item 62459), and “Disney Princess Cinderella Dress” (Item 62728) are correctly classified in 6204.43.4040, 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): Dresses: Of synthetic fiber: Other: Other...Other: Girls.” The rate of duty is 16 percent ad valorem.

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

EFFECT ON OTHER RULINGS:

NY N072014, dated May 13, 2008, is REVOKED.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

[ATTACHMENT D]

The following rulings are inconsistent with earlier rulings (noted in parentheses) and were issued contrary to 19 U.S.C. 1625(c).

1. NY N004139, dated December 22, 2006 (NY L81066, dated January 11, 2005)
2. NY N075960, dated September 30, 2009 (NY N008032, dated March 12, 2007)

**ACCREDITATION AND APPROVAL OF INTERTEK USA,
INC., AS A COMMERCIAL GAUGER AND LABORATORY**

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

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc., has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes for the next three years as of November 21, 2013.

DATES: *Effective Dates:* The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on November 21, 2013. The next triennial inspection date will be scheduled for November 2016.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 725 Oakridge Dr., Romeoville, IL 60446, has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Intertek USA, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

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

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

CBPL No.	ASTM	Title
27-01.....	ASTM D-287	Standard Test Method for API Gravity of crude Petroleum and Petroleum Products (Hydrometer Method).
27-02.....	ASTM D-1298	Standard Practice for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Meter.
27-03.....	ASTM D-4006	Standard Test Method for Water in Crude Oil by Distillation.
27-04.....	ASTM D-95	Standard test method for water in petroleum products and bituminous materials by distillation.
27-05.....	ASTM D-4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27-06.....	ASTM D-473	Standard test method for sediment in crude oils and fuel oils by the extraction method.
27-08.....	ASTM D-86	Standard test method for distillation of petroleum products.
27-11.....	ASTM D-445	Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity).
27-13.....	ASTM D-4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27-46.....	ASTM D-5002	Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer.
27-48.....	ASTM D-4052	Standard test method for density and relative density of liquids by digital density meter.
27-54.....	ASTM D-1796	Standard test method for water and sediment in fuel oils by the centrifuge method (Laboratory procedure).
27-58.....	ASTM D-5191	Standard Test Method For Vapor Pressure of Petroleum Products.

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

http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf

Dated: June 11, 2014.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, June 19, 2014 (79 FR 35181)]

**ACCREDITATION AND APPROVAL OF INTERTEK USA,
INC., AS A COMMERCIAL LABORATORY**

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

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc., has been accredited to test petroleum and petroleum products for customs purposes for the next three years as of October 30, 2013.

DATES: *Effective Dates:* The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on October 30, 2013. The next triennial inspection date will be scheduled for October 2016.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12, that Intertek USA, Inc., 1114 Seaco Dr., Deer Park, TX 77536, has been accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12. Intertek USA, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01.....	ASTM D-287	Standard Test Method for API Gravity of crude Petroleum and Petroleum Products (Hydrometer Method).

CBPL No.	ASTM	Title
27-02.....	ASTM D-1298	Standard Practice for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Meter.
27-03.....	ASTM D-4006	Standard Test Method for Water in Crude Oil by Distillation.
27-04.....	ASTM D-95	Standard test method for water in petroleum products and bituminous materials by distillation.
27-05.....	ASTM D-4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27-06.....	ASTM D-473	Standard test method for sediment in crude oils and fuel oils by the extraction method.
27-07.....	ASTM D-4807	Standard test method for sediment in crude oil by membrane filtration.
27-08.....	ASTM D-86	Standard test method for distillation of petroleum products.
27-10.....	ASTM D-323	Standard test method for vapor pressure of petroleum products. (Reid Method).
27-11.....	ASTM D-445	Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity).
27-13.....	ASTM D-4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27-14.....	ASTM D-2622	Standard test method for sulfur in petroleum products(X-Ray Spectrographic Methods).
27-46.....	ASTM D-5002	Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer.
27-48.....	ASTM D-4052	Standard test method for density and relative density of liquids by digital density meter.
27-54.....	ASTM D-1796	Standard test method for water and sediment in fuel oils by the centrifuge method (Laboratory procedure).

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

http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf

Dated: June 11, 2014.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, June 19, 2014 (79 FR 35182)]

**ACCREDITATION AND APPROVAL OF INTERTEK USA,
INC., AS A COMMERCIAL GAUGER AND LABORATORY**

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

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of January, 2014.

DATES: *Effective Dates:* The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on January 14, 2014. The next triennial inspection date will be scheduled for January 2017.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 2780 Highway 69N, Nederland, TX 77627, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Intertek USA, Inc. is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
7	Temperature determination.

API Chapters	Title
8	Sampling.
12	Calculations.
17	Maritime measurement.

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

CBPL No.	ASTM	Title
27-01.....	ASTM D-287	Standard test method for API gravity of crude Petroleum & Petroleum products (Hydrometer Method).
27-48.....	ASTM D-4052	Standard test method for density and relative density of liquids by digital density meter.
27-13.....	ASTM D-4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27-04.....	ASTM D-95	Standard test method for water in petroleum products and bituminous materials by distillation.
27-46.....	ASTM D-5002	Standard test method for density and relative density.
27-08.....	ASTM D-86	Standard test method for distillation of petroleum products at atmospheric pressure.
27-11.....	ASTM D-445	Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity).
27-58.....	ASTM D-5191	Standard test method for Vapor pressure of Petroleum products (Mini Method).
27-53.....	ASTM D-2709	Standard test method for water and sediment in middle distillate fuels by centrifuge.
27-06.....	ASTM D-473	Standard test method for sediment in crude oils and fuel oils by the extraction method.
27-50.....	ASTM D-93	Standard test methods for flash point by Penske-Martens Closed Cup Tester.
27-05.....	ASTM D-4928	Standard test method for water in crude oils by Coulometric Karl Fischer Titration.
27-10.....	ASTM D-323	Standard test method for vapor pressure of petroleum products (Reid Method).
27-03.....	ASTM D-4006	Standard test method for water in crude oils by distillation.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S.

Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

<http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>

Dated: June 11, 2014.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, June 19, 2014 (79 FR 35178)]



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

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

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

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Saybolt, LP, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of February 19, 2014.

DATES: *Effective Dates:* The accreditation and approval Saybolt, LP, as commercial gauger and laboratory became effective on February 19, 2014. The next triennial inspection date will be scheduled for February 2017.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Saybolt, LP, 414 Westchester Dr., Corpus Christi, TX 78469, has been approved

to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Saybolt, LP is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
12	Calculations.
17	Maritime measurement.

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

CBPL No.	ASTM	Title
27-05.....	ASTM D-4928	Standard test method for water in crude oils by coulometric Karl Fischer Titration.
27-13.....	ASTM D-4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27-04.....	ASTM D-95	Standard test method for water in petroleum products and bituminous materials by distillation.
27-46.....	ASTM D-5002	Standard test method for density and relative density.
27-08.....	ASTM D-86	Standard test method for distillation of petroleum products at atmospheric pressure.
27-11.....	ASTM D-445	Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity).
27-58.....	ASTM D-5191	Standard test method for Vapor pressure of Petroleum products (Mini Method).
27-06.....	ASTM D-473	Standard test method for sediment in crude oils and fuel oils by the extraction method.
27-50.....	ASTM D-93	Standard test methods for flash point by Penske-Martens Closed Cup Tester.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test

or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

<http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>

Dated: June 11, 2014.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, June 19, 2014 (79 FR 35178)]



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

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

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

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec Services, LLC, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of February 20, 2014.

DATES: *Effective Dates:* The accreditation and approval of AmSpec Services, LLC, as commercial gauger and laboratory became effective on February 20, 2014. The next triennial inspection date will be scheduled for February 2017.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that AmSpec Services, LLC, 1906 Suntime Rd, Corpus Christi, TX 78409, has been approved to gauge petroleum and certain petroleum products

and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. AmSpec Services, LLC is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
12	Calculations.
17	Maritime measurement.

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

CBPL No.	ASTM	Title
27-01.....	D-287	API gravity of crude petroleum and petroleum products (hydrometer method).
27-02.....	D-1298	Density, Relative density, or API gravity of crude petroleum and liquid petroleum products by hydrometer meter.
27-48.....	D-4052	Density and Relative density of liquids by digital density meter.
27-05.....	D-4928	Water in crude oils by coulometric Karl Fishcher Titration.
27-04.....	D-95	Water in Petroleum products and bituminous materials by distillation.
27-03.....	D-4006	Water in crude oil by distillation.
27-06.....	D-473	Sediment in crude oils and fuel oils by extraction method.
27-13.....	D-4294	Sulfur in petroleum and petroleum products by energy-dispersive X-ray fluorescence spectrometer.
27-14.....	D-2622	Test method for sulfur in petroleum products (X-ray spectrographic methods).

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

(202) 344–1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

<http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>

Dated: June 11, 2014.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, June 19, 2014 (79 FR 35181)]



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

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

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

SUMMARY: Notice is hereby given, pursuant to CBP regulations, Saybolt, LP has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of March 13, 2014.

DATES: *Effective Dates:* The accreditation and approval Saybolt, LP as commercial gauger and laboratory became effective on March 13, 2014. The next triennial inspection date will be scheduled for March 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, Saybolt, LP, 4144 N. Twin City Highway, Nederland, TX 77627, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Saybolt, LP is approved for the following gauging

procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
12	Calculations.
17	Maritime measurement.

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

CBPL No.	ASTM	Title
27-05.....	ASTM D-4928	Standard test method for water in crude oils by coulometric Karl Fischer Titration.
27-13.....	ASTM D-4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27-04.....	ASTM D-95	Standard test method for water in petroleum products and bituminous materials by distillation.
27-46.....	ASTM D-5002	Standard test method for density and relative density.
27-08.....	ASTM D-86	Standard test method for distillation of petroleum products at atmospheric pressure.
27-11.....	ASTM D-445	Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity).
27-58.....	ASTM D-5191	Standard test method for Vapor pressure of Petroleum products (Mini Method).
27-06.....	ASTM D-473	Standard test method for sediment in crude oils and fuel oils by the extraction method.
27-50.....	ASTM D-93	Standard test methods for flash point by Penske-Martens Closed Cup Tester.
27-01.....	ASTM D-287	Standard test method for API Gravity of crude Petroleum Products (Hydrometer Method).
27-03.....	ASTM D-4006	Standard test method for water in crude oil by distillation.
27-48.....	ASTM D-4052	Standard test method for Density of liquids by digital density meter.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S.

Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

<http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>

Dated: June 11, 2014.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, June 19, 2014 (79 FR 35180)]



ACCREDITATION AND APPROVAL OF SGS NORTH AMERICA, INC., AS A COMMERCIAL GAUGER AND LABORATORY

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

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

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc., has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes for the next three years as of September 12, 2013.

DATES: *Effective Dates:* The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on September 12, 2013. The next triennial inspection date will be scheduled for September 2016.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that SGS North America, Inc., 8985 Columbia Rd., Port Canaveral, FL 32920, has

been approved to gauge and accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. SGS North America, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

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

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

CBPL No.	ASTM	Title
27-04.....	ASTM D-95	Standard test method for water in petroleum products and bituminous materials by distillation.
27-06.....	ASTM D-473	Standard test method for sediment in crude oils and fuel oils by the extraction method.
27-08.....	ASTM D-473	Standard test method for distillation of petroleum products.
27-11.....	ASTM D-445	Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity).
27-13.....	ASTM D-4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27-14.....	ASTM D-2622	Standard Test Method for Sulfur in Petroleum Products (X-Ray Spectrographic Methods).
27-48.....	ASTM D-4052	Standard test method for density and relative density of liquids by digital density meter.
27-54.....	ASTM D-1796	Standard test method for water and sediment in fuel oils by the centrifuge method (Laboratory procedure).
27-58.....	ASTM D-5191	Standard Test Method For Vapor Pressure of Petroleum Products.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assur-

ances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf

Dated: June 11, 2014.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, June 19, 2014 (79 FR 35179)]



GRANT OF “LEVER-RULE” PROTECTION

AGENCY: Customs & Border Protection, Department of Homeland Security.

ACTION: Notice of grant of “Lever-rule” protection.

SUMMARY: Pursuant to 19 CFR §133.2(f), this notice advises interested parties that Customs & Border Protection (“CBP”) has granted “Lever-rule” protection to Philip Stein Holding, Inc. company with respect to certain watch products bearing the PHILIP STEIN trademark recorded with CBP as TMK 13-00224/ U.S. Trademark Registration No. 3187112. Notice of the receipt of an application for “Lever-rule” protection was published in the April 2, 2014 issue of the *Customs Bulletin, U.S. Bureau of Customs & Border Protection Bulletin*, General Notices, 48 Cust. B. & April. No. 13.

FOR FURTHER INFORMATION CONTACT: John Rhea, Intellectual Property Rights Branch, Regulations & Rulings, Office of International Trade (202) 325-0035.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In accordance with 19 CFR §133.23(a)(3), CBP has determined that certain watches bearing the PHILIP STEIN trademark are physically and materially different from the PHILIP STEIN watches authorized by Philip Stein Holding, Inc. for importation into the United States. Specifically, CBP has determined that the above-referenced gray mar-

ket products differ from those authorized for importation in the United States in one or more of the following respects: they lack a diamond Certificate (certifying that the diamonds are certified non-conflict diamonds pursuant to Section 1502 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*; lack a U.S. dealer stamped Warranty Card; and lack a U.S. issued Natural Frequency Technology Card (“NFT”). Accordingly, TMK 13–00224 is eligible and approved for “*Lever-rule*” protection.

ENFORCEMENT

The PHILIP STEIN watches not authorized for importation into the United States shall be denied entry and subject to detention as provided for in 19 CFR §133.25, unless a label in compliance with 19 CFR §133.23(b) is applied to the goods.

Dated: June 12, 2014

CHARLES R. STEUART, CHIEF
Intellectual Property Rights Branch
Regulations & Rulings
Office of International Trade