

# U.S. Customs and Border Protection



## 19 CFR PART 177

### **REVOCATION OF FOUR RULING LETTERS AND PROPOSED REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF CERTAIN HEARING AMPLIFICATION DEVICES**

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

**ACTION:** Notice of revocation of four ruling letters, and proposed revocation of treatment relating to the tariff classification of certain hearing amplification devices.

**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 four ruling letters concerning tariff classification of certain hearing amplification devices under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 58, No. 32, on August 14, 2024. No comments were received in response to that notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 9, 2024.

**FOR FURTHER INFORMATION CONTACT:** Julio Ruiz-Gomez, Electronics, Machinery, Automotive and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0736.

**SUPPLEMENTARY INFORMATION:****BACKGROUND**

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

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 58, No. 32, on August 14, 2024, proposing to revoke four ruling letters pertaining to the classification of certain hearing amplification devices. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 16 25(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this notice.

In New York Ruling Letters ("NY") N283085, N166443, N025447, and D80822, CBP classified certain hearing amplification devices in heading 9021, HTSUS, specifically in subheading 9021.40.00, HTSUS, which provides for "Orthopedic appliances, including crutches, surgical belts and trusses; splints and other fracture appliances; artificial parts of the body; hearing aids and other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability; parts and accessories thereof: Hearing Aids, excluding parts and accessories thereof." CBP has reviewed NY N283085, NY N166443, NY N025447, and NY D80822 and has determined the ruling letters to be in error. It is now CBP's position that these hearing amplification devices are properly classified, in heading

8518, HTSUS, specifically in subheading 8518.30.20, HTSUS, which provides for “Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N283085, NY N166443, NY N025447, and NY D80822 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter H313006, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

GREGORY CONNOR  
*for*

YULIYA A. GULIS,  
*Director*

*Commercial and Trade Facilitation Division*

*Attachment*

HQ H313006

September 24, 2024

OT:RR:CTF:EMAIN H313006 JRG

CATEGORY: Classification

TARIFF NO.: 8518.30.20

MR. DAVID PRATA  
GEODIS USA FREIGHT FORWARDING  
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Re: Revocation of New York Ruling Letter (NY) N283085, NY N166443, NY N025447, and NY D80822

DEAR MR. PRATA:

This is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered New York Ruling Letter (NY) N283085, dated February 28, 2017, regarding the classification of a “Hearing Amplifier Kit.” Additionally, we have also reconsidered NY N166443<sup>1</sup>, N025447<sup>2</sup>, and D80822<sup>3</sup>, all of which deal with the classification of certain hearing amplification devices.

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. No. 103–182, 107 Stat. 2057, 2186 (1993), notice of the proposed action was published on August 14, 2024, in Volume 58, Number 32, of the *Customs Bulletin*. No comments were received in response to this notice.

**FACTS:**

In NY N283085, your product is briefly described as follows:

...a retail-ready kit, comprised of a sound amplifier, three plastic earplugs in different sizes, a spare battery, and a plastic storage case. This product is intended to be worn as an in-ear sound amplification device.

In N166443, the Personal Sound Amplifier, is described as an earpiece with an on/off switch, volume button to switch between three sound settings, a microphone to pick up sounds in the user’s immediate surroundings, a tube to carry the audio from the earpiece directly into the ear, a tube connector which attaches the tube to the earpiece, and the dome, which fits securely in the ear, similar to an earbud. We note that the Personal Sound Amplifier does not require a prescription or a hearing test for purchase and is not sold or intended for use as a hearing aid for FDA (Food & Drug Administration) purposes. The PockeTalkers classified in N025447 include a variety of models. In essence, they are described as personal sound amplifiers that consist of an amplifier, batteries, microphone, ear bud, and folding headphones. Finally, the Assistive Listening Device in NY D80822 is described as a device that consists of a small microphone and amplifier with a volume control that

<sup>1</sup> N166443, dated May 31, 2011, classified a Personal Sound Amplifier under subheading 9021.40.00, HTSUS.

<sup>2</sup> N025447, dated April 18, 2008, classified products referred to as “PockeTalkers” under subheading 9021.40.00, HTSUS.

<sup>3</sup> D80822, dated August 11, 1998, classified an Assistive Listening Device under subheading 9021.40.00, HTSUS.

rests in the ear. The unit is designed to enhance listening and hearing in conversation or in group activities. It does not require a special prescription from an audiologist or hearing aid specialist. It is sold at retail in pharmacies or via direct advertising.

The above referenced rulings describe the subject merchandise as “amplifying” sound to the extent that all of the subject articles are indeed designed to increase the volume of sounds for the user. However, we understand that in their condition as imported, the subject products are in the form of a headphone or earphone that feature, in addition to an “amplifier”, feature at least a microphone.

**ISSUE:**

Whether the hearing amplification devices are classified as other headphones and earphones of heading 8518, HTSUS, or hearing aids of heading 9021, HTSUS.

**LAW AND ANALYSIS:**

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

General Rule of Interpretation 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 Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUS provisions under consideration are:

- 8518                      Microphones and stands therefor; loudspeakers, whether or not mounted in their enclosures; headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers; audio-frequency electric amplifiers; electric sound amplifier sets; parts thereof:
- 8518.30                      Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers:
- 8518.30.20                      Other
  - \*                      \*                      \*

9021 Orthopedic appliances, including crutches, surgical belts and trusses; splints and other fracture appliances; artificial parts of the body; hearing aids and other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability; parts and accessories thereof:

9021.40 Hearing aids, excluding parts and accessories thereof

Note 1(m) to Section XVI states that the Section does not cover articles of Chapter 90. As such, we must first determine whether the hearing amplifiers at issue are goods of Chapter 90. Additionally, the EN to Chapter 85 states that the heading excludes hearing aids of heading 9021, HTSUS.

Heading 9021, HTSUS, provides for, *inter alia*, hearing aids and other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability. The term “hearing aids” is not defined in the legal texts of the HTSUS. A tariff term that is not defined in the HTSUS is construed in accordance with its common and commercial meaning. *Nippon Kogaku (USA), Inc. v. United States*, 69 CCPA 89, 673 F.2d 380 (1982). Common and commercial meaning may be determined by consulting dictionaries, lexicons, scientific authorities and other reliable sources. *C.J. Tower & Sons v. United States*, 69 CCPA 128, 673 F.2d 1268 (1982). Further, the EN to heading 9021, HTSUS, provides guidance. Part IV of the EN, titled “Hearing Aids” gives a brief technical description of the products, i.e., that they are generally electrical appliances with a circuit containing one or more microphones (with or without amplifier), a receiver and a battery. The receiver may be worn internally or behind the ear, or it may be designed to be held in the hand against the ear. Additionally, the EN states that hearing aids of heading 9021, HTSUS, are *restricted* to appliances for *overcoming deafness* (emphasis added). It goes on to explain that certain devices, such as headphones, amplifiers and the like used in conference rooms or by telephonists to improve the audibility of speech are excluded from heading 9021, HTSUS. This is not an exhaustive list of excluded devices.

The Online Webster Dictionary defines a “defect” as an imperfection or abnormality that impairs quality, function, or utility.<sup>4</sup> It defines a “disability” as a physical, mental, cognitive, or developmental condition that impairs, interferes with, or limits a person’s ability to engage in certain tasks or actions or participate in typical daily activities and interactions.<sup>5</sup> Finally, it defines “deaf” as “lacking or deficient in the sense of hearing.”<sup>6</sup> “Deaf” people mostly have profound hearing loss, which implies very little or no hearing.<sup>7</sup> “Deaf” usually refers to a hearing loss so severe that there is very little or no

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<sup>4</sup> <https://www.merriam-webster.com/dictionary/defect> (last visited July 25, 2024).

<sup>5</sup> <https://www.merriam-webster.com/dictionary/disability> (last visited July 25, 2024).

<sup>6</sup> <https://www.merriam-webster.com/dictionary/deafness> (last visited July 25, 2024).

<sup>7</sup> <https://www.who.int/news-room/fact-sheets/detail/deafness-and-hearing-loss> (last visited July 25, 2024). Also see a table showing a common way to classify hearing loss at <https://www.asha.org/public/hearing/Degree-of-Hearing-Loss/> (last visited July 25, 2024).

functional hearing.”<sup>8</sup> The Cambridge Dictionary defines “deafness” as “the quality of being unable to hear, either completely or partly.”<sup>9</sup>

The degree of hearing loss can range from mild to profound:<sup>10</sup>

(1) Mild Hearing Loss

A person with a mild hearing loss may hear some speech sounds but soft sounds are hard to hear.

(2) Moderate Hearing Loss

A person with a moderate hearing loss may hear almost no speech when another person is talking at a normal level.

(3) Severe Hearing Loss

A person with severe hearing loss will hear no speech when a person is talking at a normal level and only some loud sounds.

(4) Profound Hearing Loss

A person with a profound hearing loss will not hear any speech and only very loud sounds.

An online article explains what a hearing aid is and how hearing aids help with hearing loss.<sup>11</sup> It states:

Hearing aids are small electronic devices that can be highly customized to address different types of hearing loss. All digital hearing aids contain at least one microphone to pick up sound, a computer chip that amplifies and processes sound, a speaker that sends the signal to your ear and a battery for power. More sophisticated models provide additional features, such as direct connection to a smartphone or neural networks.

\* \* \*

A hearing aid amplifies the sounds going into the ear. They are most often prescribed for people who have a type of hearing loss known as “sensorineural,” meaning that some of the tiny hair cells of the inner ear are damaged. The surviving healthy hair cells pick up the sound delivered by the hearing aid and send them as neural signals to the brain via the auditory nerve.

For people with mild-to-moderate hearing loss, standard hearing aids work best. “Power” models are often used for people who have severe-to-profound hearing loss as the batteries require more power.

Based on online research, a hearing aid is a doctor-prescribed device based on the patient’s hearing test result and usually custom-programmed by a hearing care professional to suit the patient’s specific hearing loss and listening needs.

Hearing aids are a kind of assistive listening devices,<sup>12</sup> but not all assistive listening devices are hearing aids. “Hearing aids are the best all-around solution for people with hearing loss, but other assistive listening devices

<sup>8</sup> <https://www.washington.edu/doit/how-are-terms-deaf-deafened-hard-hearing-and-hearing-impaired-typically-used> (last visited July 25, 2024).

<sup>9</sup> <https://dictionary.cambridge.org/us/dictionary/english/deafness> (last visited July 25, 2024).

<sup>10</sup> <https://www.cdc.gov/ncbddd/hearingloss/types.html> (last visited July 25, 2024).

<sup>11</sup> <https://www.healthyhearing.com/help/hearing-aids> (last visited July 25, 2024).

<sup>12</sup> <https://www.healthyhearing.com/report/47717-Digital-hearing-aid-history> (last visited July 25, 2024). [https://www.hearingaidmuseum.com/gallery/General\\_Info/GenInfoMisc/info/generalinfo-assistivedevices.htm](https://www.hearingaidmuseum.com/gallery/General_Info/GenInfoMisc/info/generalinfo-assistivedevices.htm) (last visited July 25, 2024).

(ALDs) can help you navigate specific communication demands.”<sup>13</sup> “Some of these devices [ALDs] are made to work specifically with certain hearing aids while others are stand-alone and can be helpful—even if you don’t yet wear hearing aids ... Assistive listening devices include amplified telephones, hearing aid compatible phones and smartphones, television compatible devices, FM systems for public settings, and alerting devices.”<sup>14</sup> Accordingly, heading 9021, HTSUS, as it relates to the provision for “hearing aids”, does not cover all assistive listening devices.

Based on the Hearing Aid Museum website, the personal sound amplifier products (PSAPs) are also considered assistive listening devices.<sup>15</sup> However, personal sound amplifier products and hearing aids are two different product categories. We understand the three principal differences between PSAPs and hearing aids as follows:<sup>16</sup>

**Difference #1: Class of product**

PSAPs are basic sound amplifiers for those who do not have hearing loss. The FDA does not regulate them and says they are designed to “increase environmental sounds for non-hearing impaired consumers.” On the other hand, hearing aids are FDA-regulated medical devices that are intended to compensate for hearing loss and be customized to your needs.

**Difference #2: Amplification style**

Most PSAPs amplify all sounds within a given radius, even those you don’t want to hear. This can actually damage (instead of help) your hearing. Modern hearing aids, on the other hand, use broadband technology and filters to selectively amplify the sounds you need to hear, while reducing background noise and feedback. This can make a huge difference – for example, in a noisy restaurant where amplifying all sounds equally (a companion’s speech plus background noise) would make it virtually impossible to hear a conversation.

**Difference #3: Fit and features**

Most PSAPs only consist of a microphone, amplifier and receiver (mini-loudspeaker). In addition, they are only available in standard settings and are typically one size fits all. Hearing aids, however, are custom-programmed by a hearing care professional to suit your specific hearing loss and listening needs. Hearing aids are available with advanced features such as directional microphones, tinnitus control and streaming capabilities. They can also be custom-molded for a secure and ultra-comfortable fit.

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<sup>13</sup> <https://www.healthyhearing.com/help/assistive-listening-devices/fm-systems> (last visited July 25, 2024).

<sup>14</sup> <https://www.healthyhearing.com/help/assistive-listening-devices> (last visited July 25, 2024). See also <https://www.hearingaidmuseum.com/gallery/Miscellaneous/Assistive%20Devices/index-asstdev.htm> (last visited July 25, 2024).

<sup>15</sup> <https://www.hearingaidmuseum.com/gallery/Miscellaneous/Assistive%20Devices/Sonic%20Technology/index-sonictechnology.htm> (last visited July 25, 2024).

<sup>16</sup> <https://www.miracle-ear.com/hearing-aid-technology/psap-hearing-aids-differences> (last visited July 25, 2024).



This is supported by additional internet research that differentiates hearing aids from other sound amplification devices.<sup>17</sup> In sum, our research has indicated that unlike sound amplification devices, such as PSAPs, hearing aids are sophisticated, highly customized devices tailored to a user's specific hearing deficits. While PSAPs amplify all sounds, hearing aids are programmed to amplify only the sounds a user cannot hear well. Because PSAPs amplify all sounds, they can potentially cause more harm than good to the users and are not recommended as a replacement for hearing aids.

While these personal sound amplifiers may help people hear things that are at low volume or at a distance, the Food and Drug Administration (FDA) wants to ensure that consumers don't mistake them—or use them as substitutes—for approved hearing aids.

Hearing aids and PSAPs can both improve one's ability to hear sound; they are both wearable, and some of their technology and function is similar. However, the products are different in that only hearing aids are intended to make up for impaired hearing. PSAPs are not intended to make up for impaired hearing. Instead, they are intended for non-hearing-impaired consumers to amplify sounds in the environment for any number of reasons.

Frequency-specific hearing loss is not something that can be mitigated through the amplification of all sound and using an amplifier where a hearing aid should be used can be dangerous. Personal sound amplifying products are designed to boost environmental hearing for people without hearing loss. Some people might use PSAPs as over-the-counter hearing aids to cut costs and avoid spending money on a certified hearing aid, but audiologists and doctors warn against the practice. Hearing aids perform a complex purpose that depends on the wearer, whereas amplifiers boost all sound.

Hearing aids are usually professionally fitted and fine-tuned to the wearer and help mitigate hearing loss by boosting certain frequencies. Amplifiers simply make things louder, regardless of the frequency or volume. While hearing aids are tailored to hard of hearing people, PSAPs are meant to be used by people with a full range of hearing.

We note that the Food and Drug Administration regulates hearing aids in the United States.<sup>18</sup> Under the FDA Reauthorization Act of 2017, Section 709, Congress outlined certain requirements and set forth a process to establish a separate category of over-the-counter (OTC) hearing aids and the requirements that apply to them. While the FDA may impose certain requirements on hearing aids as medical or OTC devices, these requirements are not controlling regarding classification under the HTSUS. "It is well established that statutes, regulations and administrative interpretations relating to 'other than tariff purposes' are not determinative of Customs classification disputes." *Amersham Corp. v. United States*, 5 CIT 49, 56 (1983). "Articles are classified by the FDA to protect public safety, not as guidance to Customs classification." HQ 085064 (August 24, 1990). *See also* HQ 962181 (January 13, 1999).

<sup>17</sup> *See, e.g.*, <https://www.connecthearing.com/blog/hearing-loss/what-the-new-otc-hearing-aid-law-means-for-you/>; <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/regulatory-requirements-hearing-aid-devices-and-personal-sound-amplification-products-draft-guidance>; and <https://www.signia-hearing.com/blog/the-difference-between-hearing-amplifiers-hearing-aids/>; <https://www.fda.gov/consumers/consumer-updates/hearing-aids-and-personal-sound-amplification-products-what-know> (all last visited July 25, 2024).

<sup>18</sup> *See* 21 CFR 801.420–21.

In this case, based on guidance from the EN to heading 9021, HTSUS, the commonly understood definitions of “defect”, “disability”, “deafness” and “hearing aids”, and our own research on the topic, we conclude that the instant devices are not hearing aids of heading 9021, HTSUS. As such, they are not excluded from classification under Section XVI by operation of Note 1(m) to Section XVI.

Heading 8518, HTSUS, provides for headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers. These goods are discussed in Part C of the EN to heading 8518, HTSUS:

Headphones and earphones are electroacoustic receivers used to produce low-intensity sound signals. Like loudspeakers, described above, they transform an electrical effect into an acoustic effect; the means used are the same in both cases, the only difference being in the powers involved.

\* \* \*

The heading also covers sets consisting of a microphone and one or more loudspeakers which may be fitted together. A headphone or earphone may be included with the set for private listening. These sets are designed to be plugged into or connected to a central control system which includes an amplifier. These units may be used by participants at meetings or conferences.

The product at issue in NY N283085 is a retail-ready kit, comprised of a sound amplifier, three plastic earplugs in different sizes, a spare battery, and a plastic storage case. In this case, the earphones provide the essential character of the kit because, although the merchandise amplifies sound, they transmit the amplified sound to the user via the earphones. As such, the correct classification for the hearing amplifier kit is heading 8518, HTSUS, and more specifically, subheading 8518.30.20, HTSUS, by application of GRIs 1, 3(b), and 6. Classification of the subject merchandise under heading 8518, is also consistent with prior CBP rulings where sound amplifying headphones were classified under subheading 8518.30.20, HTSUS. *See* NY N305242 (August 2, 2019); NY N115718 (August 19, 2010). The products at issue in NY N166443, NY N025447, and NY D80822 are not components of retail sets and are therefore classified under the same provision by application of GRIs 1 and 6.

**HOLDING:**

By application of GRIs 1, 3 (b) and 6, the hearing amplification kit described in NY N283085 is classified under heading 8518, HTSUS, subheading 8518.30.20, HTSUS, which provides for “Microphones and stands therefor; loudspeakers, whether or not mounted in their enclosures; headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers; audio-frequency electric amplifiers; electric sound amplifier sets; parts thereof: Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers: Other.” The devices described in NY N166443, NY N025447, and NY D80822 are classified under the same provision by application of GRIs 1 and 6. The column one, general rate of duty for merchandise of this subheading is free.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are

provided on the internet at <https://hts.usitc.gov/current>.

**EFFECT ON OTHER RULINGS:**

NY N283085, N166443, N025447, and D80822, dated February 28, 2017, May 31, 2011, April 18, 2008, and August 11, 1998, respectively, are hereby REVOKED.

*Sincerely,*

GREGORY CONNOR

*for*

YULIYA A. GULIS,

*Director*

*Commercial and Trade Facilitation Division*

cc: John Bessich  
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**19 CFR PART 177****REVOCAION OF TWELVE RULING LETTERS,  
MODIFICATION OF TEN RULING LETTERS AND  
REVOCAION OF TREATMENT RELATING TO THE  
TARIFF CLASSIFICATION OF COATED OR LAMINATED  
WOVEN TEXTILE FABRICS OF STRIP OF AN APPARENT  
WIDTH NOT EXCEEDING 5 MM**

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

**ACTION:** Notice of revocation of twelve ruling letters, modification of ten ruling letters, and of revocation of treatment relating to the tariff classification of coated or laminated woven textile fabrics of strip of an apparent width not exceeding 5 mm.

**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 twelve ruling letters and modifying ten ruling letters concerning tariff classification of coated or laminated woven textile fabrics of strip of an apparent width not exceeding 5 mm 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. 57, No. 47, on December 13, 2023. One comment was received in response to that notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 9, 2024.

**FOR FURTHER INFORMATION CONTACT:** Parisa J. Ghazi, Food, Textiles, and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0272.

**SUPPLEMENTARY INFORMATION:****BACKGROUND**

Current customs law includes ten key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibil-

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

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 57, No. 47, on December 13, 2023, proposing to revoke twelve ruling letters and modify ten ruling letters pertaining to the tariff classification of coated or laminated woven textile fabrics of strip of an apparent width not exceeding 5 mm. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In New York Ruling Letters ("NY") NY N325833, NY N250680, NY N250876, NY I80730, NY I88153, NY E86552, NY M82062, NY L88431, NY L83415, NY M87513, NY M83066, NY L87626, NY L85660, NY L80040, NY A85760, NY 889417, and NY 892226 and Headquarters Ruling Letters ("HQ") HQ 956946, HQ 957915, HQ 957850, of HQ H310928, HQ H305437, and HQ 086130, CBP classified coated or laminated woven textile fabrics of strip of an apparent width not exceeding 5 mm in heading 5903, HTSUS, specifically in subheading 5903.90.2500, HTSUS, which provides for "Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902: Other: Of man-made fibers: Other: Other." CBP has reviewed NY N325833, NY N250680, NY N250876, NY I80730, NY I88153, NY E86552, NY M82062, NY L88431, NY L83415, NY M87513, NY M83066, NY L87626, NY L85660, NY L80040, NY A85760, NY 889417, NY 892226, HQ 956946, HQ 957915, HQ 957850, of HQ H310928, HQ H305437, and HQ 086130, and has determined the ruling letters to be in error. It is now CBP's position that coated or laminated woven textile fabrics of strip of an apparent width not exceeding 5 mm are properly classified, in head-

ing 5903, HTSUS, specifically in subheading 5903.90.30, HTSUS, which provides for “Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902: Other: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N325833, NY N250680, NY N250876, NY I80730, NY I88153, NY E86552, HQ 956946, HQ 957915, HQ 957850, NY M82062, NY L88431, NY L83415, modifying of HQ H310928, HQ H305437, NY M87513, NY M83066, NY L87626, NY L85660, NY L80040, NY A85760, NY 889417, NY 892226, and HQ 086130 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H328910, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

YULIYA A. GULIS,  
*Director*  
*Commercial and Trade Facilitation Division*

*Attachment*

HQ H328910

September 26, 2024

OT:RR:CTF:FTM H328910 PJG

CATEGORY: Classification

TARIFF NO.: 5903.90.30

MR. TODD SCHUHARDT

UNITED BAGS INC.

1355 N. WARSON ROAD

ST. LOUIS, MISSOURI 63132

RE: Revocation of NY N325833, NY N250680, NY N250876, NY I80730, NY I88153, NY E86552, HQ 956946, HQ 957915, HQ 957850, NY M82062, NY L88431, NY L83415, and HQ 958462; Modification of HQ H310928, HQ H305437, NY M87513, NY M83066, NY L87626, NY L85660, NY L80040, NY A85760, NY 889417, NY 892226, and HQ 086130; Tariff Classification of Coated or Laminated Woven Textile Fabrics of Strip of an Apparent Width Not Exceeding 5 mm; Revoked or Modified by Operation of Law

DEAR MR. SCHUHARDT:

This is in reference to New York Ruling Letter (“NY”) N325833, dated May 25, 2022, issued to you concerning the tariff classification of a laminated box sleeve woven of polypropylene strip of an apparent width not exceeding 5 mm, under the Harmonized Tariff Schedule of the United States Annotated (“HTSUSA”).

In NY N325833, U.S. Customs and Border Protection (“CBP”) classified the laminated box sleeve woven of polypropylene strip in heading 5903, HTSUS, and specifically in subheading 5903.90.2500, HTSUSA, which provides for “Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902: Other: Of man-made fibers: Other: Other.” We have reviewed NY N325833 and find it to be in error regarding the tariff classification at the eight-digit level.

We have also reviewed NY N250680, dated March 25, 2014, and NY N250876, dated March 25, 1994, which concerned the tariff classification of roofing underlayment materials composed of coated woven textile fabrics of strip of an apparent width not exceeding 5 mm in width. For the reasons set forth below, we are revoking NY N325833, NY N250680, and NY N250876.

For the reasons set forth below, we are also modifying the following two decisions: Headquarters Ruling Letter (“HQ”) H310928, dated June 11, 2021, and HQ H305437, dated December 18, 2020. HQ H310928 was a decision on an Application for Further Review (“AFR”) of protest number 3004–20–100247 with respect to the tariff classification of four styles of roofing underlayments, specifically, the Roof Pro, ProTec 120, ProTec 160, and ProTec 200. In HQ H310928, CBP determined that the essential character of the four products was imparted by the layer of woven plastic-coated scrim of strip of an apparent width not exceeding 5 mm. The modification for HQ H310928 concerns the legal analysis applied and the tariff classification determination made at the eight-digit level for the four products, which were originally classified in subheading 5903.90.25, HTSUS. The identified articles are still properly classified subject to GRI 3(b) and 6.

HQ H305437 was an AFR decision concerning the tariff classification of six styles of roofing underlayments subject to protest number 3004–19–100105. Only four of those styles are subject to modification, specifically, the Pro-20,

Gold, Silver, and Platinum styles. In HQ H305437, CBP determined that the laminated and coated textile fabrics imparted the essential character of these four products. The nonwoven layer of the underlayment was laminated to a coated scrim woven of 3 mm polypropylene strip. The modification concerns the legal analysis applied and the tariff classification determination made at the eight-digit level for the four styles of roofing underlayments, which were originally classified in subheading 5903.90.25, HTSUS. The identified articles are still properly classified subject to GRI 3(b) and 6.

We note that under *S.F. Newspaper Printing Co. v. United States*, 9 Ct. Int'l Trade 517, 620 F. Supp. 738 (1985), the decisions on the merchandise which was the subject of protest numbers 3004–20–100247 and 3004–19–100105 were final and binding on both the protestant and CBP. Therefore, while we may review the law and analysis of HQ H310928 and HQ H305437, any decision taken herein do not impact the entries subject to those decisions.

Finally, this ruling identifies nineteen rulings issued by CBP prior to 2007 that are revoked or modified by operation of law. Rulings concerning the tariff classification of coated or laminated woven textile fabrics of strip of an apparent width not exceeding 5 mm that were issued prior to 2007 are revoked or modified by operation of law because they pre-date the amendment to Note 1 to Chapter 54, HTSUS, which effectively precluded “[s]trip and the like of heading 5404 or 5405” from “man-made fibers.”

The following nine rulings are modified by operation of law: NY M87513, dated October 24, 2006 (with respect to Sample #1); NY M83066, dated May 5, 2006 (with respect to style EH63–060403); NY L87626, dated September 16, 2005 (with respect to style “Vietnam 7 x 7 CIS”); NY L85660, dated June 15, 2005 (with respect to items “C” and “D”); NY L80040, dated October 28, 2004 (with respect to Samples “E,”<sup>1</sup> “F” and “G”); NY A85760, dated August 14, 1996 (with respect to the laminated woven bulk container bag fabric); NY 892226, dated December 1, 1993 (with respect to the first item); NY 889417, dated September 1, 1993 (with respect to Sample #2); and HQ 086130, dated March 1, 1990 (with respect to “Sample 2 from the second letter”).

The following seven rulings are revoked by operation of law: NY I80730<sup>2</sup>, dated May 7, 2002, NY I88153, dated November 25, 2002; NY E86552, dated September 8, 1999; HQ 956946, dated April 6, 1995; HQ 957915, dated July 28, 1995; HQ 957850, dated July 5, 1995; and HQ 958462, dated November 2, 1995.

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. No. 103–182, 107 Stat. 2057, 2186 (1993), notice of the proposed action was published on

<sup>1</sup> With respect to Sample “E”, we have provided the additional reasons for modification in the Law and Analysis section below.

<sup>2</sup> NY I80730 concerned Samples #1, 2, and 3 consisted of woven polypropylene textile strips of an apparent width not exceeding 5 mm. Samples #1 and 2 were coated/laminated on one side. Sample #3 was coated/laminated on one side with polypropylene plastic film that was not visible to the naked eye. Samples #1 and 2 were classified in subheading 5903.90.2500, HTSUSA. Sample #3 was classified under heading 5407, HTSUS, and specifically in subheading 5407.20.0000, HTSUSA, which provides for “Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 5404: Woven fabrics obtained from strip or the like.” We have reviewed NY I80730 and find it to be in error regarding the tariff classification all three products. For the reasons set forth in this ruling, NY I80730 is revoked by operation of law.



December 13, 2023, in Volume 57, Number 46, of the *Customs Bulletin*. One comment, which will be addressed below, was received in response to this notice. The commenter identified the following three additional rulings that would be subject to the changes discussed in this ruling: NY M82062, dated April 11, 2006, NY L88431, dated October 28, 2005, and NY L83415, dated March 23, 2005. We have reviewed the three rulings and determined that they are revoked by operation of law. This ruling now includes a total of nineteen rulings that are revoked or modified by operation of law.

### FACTS:

In NY N325833, the fabric at issue was tubular laminated fabric constructed wholly of woven polypropylene strip. You indicated to CBP that the purpose of the product is to provide rigidity when placed over corrugated cardboard boxes at food packaging plants. You further indicated that the fabric is laminated on one surface with a plastic film composed of polypropylene and polyethylene and that the film is applied to the fabric after being extruded and is then pressed and cooled to permanently bond the materials. You also provided that the polypropylene strip measures 2.3 mm in width. CBP determined that the fabric was laminated in accordance with the requirements of Note 3 to Chapter 59, HTSUS, and that the product is classified under heading 5903, HTSUS, and specifically, in subheading 5903.90.2500, HTSUSA.

### ISSUE:

Whether the fabric is classified as a product of subheading 5903.90.2500, HTSUSA, which provides for “Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902: Other: Of man-made fibers: Other: Other,” or as a product of subheading 5903.90.30, HTSUS, which provides for “Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902: Other: Other.”

### LAW AND ANALYSIS:

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

The 2024 HTSUS provisions under consideration are as follows:

|                   |   |
|-------------------|---|
| <b>3921</b>       | Other plates, sheets, film, foil and strip, of plastics:<br>Cellular:<br>* * *                                      |
| <b>3921.19.00</b> | Of other plastics<br>* * *  |
| <b>5407</b>       | Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 5404:<br>* * * |
| <b>5407.20.00</b> | Woven fabrics obtained from strip or the like   |

|                     |  |
|---------------------|--|
|                     | *       *       *  |
| <b>5903</b>         | Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902: |
|                     | *       *       *  |
| <b>5903.90</b>      | Other:   |
|                     | *       *       *  |
|                     | Of man-made fibers:  |
|                     | *       *       *  |
|                     | Other:   |
|                     | *       *       *  |
| <b>5903.90.2500</b> | Other  |
| <b>5903.90.30</b>   | Other:   |

Note 1 to Chapter 54, HTSUS, provides as follows:

Throughout the tariff schedule, the term “man-made fibers” means staple fibers and filaments of organic polymers produced by manufacturing processes, either:

- (a) By polymerization of organic monomers to produce polymers such as polyamides, polyesters, polyolefins or polyurethanes, or by chemical modification of polymers produced by this process (for example, poly(vinyl alcohol) prepared by the hydrolysis of poly(vinyl acetate)); or
- (b) By dissolution or chemical treatment of natural organic polymers (for example, cellulose) to produce polymers such as cuprammonium rayon (cupro) or viscose rayon, or by chemical modification of natural organic polymers (for example, cellulose, casein and other proteins, or alginic acid), to produce polymers such as cellulose acetate or alginates.

The terms “synthetic” and “artificial”, used in relation to fibers, mean: synthetic: fibers as defined at (a); artificial: fibers as defined at (b). Strip and the like of heading 5404 or 5405 are not considered to be man-made fibers.

The terms “man-made”, “synthetic” and “artificial” shall have the same meanings when used in relation to “textile materials”.

Note 1 to Chapter 59, HTSUS, provides as follows:

Except where the context otherwise requires, for the purposes of this chapter the expression “textile fabrics” applies only to the woven fabrics of chapters 50 to 55 and headings 5803 and 5806, the braids and ornamental trimmings in the piece of heading 5808 and the knitted or crocheted fabrics of headings 6002 to 6006.

Note 3 to Chapter 59, HTSUS, provides as follows:

For the purposes of heading 5903, “textile fabrics laminated with plastics” means products made by the assembly of one or more layers of fabrics with one or more sheets or film of plastics which are combined by any process that bonds the layers together, whether or not the sheets or film of plastics are visible to the naked eye in the cross-section.

The Harmonized Commodity Description and Coding System Explanatory Notes (“EN”) constitute the “official interpretation of the Harmonized System” at the international level. *See* 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989). While neither legally binding nor dispositive, the EN “provide a commentary on the scope of each heading” of the HTSUS and are “generally indicative of [the] proper interpretation” of these headings. *See id.*

The EN to 54.04 provides, in relevant part, as follows:

This heading covers:

- (1) **Synthetic monofilament.** These are filaments extruded as single filaments. They are classified here **only** if they measure 67 decitex or more and do not exceed 1 mm in any cross-sectional dimension. Monofilaments of this heading may be of any cross-sectional configuration and may be obtained not only by extrusion but by lamination or fusion.
- (2) **Strip and the like, of synthetic textile materials.** The strips of this heading are flat, of a width not exceeding 5 mm, either produced as such by extrusion or cut from wider strips or from sheets.

The fabric at issue in NY N325833 was properly classified in heading 5903, HTSUS. Heading 5903, HTSUS, provides for “Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902.” Note 3 to Chapter 59, HTSUS, defines “textile fabrics laminated with plastics” as “products made by the assembly of one or more layers of fabrics with one or more sheets or film of plastics which are combined by any process that bonds the layers together, whether or not the sheets or film of plastics are visible to the naked eye in the cross-section.” The product in NY N325833 was a textile fabric laminated with plastics in accordance with Note 3 to Chapter 59, HTSUS, because it was a textile fabric, composed of polypropylene strips woven together, assembled with a plastic film (composed of polypropylene and polyethylene) and bonded together by pressing and cooling the materials. Note 1 to Chapter 59, HTSUS, states, in relevant part, that the term “textile fabrics” applies only to the woven fabrics of chapters 50 to 55.”<sup>3</sup> In accordance with Note 1 to Chapter 59, HTSUS, the polypropylene strips are considered “textile fabric” because the strips are woven. Moreover, they are classified in Chapter 54, HTSUS, specifically, under heading 5404, HTSUS, which provides, in relevant part, for “strip and the like (for example, artificial straw) of synthetic textile materials of an apparent width not exceeding 5 mm” because the strip measures 2.33 mm in width.

In NY N325833, the fabric was also properly classified at the six-digit level under subheading 5903.90, HTSUS, which provides for “Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902: Other.” This basket provision provides for textile fabrics of heading 5903, HTSUS, that are not impregnated, coated, covered or laminated with poly(vinyl chloride) (subheading 5903.10, HTSUS) or with polyurethane (subheading 5903.20, HTSUS). The subject fabric is laminated with

<sup>3</sup> Note 9 to Section XI, HTSUS, also provides that “[t]he woven fabrics of chapters 50 to 55 include fabrics consisting of layers of parallel textile yarns superimposed on each other at acute or right angles. These layers are bonded at the intersections of the yarns by an adhesive or by thermal bonding.” Note 9 to Section XI, HTSUS, is not pertinent to the subject merchandise in NY N325833.

polypropylene and polyethylene and, therefore, is properly classified in the basket provision, specifically, subheading 5903.90, HTSUS.

NY N325833 is being revoked because of the classification of the subject fabric at the eight-digit level in subheading 5903.90.25, HTSUSA. The subject merchandise in NY N325833 is not constructed of cotton and therefore is not classifiable in subheading 5903.90.10, HTSUS. The subject merchandise is also not classifiable under the provisions for “Of man-made fibers” (5903.90.15–5903.90.25, HTSUS) because the subject fabric consists of strips of heading 5404, HTSUS, and Note 1 to Chapter 54, HTSUS, which defines the term “man-made fibers” for the entirety of the tariff schedule, states that “[s]trip and the like of heading 5404 or 5405 are not considered to be man-made fibers.” Accordingly, the subject fabric cannot be classified as a fabric of man-made fibers in subheading 5903.90.2500, HTSUSA, or in any of the other man-made fiber provisions under subheading 5903.90, HTSUS. The subject merchandise is therefore classified in the basket provision that provides for fabrics of other fibers, specifically, in subheading 5903.90.30, HTSUS, which provides for “Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902: Other: Other.”

With regard to NY I80730, it is revoked by operation of law with respect to Samples #1–3 for the aforementioned reasons and additionally, for Sample #3, it is revoked by operation of law because of a change to Note 3 to Chapter 59, HTSUS, that was made in January 2022. Specifically, effective January 27, 2022, Note 3 to Chapter 59, HTSUS, states as follows:

For the purposes of heading 5903, “textile fabrics laminated with plastics” means products made by the assembly of one or more layers of fabrics with one or more sheets or film of plastics which are combined by any process that bonds the layers together, whether or not the sheets or film of plastics are visible to the naked eye in the cross-section.

The introduction of this new language indicates that the sheets or film of plastic are not required to be seen with the naked eye for the product to be considered “textile fabrics laminated with plastics” for purposes of classification in heading 5903, HTSUS. In NY I80730, CBP classified Sample #3 under heading 5407, HTSUS, rather than under heading 5903, HTSUS, because the plastic film was not visible to the naked eye. Under the new Note 3 to Chapter 59, HTSUS, Sample #3 is classified under heading 5903, HTSUS, and specifically in subheading 5903.90.30, HTSUS.

NY L80040 is being modified with respect to Samples “E,” “F” and “G.” Samples “F” and “G” were originally classified in subheading 5903.90.25, HTSUS, and the reasoning for modifying their classification is consistent with the analysis provided above concerning Note 1 to Chapter 54, HTSUS. Sample “E” was originally classified in subheading 3921.19.00, HTSUS, which provides for “Other plates, sheets, film, foil and strip, of plastics: Cellular: Of other plastics.” With respect to Sample “E,” NY L80040 indicated that the “resulting material has been visibly coated on one side with what you indicate is a microporous (cellular) polyethylene plastics film.” The classification of Sample “E” is modified by operation of law because of the amendment to Note 1 to Chapter 54, HTSUS, as explained above, and also because Note 10 to Chapter 39, HTSUS, indicates in relevant part that the expression “plates, sheets, film, foil and strip” in heading 3921, HTSUS, “applies only to ...film...and strip (other than those of chapter 54).” The strip in Sample “E” is within the scope of the type of strip classified in heading 5404, HTSUS, and

is therefore excluded from heading 3921, HTSUS. Sample “E” is instead classified in subheading 5903.90.30, HTSUS.

One comment was received in support of the proposed ruling. The commenter mentioned three rulings issued by CBP wherein the merchandise was classified consistently with the proposed ruling, specifically, NY N300457, dated October 2, 2018, NY N255065, dated August 6, 2014, and NY N253035, dated May 13, 2014. The commenter also identified three additional rulings that they believe to be substantially similar to those at issue in this decision, specifically, NY M82062, dated April 11, 2006, NY L88431, dated October 28, 2005, and NY L83415, dated March 23, 2005. The commenter requested that CBP review and revoke these three rulings. We have reviewed NY M82062, NY L88431, and NY L83415, and they all concern the tariff classification of visibly coated woven textile fabrics of strip of an apparent width not exceeding 5 mm. The products in these three rulings were classified in subheading 5903.90.25, HTSUS. These three rulings were issued prior to 2007 and are therefore revoked by operation of law because they pre-date the amendment to Note 1 to Chapter 54, HTSUS, which effectively precluded “[s]trip and the like of heading 5404 or 5405” from “man-made fibers.”

#### **HOLDING:**

By application of GRI 1 and 6, the laminated box sleeve woven of polypropylene strip is classified under heading 5903, HTSUS, and specifically, in subheading 5903.90.30, HTSUS, which provides for “Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902: Other: Other.” The 2024 column one, general rate of duty is 2.7 percent *ad valorem*.

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

#### **EFFECT ON OTHER RULINGS:**

NY N325833, dated May 25, 2022, NY N250680, dated March 25, 2014, NY N250876, and dated March 25, 2014, are REVOKED.

HQ H310928, dated June 11, 2021, is MODIFIED with respect to the legal analysis applied at the eight-digit level in the tariff classification of four styles of roofing underlayments, specifically, the Roof Pro, ProTec 120, ProTec 160, and ProTec 200. The identified articles are still classified subject to GRI 3(b) and 6.

HQ H305437, dated December 18, 2020, is MODIFIED with respect to the legal analysis applied at the eight-digit level in the tariff classification of four styles of roofing underlayments, specifically, the Pro-20, Gold, Silver and Platinum styles. The identified articles are still classified subject to GRI 3(b) and 6.

NY M82062, dated April 11, 2006, NY L88431, dated October 28, 2005, and NY L83415, dated March 23, 2005, NY I80730, dated May 7, 2002, NY I88153, dated November 25, 2002, NY E86552, dated September 8, 1999, HQ 956946, dated April 6, 1995, HQ 957915, dated July 28, 1995, HQ 957850, dated July 5, 1995, and HQ 958462, dated November 2, 1995, are REVOKED by operation of law.

NY M87513, dated October 24, 2006 (with respect to Sample #1), NY M83066, dated May 5, 2006 (with respect to style EH63–060403), NY L87626, dated September 16, 2005 (with respect to style “Vietnam 7 x 7 CIS”),

NY L85660, dated June 15, 2005 (with respect to items “C” and “D”), NY L80040, dated October 28, 2004 (with respect to Samples “E,” “F” and “G”), NY A85760, dated August 14, 1996 (with respect to the laminated woven bulk container bag fabric), NY 889417, dated September 1, 1993 (with respect to Sample #2), NY 892226, dated December 1, 1993 (with respect to the first item in the clear material only), and HQ 086130, dated March 1, 1990, (with respect to the item identified as “Sample 2 from the second letter”), are MODIFIED by operation of law.

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

*Sincerely,*

YULIYA A. GULIS,

*Director*

*Commercial and Trade Facilitation Division*

## 19 CFR PART 177

### REVOCATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF A CHEETAH PLUSH STUFFED PILLOW FROM CHINA

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

**ACTION:** Notice of revocation of one ruling letter and of revocation of treatment relating to the tariff classification of a cheetah Squishmallows®.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking one ruling letter concerning tariff classification of a cheetah Squishmallows®. 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. 58, No. 30, on July 31, 2024. One comment was received in response to that notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 9, 2024.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Horne, Chemical, Petroleum, Metals, and Miscellaneous Articles Branch, Regulations and Rulings, Office of Trade, at (202) 325–7941.

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other

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

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 58, No. 30, on July 31, 2024, proposing to revoke one ruling letter pertaining to the tariff classification of plush stuffed pillows from China. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In New York Ruling Letter ("NY") N306312, dated October 18, 2019, CBP classified cheetah Squishmallows® in heading 9404, HTSUS, specifically in subheading 9404.90.20, HTSUS, which provides for "Mattress supports; articles of bedding and similar furnishing (for example, mattresses, quilts, eiderdowns, cushions, pouffes and pillows) fitted with springs or stuffed or internally fitted with any material or of cellular rubber or plastics, whether or not covered: Other: Pillows, cushions and similar furnishings: Other." CBP has reviewed NY N306312 and has determined the ruling letter to be in error. It is now CBP's position that cheetah Squishmallows® are properly classified, in heading 9503, HTSUS, specifically in subheading 9503.00.00, HTSUS, which provides for "Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls, other toys; reduced-scale ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N306312 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H330361, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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



YULIYA A. GULIS,  
*Director*  
*Commercial and Trade Facilitation Division*

*Attachment*

HQ H330361

September 26, 2024

OT:RR:CTF:CPMMA H330361 NAH

CATEGORY: Classification

TARIFF NO: 9503.00.00

Ms. LAY CHAYKEO  
INTERNATIONAL TRADE ANALYST  
ASCENA RETAIL GROUP, INC.  
112 HERITAGE  
PATASKALA, OH 43062

RE: Revocation of NY N306312; Tariff classification of a plush stuffed pillow from China.

DEAR Ms. CHAYKEO:

This letter is in reference to New York Ruling Letter (“NY”) N306312, dated October 18, 2019, concerning the tariff classification a cheetah pillow that is a member of a merchandise line of stuffed pillows depicting various animals (cat, panda, fox, etc.) referred to as “Squishmallows®.” In NY N306312, U.S. Customs and Border Protection (“CBP”) classified the cheetah Squishmallows® under heading 9404, Harmonized Tariff Schedule of the United States (“HTSUS”), and specifically under subheading 9404.90.20, HTSUS, which provides for “Mattress supports; articles of bedding and similar furnishing (for example, mattresses, quilts, eiderdowns, cushions, pouffes and pillows) fitted with springs or stuffed or internally fitted with any material or of cellular rubber or plastics, whether or not covered: Other: Pillows, cushions and similar furnishings: Other.”<sup>1</sup> We have reviewed NY N306312 and determined that the ruling is in error. Accordingly, for the reasons set forth below, CBP is revoking NY N306312.

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. No. 103–182, 107 Stat. 2057, 2186 (1993), notice of the proposed action was published on July 31, 2024, in Volume 58, Number 30, of the Customs Bulletin. One comment was received in support of the proposed action.

**FACTS:**

The merchandise at issue was described in NY N306312, as follows:

The cheetah Squishmallows® is an asymmetrical, oval, plush pillow in the likeness of a forward-facing, cheetah with black applique eyes, an off-white applique belly and an off-white applique snout with a black embroidered nose and mouth. A cheetah-print fabric covers all surfaces, including the ears extending from either side of the “head” and the tail, sewn onto the back. The Squishmallows® measures approximately 18” x 17” x 4” (H x W x D at its deepest) and is stuffed with a polyester fiberfill. We note that the Squishmallows® has neither arms nor legs, and the head and torso form one body part. The company website says that

<sup>1</sup> The Harmonized Tariff Schedule of the United States Annotated (“HTSUSA”) at the tenth digit level has changed since NY 306312 was decided on October 18, 2019. Those changes have no bearing on this ruling.

Squishmallows® offer comfort, support and warmth as couch companions, pillow pals, bedtime buddies and travel teammates.

### ISSUE:

What is the proper tariff classification of the Squishmallows® cheetah.

### 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 based on GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

GRI 6 provides that for legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to the above rules, on the understanding that only subheadings at the same level are comparable.

The 2024 HTSUS provisions under consideration are as follows:

- 9404 Mattress supports; articles of bedding and similar furnishing (for example, mattresses, quilts, eiderdowns, cushions, pouffes and pillows) fitted with springs or stuffed or internally fitted with any material or of cellular rubber or plastics, whether or not covered:
- 9503 Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls, other toys; reduced-scale ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof

Note 1(x), Chapter 95, HTSUS, excludes from classification in Chapter 95 "tableware, kitchenware, toilet articles, carpets and other textile floor coverings, apparel, bed linen, table linen, toilet linen, kitchen linen and similar articles having a utilitarian function (classified according to their constituent material)."

In understanding the language of the HTSUS, the Explanatory Notes ("ENs") of the Harmonized Commodity Description and Coding System, which constitute the official interpretation of the HTSUS at the international level, may be utilized. The ENs, while neither dispositive nor legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. *See* T.D. 89-80, 54 Fed. Reg. 35127 (August 23, 1989).

The ENs to heading 9404, HTSUS, states, in pertinent part, the following:

This heading covers:

...

(B) **Articles of bedding and similar furnishing** which are sprung or stuffed or internally fitted with any material (cotton, wool, horsehair, down, synthetic fibres, etc.), or are of cellular rubber or plastics (whether or not covered with woven fabric, plastics, etc.).

The ENs to heading 9503, HTSUS, states, in pertinent part, the following:

This heading covers:

(D) **Other toys.**

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

...

**(i) Toys representing animals or non-human creatures even if possessing predominantly human physical characteristics (e.g., angels, robots, devils, monsters), including those for use in marionette shows.**

\* \* \* \* \*

In NY N306312, dated October 18, 2019, the decision to classify the cheetah Squishmallows® as a pillow under heading 9404, HTSUS, was based on differentiating the Squishmallows® from the “pillow pets” classified in Headquarters Ruling Letter (“HQ”) H161002, dated March 30, 2012 (classifying “pillow pets,” stuffed articles that depict various types of animals such as unicorns, bumble bees, alligators, cows, dogs, and ducks, under heading 9503, HTSUS) and determining the cheetah Squishmallows® was similar to products addressed in NY N296006, dated April 27, 2018 (classifying a Minnie Mouse Emoji Plush Pillow and the Mickey Mouse Emoji Plush Pillows under heading 9404, HTSUS) and NY N250031, dated February 21, 2014 (classifying “plushes” designed to appear as daisies or butterflies under heading 9404, HTSUS). However, since NY N306312 was published, CBP examined other Squishmallows® in HQ H325768, dated December 22, 2023, and CBP classified the Squishmallows® as toys. In light of that decision, CBP must reexamine whether the cheetah Squishmallows® is a toy or a pillow.

Note 1(x) to Chapter 95, HTSUS, explicitly excludes utilitarian items from being classified as toys, therefore CBP’s examination of the cheetah Squishmallows® must begin with whether it is excluded from Chapter 95, HTSUS. The term “toy” is not defined in the HTSUS, the General Explanatory Notes to Chapter 95, HTSUS, state that the “Chapter covers toys of all kinds whether designed for the amusement of children or adults.” Insofar as it pertains to toys, the Court of International Trade construes heading 9503, HTSUS, to be a “principal use” provision. See *Minnetonka Brands v. United States*, 110 F. Supp. 2d 1020, 1026 (Ct. Int’l Trade 2000). Thus, to be a toy, the “character of amusement involved [is] that derived from an item which is essentially a plaything.” *Wilson’s Customs Clearance, Inc. v. United States*, 59 Cust. Ct. 36, C.D. 3061 (1967). In *Processed Plastic Co. v. United States*, 473 F.3d 1164 (Fed. Cir. 2006), the court held that “the principal use of a “toy” is amusement, diversion, or play ... rather than practicality.” To assist in the determination of whether an article should be classified as a toy or not, the court in *Ideal Toy Corp. v. United States*, 78 Cust. Ct. 28, 33, Cust. Dec. 4688 (1977) stated that “[w]hen amusement and utility become locked in controversy, the question becomes one of determining whether the amusement is incidental to the utilitarian purpose, or the utility purpose incidental to the amusement.”

Thus, to be classified as a toy in heading 9503, HTSUS, an article must belong to the same class or kind of goods which have the same principal use

as toys.<sup>2</sup> Accordingly, to determine whether an article is included in a particular class or kind of merchandise, CBP considers a variety of factors, often referred to as the “*Carborundum*” factors, to determine whether articles are classifiable as toys. The factors, relevant here, include: (1) the general physical characteristics of the merchandise; (2) the channels, class or kind of trade in which the merchandise moves (where the merchandise is sold); (3) the expectation of the ultimate purchasers; (4) the environment of the sale (i.e., accompanying accessories and marketing); (5) usage, if any, in the same manner as merchandise which defines the class. See *United States v. Carborundum Co.*, 536 F.2d 373, 377 (Cust. Ct. 1976). While these factors were developed under the Tariff Schedule of the United States (the predecessor to the HTSUS), the courts, and CBP have applied and continue to apply them to the HTSUS. See, e.g., *Minnetonka Brands*, 110 F. Supp. 2d at 1026; *Aromont USA, Inc. v. United States*, 671 F.3d 1310 (Fed. Cir. 2012); *Essex Mfg., Inc. v. United States*, 30 C.I.T. 1 (2006).

In HQ H325768, dated December 22, 2023, CBP carefully examined the definition of “toy” and its use by the Court of International Trade, the application of the relevant primary use factors espoused in *Carborundum*, and the similarity between Squishmallows® and the pillow pets classified in HQ H161002, dated March 30, 2012. Altogether, CBP determined the Squishmallows® addressed in HQ H325768, were properly classified as toys. While the cheetah Squishmallows®, that is the subject of NY N306312, dated October 18, 2019, was not explicitly addressed in HQ H325768, dated December 22, 2023, the products at issue in both rulings are inextricably linked. In both rulings the Squishmallows® at issue were over 12” in height; made of polyester felt and filled with polyester fibers; each is designed without arms or legs, and the head and torso form one body part; the exterior has stitching and print designed to resemble the animal or creature that it represents; each Squishmallows® has three dimensional appendages sewn onto the body, such as, ears, tails, horns, or wings; and each Squishmallows® has a hangtag that creates names and personalities for the figures. While not identical, the Squishmallows® addressed in NY N306312, dated October 18, 2019, and in HQ H325768, dated December 22, 2023, are so similar that the logic underpinning their classification should be the same.

To that end, CBP finds the reasoning in HQ H325768, to be determinative. The application of the *Carborundum* factors to the cheetah Squishmallows® results in its classification under heading 9503, HTSUS, as a toy.

1. The general physical characteristics of the cheetah Squishmallows® are intended to amuse rather than be utilized as a typical pillow: The printed and stitched detailing and the notable extremities are designed to amuse a child and resemble the cheetah animal. The details specifically reduce the merchandise’s ability to function as a utilitarian pillow.
2. The channels, class or kind of trade in which the merchandise moves (where the merchandise is sold) is predominantly in the toy sections, aisles and websites of stores and companies, rather than in the bedding or homewares aisles, departments or sections.

<sup>2</sup> The legal history of classification of toys under heading 9503, HTSUS, is recounted in depth by CBP in HQ H275175, dated September 5, 2017, and replicated in HQ H325768, dated December 22, 2023.

3. The expectation of the ultimate purchasers is to provide a child with a named plush toy with which the child can play and bond with like a teddy bear or blanket that many children take everywhere for amusement and emotional comfort.
4. The environment of the sale (i.e., accompanying accessories and marketing) is, as stated in the discussion of factor 2, predominantly in the toy aisles, departments and sections of websites and not in the homewares or bedding departments with other pillows, blankets and bedding.
5. The primary usage of the cheetah Squishmallows® is the amusement of children, in the same manner as merchandise which defines toys classified under heading 9503, HTSUS. The cheetah Squishmallows® is intended to amuse children in the same manner as a teddy bear.

Further, when comparing the cheetah Squishmallows® to the merchandise examined in HQ H161002, dated March 30, 2012, it becomes clear the cheetah Squishmallow is more like a pillow pet than a cushion, whose purpose is to support the body and increase comfort. The cheetah Squishmallows® does not have an accompanying pillowcase, would not correctly fit into a standard pillowcase, and would not be used as a pillow to support a person's head when sleeping. The size of the item, its shape, its depth, its plush squishiness, and its colorful and fun design demonstrate that the cheetah Squishmallows® are designed to amuse, rather than be used for a utilitarian purpose. The article is not of the correct size or flatness to support the head or the body as a utilitarian pillow and it is not designed to provide or increase comfort. It is designed to entice a child to hug and bond with it, similar to the pillow pets, classified in HQ H161002, dated March 30, 2012. The fabric and plush stuffing are extra soft because the cheetah Squishmallows® is intended to be cuddled. Therefore, the cheetah Squishmallows® are not utilitarian items and are not excluded from heading 9503, HTSUS, by Note 1(x) to Chapter 95, HTSUS. Under GRI 1 and 6 the cheetah Squishmallows® is described in and classified under heading 9503, HTSUS and specifically under subheading 9503.00.00, HTSUS. As such, NY N306312, dated October 18, 2019, is in error and is revoked accordingly.

#### **HOLDING:**

By application of GRIs 1 and 6, the cheetah Squishmallows®, is classified in heading 9503, HTSUS, and specifically in subheading 9503.00.00, HTSUS, which provides for "Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls, other toys; reduced-scale ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof." The 2024 column one, general rate of duty is free.

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

#### **EFFECT ON OTHER RULINGS:**

NY N306312, dated October 18, 2019, is hereby revoked.

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

*Sincerely,*  
YULIYA A. GULIS,  
*Director*  
*Commercial and Trade Facilitation Division*

## QUARTERLY IRS INTEREST RATES USED IN CALCULATING INTEREST ON OVERDUE ACCOUNTS AND REFUNDS OF CUSTOMS DUTIES

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

**ACTION:** General notice.

**SUMMARY:** This notice advises the public that the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties will remain the same as the previous quarter. For the calendar quarter beginning October 1, 2024, the interest rates for underpayments will be 8 percent for both corporations and non-corporations. The interest rate for overpayments will be 8 percent for non-corporations and 7 percent for corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

**DATES:** The rates announced in this notice are applicable as of October 1, 2024.

**FOR FURTHER INFORMATION CONTACT:** Bruce Ingalls, Revenue Division, Collection Refunds & Analysis Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 298-1107.

### SUPPLEMENTARY INFORMATION:

#### Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85-93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 provides different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2024-18, the IRS determined the rates of interest for the calendar quarter beginning October 1, 2024, and ending on December 31, 2024. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (5%) plus three per-



centage points (3%) for a total of eight percent (8%) for both corporations and non-corporations. For overpayments made by noncorporations, the rate is the Federal short-term rate (5%) plus three percentage points (3%) for a total of eight percent (8%). For corporate overpayments, the rate is the Federal short-term rate (5%) plus two percentage points (2%) for a total of seven percent (7%). These interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties remain the same as the previous quarter. These interest rates are subject to change for the calendar quarter beginning January 1, 2025, and ending on March 31, 2025. For the convenience of the importing public and U.S. Customs and Border Protection personnel, the following list of IRS interest rates used, covering the period from July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

| Beginning date | Ending date | Under-payments (percent) | Over-payments (percent) | Corporate overpayments (eff. 1-1-99) (percent) |
|----------------|-------------|--------------------------|-------------------------|--|
| 070174.....    | 063075      | 6                        | 6                       | .....  |
| 070175.....    | 013176      | 9                        | 9                       | .....  |
| 020176.....    | 013178      | 7                        | 7                       | .....  |
| 020178.....    | 013180      | 6                        | 6                       | .....  |
| 020180.....    | 013182      | 12                       | 12                      | .....  |
| 020182.....    | 123182      | 20                       | 20                      | .....  |
| 010183.....    | 063083      | 16                       | 16                      | .....  |
| 070183.....    | 123184      | 11                       | 11                      | .....  |
| 010185.....    | 063085      | 13                       | 13                      | .....  |
| 070185.....    | 123185      | 11                       | 11                      | .....  |
| 010186.....    | 063086      | 10                       | 10                      | .....  |
| 070186.....    | 123186      | 9                        | 9                       | .....  |
| 010187.....    | 093087      | 9                        | 8                       | .....  |
| 100187.....    | 123187      | 10                       | 9                       | .....  |
| 010188.....    | 033188      | 11                       | 10                      | .....  |
| 040188.....    | 093088      | 10                       | 9                       | .....  |
| 100188.....    | 033189      | 11                       | 10                      | .....  |
| 040189.....    | 093089      | 12                       | 11                      | .....  |
| 100189.....    | 033191      | 11                       | 10                      | .....  |
| 040191.....    | 123191      | 10                       | 9                       | .....  |
| 010192.....    | 033192      | 9                        | 8                       | .....  |
| 040192.....    | 093092      | 8                        | 7                       | .....  |
| 100192.....    | 063094      | 7                        | 6                       | .....  |
| 070194.....    | 093094      | 8                        | 7                       | .....  |

| Beginning date | Ending date | Under-payments (percent) | Over-payments (percent) | Corporate overpayments (eff. 1-1-99) (percent) |
|----------------|-------------|--------------------------|-------------------------|--|
| 100194.....    | 033195      | 9                        | 8                       | .....  |
| 040195.....    | 063095      | 10                       | 9                       | .....  |
| 070195.....    | 033196      | 9                        | 8                       | .....  |
| 040196.....    | 063096      | 8                        | 7                       | .....  |
| 070196.....    | 033198      | 9                        | 8                       | .....  |
| 040198.....    | 123198      | 8                        | 7                       | .....  |
| 010199.....    | 033199      | 7                        | 7                       | 6  |
| 040199.....    | 033100      | 8                        | 8                       | 7  |
| 040100.....    | 033101      | 9                        | 9                       | 8  |
| 040101.....    | 063001      | 8                        | 8                       | 7  |
| 070101.....    | 123101      | 7                        | 7                       | 6  |
| 010102.....    | 123102      | 6                        | 6                       | 5  |
| 010103.....    | 093003      | 5                        | 5                       | 4  |
| 100103.....    | 033104      | 4                        | 4                       | 3  |
| 040104.....    | 063004      | 5                        | 5                       | 4  |
| 070104.....    | 093004      | 4                        | 4                       | 3  |
| 100104.....    | 033105      | 5                        | 5                       | 4  |
| 040105.....    | 093005      | 6                        | 6                       | 5  |
| 100105.....    | 063006      | 7                        | 7                       | 6  |
| 070106.....    | 123107      | 8                        | 8                       | 7  |
| 010108.....    | 033108      | 7                        | 7                       | 6  |
| 040108.....    | 063008      | 6                        | 6                       | 5  |
| 070108.....    | 093008      | 5                        | 5                       | 4  |
| 100108.....    | 123108      | 6                        | 6                       | 5  |
| 010109.....    | 033109      | 5                        | 5                       | 4  |
| 040109.....    | 123110      | 4                        | 4                       | 3  |
| 010111.....    | 033111      | 3                        | 3                       | 2  |
| 040111.....    | 093011      | 4                        | 4                       | 3  |
| 100111.....    | 033116      | 3                        | 3                       | 2  |
| 040116.....    | 033118      | 4                        | 4                       | 3  |
| 040118.....    | 123118      | 5                        | 5                       | 4  |
| 010119.....    | 063019      | 6                        | 6                       | 5  |
| 070119.....    | 063020      | 5                        | 5                       | 4  |
| 070120.....    | 033122      | 3                        | 3                       | 2  |
| 040122.....    | 063022      | 4                        | 4                       | 3  |
| 070122.....    | 093022      | 5                        | 5                       | 4  |
| 100122.....    | 123122      | 6                        | 6                       | 5  |
| 010123.....    | 093023      | 7                        | 7                       | 6  |
| 100123.....    | 123124      | 8                        | 8                       | 7  |

CRINLEY S. HOOVER,  
*Acting Chief Financial Officer,*  
*U.S. Customs and Border Protection.*

## NOTICE OF REVOCATION OF CUSTOMS BROKERS' NATIONAL PERMITS

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

**ACTION:** Revocation of customs brokers' national permits.

**SUMMARY:** This document provides notice of the revocation by operation of law of customs brokers' national permits for calendar years 2023 and 2024.

**FOR FURTHER INFORMATION CONTACT:** Mohammad O. Qureshi, Chief, Broker Management Branch, Office of Trade, (202) 909-3753, or [mohammad.o.qureshi@cbp.dhs.gov](mailto:mohammad.o.qureshi@cbp.dhs.gov).

**SUPPLEMENTARY INFORMATION:** This document provides notice that, pursuant to section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), and sections 111.45(b) and 111.96(c) of title 19 of the Code of Federal Regulations (19 CFR 111.45(b) and 19 CFR 111.96(c)), the following customs brokers' national permits were revoked by operation of law, without prejudice, for failure to pay the annual permit user fee for calendar year 2023 by February 24, 2023, or calendar year 2024 by February 9, 2024.<sup>1</sup> Pursuant to 19 CFR 111.45(c), a list of revoked customs brokers' national permits appears below.

| Last name/company name                    | First name          | Permit No. |
|---|---------------------|------------|
| Acosta .....                              | Martha L .....      | 2022-0348  |
| Ampac Customs Service Inc .....           | .....               | 2022-0220  |
| Bansard Anker International LLC .....     | .....               | 17-157     |
| BRi Boise Inc .....                       | .....               | 06-0108    |
| Bruno .....                               | Mary Jo .....       | 17-016     |
| Bustard .....                             | Michelle J .....    | 2022-0487  |
| Casso .....                               | Luis R .....        | 2022-0415  |
| Chariez .....                             | Jose .....          | 19-133     |
| Christiansen .....                        | Michael Brian ..... | 2022-0218  |
| Daniel D. Casale Customs Broker Inc ..... | .....               | 99-0123    |
| Diaz .....                                | Benny .....         | 2020-0085  |
| Dubon .....                               | Eduardo .....       | 2022-0290  |
| Duncan .....                              | Robert A .....      | 12-039     |
| eDrawback LLC .....                       | .....               | 2022-0103  |

<sup>1</sup> U.S. Customs and Border Protection publishes the date by which the permit user fee must be paid annually. See 87 FR 77132 (December 16, 2022) and 88 FR 82910 (November 27, 2023).

| Last name/company name                 | First name            | Permit No. |
|--|-----------------------|------------|
| F.C. Felhaber & Co., Inc .....         | .....                 | 13-019     |
| Gateway CHB, Ltd .....                 | .....                 | 99-00643   |
| GEFCO Forwarding USA, Inc .....        | .....                 | 99-00429   |
| Golovets .....                         | Alexander .....       | 2022-0450  |
| Hart Worldwide Logistics Inc .....     | .....                 | 08-0064    |
| Heimark .....                          | David Preston .....   | 2022-0269  |
| Hellstrom .....                        | Lenny Dean .....      | 15-019     |
| Hossain .....                          | Amir .....            | 2022-0212  |
| Indigo Trade Solutions LLC .....       | .....                 | 19-036     |
| Jarrett .....                          | Deborah Anne .....    | 11-060     |
| Kim .....                              | Chong H .....         | 2022-0179  |
| Krief .....                            | Gerald Jacob .....    | 2022-0485  |
| Labay/Summers International, Inc ..... | .....                 | 2022-0209  |
| Liao .....                             | Mike .....            | 09-0058    |
| Logicargo Trade Group LLC .....        | .....                 | 2021-0003  |
| Lu .....                               | Cindy Yu .....        | 2020-0032  |
| Michaud .....                          | Peggy G .....         | 2022-0213  |
| Moyer .....                            | Peter C .....         | 07-0149    |
| Nistal Intl Inc .....                  | .....                 | 17-123     |
| Noah .....                             | Frank Seung .....     | 06-0120    |
| Nobel Cargo Customs Inc .....          | .....                 | 11-019     |
| Oliva-Hardison .....                   | Angel A .....         | 2022-0336  |
| PCU Customs Brokers .....              | .....                 | 19-072     |
| Preferred Services Inc .....           | .....                 | 12-056     |
| Prologix LLC .....                     | .....                 | 19-017     |
| Riggs .....                            | Kathleen Tansey ..... | 08-0040    |
| Tri-Port Clearance Corp .....          | .....                 | 99-00205   |
| Voight .....                           | Paul .....            | 2022-0263  |
| Whittingham .....                      | David .....           | 04-00010   |

Dated: September 18, 2024.

ANNMARIE R. HIGHSMITH,  
*Executive Assistant Commissioner,*  
*Office of Trade.*

**AGENCY INFORMATION COLLECTION ACTIVITIES:****Extension; Application for Identification Card  
(CBP Form 3078)**

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

**ACTION:** 60-Day notice and request for comments.

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

**DATES:** Comments are encouraged and must be submitted (no later than November 25, 2024) to be assured of consideration.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0008 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

*Email.* Submit comments to: *CBP\_PRA@cbp.dhs.gov*.

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

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the

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

### Overview of This Information Collection

**Title:** Application for Identification Card.

**OMB Number:** 1651-0008.

**Form Number:** 3078.

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

**Type of Review:** Extension (without change).

**Affected Public:** Businesses.

**Abstract:** CBP Form 3078, *Application for Identification Card*, is completed for the purpose of collecting an applicant's information to conduct a meaningful background investigation to determine whether the applicant meets the criteria to obtain an Identification Card that is used to gain access to CBP Customs Security Areas (CSA). This form collects biographical information and is usually completed by airport employees, CBP Security Area Identification, Warehouse Officer or Employee, Container Station Employee, Foreign Trade Zone Employee, CES Employee, licensed Cartmen or Lightermen whose duties require receiving, transporting, or otherwise handling imported merchandise which has not been released from CBP custody. This form may be submitted electronically or to the local CBP office at the port of entry that the respondent will be requesting access to the Federal Inspection Section (FIS). Form 3078 is authorized by 19 U.S.C. 66, 1551, 1555, 1565, 1624, 1641; and 19 CFR 112.41, 112.42, 118, 122.182, and 146.6. This form is accessible at: <https://www.cbp.gov/newsroom/publications/forms?title=3078&=Apply>.

*Type of Information Collection:* Form 3078.

**Estimated Number of Respondents:** 200,000.

**Estimated Number of Annual Responses per Respondent:** 1.

**Estimated Number of Total Annual Responses:** 200,000.

**Estimated Time per Response:** 17 minutes.

**Estimated Total Annual Burden Hours:** 56,667.

Dated: September 20, 2024.

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



**AGENCY INFORMATION COLLECTION ACTIVITIES:**

**Extension; Declaration of the Ultimate Consignee That Articles Were Exported for Temporary Scientific or Educational Purposes**

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

**ACTION:** 60-Day notice and request for comments.

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

**DATES:** Comments are encouraged and must be submitted (no later than November 25, 2024) to be assured of consideration.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0036 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

*Email.* Submit comments to: *CBP\_PRA@cbp.dhs.gov*.

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

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of infor-

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

### Overview of This Information Collection

**Title:** Declaration of the Ultimate Consignee that Articles were Exported for Temporary Scientific or Educational Purposes.

**OMB Number:** 1651-0036.

**Form Number:** N/A.

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

**Type of Review:** Extension (without change).

**Affected Public:** Businesses.

**Abstract:** The Declaration of the Ultimate Consignee that Articles were Exported for Temporary Scientific or Educational Purposes is used to document duty free entry under conditions when articles are temporarily exported solely for scientific or educational purposes. This declaration is provided for under 19 U.S.C. 1202, HTSUS Subheading 9801.00.40, and 19 CFR 10.67(a)(3) which requires a declaration from the ultimate consignee stating that the articles were sent from the United States solely for temporary scientific or educational use and for no other use abroad than for exhibition, examination, or experimentation; and that the articles are being returned without having been changed in condition in any manner, except by reason of their bona fide use as described in the declaration. This declaration is submitted to CBP by the importer or the agent of the importer and is used by CBP to determine whether the imported articles should be free of duty.

*Type of Information Collection:* Declaration that Articles were Exported for Temporary Scientific or Educational Purposes.

**Estimated Number of Respondents:** 55.

**Estimated Number of Annual Responses per Respondent:** 3.

**Estimated Number of Total Annual Responses:** 165.

**Estimated Time per Response:** 10 minutes.

**Estimated Total Annual Burden Hours:** 27.

Dated: September 20, 2024.

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

**AGENCY INFORMATION COLLECTION ACTIVITIES:****Revision; Biometric Identity**

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

**ACTION:** 30-Day notice and request for comments.

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

**DATES:** Comments are encouraged and must be submitted (no later than October 28, 2024) to be assured of consideration.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Please submit written comments and/or suggestions in English. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

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

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (89 FR 20674) on March 25, 2024, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance

with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

### **Overview of This Information Collection**

**Title:** Biometric Identity.

**OMB Number:** 1651-0138.

**Form Number:** N/A.

**Current Actions:** Revision.

**Type of Review:** Revision.

**Affected Public:** Individuals.

**Abstract:** In order to enhance national security, the Department of Homeland Security is developing a biometric based entry and exit system capable of improving the information resources available to immigration and border management decision-makers. These biometrics may include: digital fingerprint scans, facial images, iris images or other biometrics. Biometrics may be collected from travelers entering or exiting the United States, including the collection of biometrics from vehicles upon entry. CBP continues to test and evaluate different technological and operational changes to improve the accuracy and speed of biometric collection.

The federal statutes that mandate DHS to create a biometric entry and exit system include: Section 2(a) of the Immigration and Naturalization Service Data Management Improvement Act of 2000 (DMIA), Public Law 106-215, 114 Stat. 337 (2000); section 205 of the Visa Waiver Permanent Program Act of 2000, Public Law 106-396, 114 Stat. 1637, 1641 (2000); section 414 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Public Law 107-56, 115 Stat. 272, 353 (2001); section 302 of the Enhanced Border

Security and Visa Entry Reform Act of 2002 (Border Security Act), Public Law 107–173, 116 Stat. 543, 552, (2002); section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Public Law 108–458, 118 Stat. 3638, 3817 (2004); section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53, 121 Stat. 266 (2007), Consolidated Appropriations Act, 2016, Public Law 114–113, 129 Stat. 2242, 2493 (2016), section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, 110 Stat. 3009–546 (1997), section 802 of the Trade Facilitation and Trade Enforcement Act of 2015, Public Law 114–125, 130 Stat. 122, 199 (2015), and sections 214, 215(a), 235(a), 262(a), 263(a) and 264(c) of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1184, 1185(a), 1225(a), 1302(a)(1303(a), 1304(c) and 1365b.

*New Change:* This revision submission will increase the number of respondents whose biometrics are collected in vehicles, and to seek an exemption from PRA citation requirements on biometric/privacy signage. CBP ports of entry and external partners such as airports and seaports post biometric entry-exit privacy signage at those locations where facial comparison technology is in use by or on behalf of CBP. Due to operation costs to main signage to be compliant with PRA requirements, CBP requests that in lieu of placing the OMB number's expiration date on the privacy signage, CBP will link/reference the OMB number, expiration date, and PRA language on CBP's biometric website: [www.cbp.gov/travel/biometrics](http://www.cbp.gov/travel/biometrics). In lieu of displaying the PRA language on the signage, it will be listed on the website along with the current expiration date. This exception reduces the reprint cost to the U.S. government and the external stakeholders and allows the current privacy signage to remain 508 compliant and PBRB approved.

*Type of Information Collection:* Biometric Data, Fingerprint Modality.

**Estimated Number of Respondents:** 58,657,882.

**Estimated Number of Annual Responses per Respondent:** 1.

**Estimated Number of Total Annual Responses:** 58,657,882.

**Estimated Time per Response:**.0097 hours.

**Estimated Total Annual Burden Hours:** 568,981.

*Type of Information Collection:* Facial/Iris Modality.

**Estimated Number of Respondents:** 54,542,118.

**Estimated Number of Annual Responses per Respondent:** 1.

**Estimated Number of Total Annual Responses:** 54,542,118.

**Estimated Time per Response:**.0025 hours.

**Estimated Total Annual Burden Hours:** 136,355.

*Type of Information Collection:* Facial Scan/Vehicle Modality.

**Estimated Number of Respondents:** 2,000,000.

**Estimated Number of Annual Responses per Respondent:** 1.

**Estimated Number of Total Annual Responses:** 2,000,000.

**Estimated Time per Response:** 0.

**Estimated Total Annual Burden Hours:** 0.

Dated: September 20, 2024.

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





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