

# Bureau of Customs and Border Protection

## *CBP Decisions*

(CBP Dec. 05–13)

### FOREIGN CURRENCIES

#### VARIANCES FROM QUARTERLY RATES FOR MARCH, 2005

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per centum or more from the quarterly rates published in CBP Decision 05–08 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Holiday(s): None

South Africa rand:

March 3, 2005 .....	0.168384
March 14, 2005 .....	0.167154
March 15, 2005 .....	0.164406
March 16, 2005 .....	0.165115
March 17, 2005 .....	0.164677
March 18, 2005 .....	0.165975
March 19, 2005 .....	0.165975
March 20, 2005 .....	0.165975
March 21, 2005 .....	0.164339
March 22, 2005 .....	0.164880
March 23, 2005 .....	0.161551
March 24, 2005 .....	0.160901
March 25, 2005 .....	0.161031
March 26, 2005 .....	0.161031
March 27, 2005 .....	0.161031
March 28, 2005 .....	0.157978
March 29, 2005 .....	0.157542
March 30, 2005 .....	0.159046
March 31, 2005 .....	0.160888

Sweeden krona

March 24, 2005 .....	0.142231
March 25, 2005 .....	0.141943
March 26, 2005 .....	0.141943

FOREIGN CURRENCIES—Variances from quarterly rates for March 2005 (continued):

Sweeden krona (continued):

March 27, 2005 .....	0.141943
March 28, 2005 .....	0.141411
March 29, 2005 .....	0.141479
March 30, 2005 .....	0.141788
March 31, 2005 .....	0.141563

Switzerland franc

March 28, 2005 .....	0.829187
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Venezuela bolivar

March 3, 2005 .....	0.000466
March 4, 2005 .....	0.000466
March 5, 2005 .....	0.000466
March 6, 2005 .....	0.000466
March 7, 2005 .....	0.000466
March 8, 2005 .....	0.000466
March 9, 2005 .....	0.000466
March 10, 2005 .....	0.000466
March 11, 2005 .....	0.000466
March 12, 2005 .....	0.000466
March 13, 2005 .....	0.000466
March 14, 2005 .....	0.000466
March 15, 2005 .....	0.000466
March 16, 2005 .....	0.000466
March 17, 2005 .....	0.000466
March 18, 2005 .....	0.000466
March 19, 2005 .....	0.000466
March 20, 2005 .....	0.000466
March 21, 2005 .....	0.000466
March 22, 2005 .....	0.000466
March 23, 2005 .....	0.000466
March 24, 2005 .....	0.000466
March 25, 2005 .....	0.000466
March 26, 2005 .....	0.000466
March 27, 2005 .....	0.000466
March 28, 2005 .....	0.000466
March 29, 2005 .....	0.000466
March 30, 2005 .....	0.000466
March 31, 2005 .....	0.000466

Dated: April 1, 2005

MARGARET T. BLOM,  
*Acting Chief,*  
*Customs Information Exchange.*

(CBP Dec. 05-14)

## FOREIGN CURRENCIES

DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR  
MARCH, 2005

The Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Holiday(s): None

## European Union euro:

March 1, 2005 .....	1.318900
March 2, 2005 .....	1.312700
March 3, 2005 .....	1.313000
March 4, 2005 .....	1.324400
March 5, 2005 .....	1.324400
March 6, 2005 .....	1.324400
March 7, 2005 .....	1.320300
March 8, 2005 .....	1.334200
March 9, 2005 .....	1.338400
March 10, 2005 .....	1.340900
March 11, 2005 .....	1.346500
March 12, 2005 .....	1.346500
March 13, 2005 .....	1.346500
March 14, 2005 .....	1.334600
March 15, 2005 .....	1.331500
March 16, 2005 .....	1.342300
March 17, 2005 .....	1.337300
March 18, 2005 .....	1.331100
March 19, 2005 .....	1.331100
March 20, 2005 .....	1.331100
March 21, 2005 .....	1.316500
March 22, 2005 .....	1.321000
March 23, 2005 .....	1.300500
March 24, 2005 .....	1.295700
March 25, 2005 .....	1.295400
March 26, 2005 .....	1.295400
March 27, 2005 .....	1.295400
March 28, 2005 .....	1.287700
March 29, 2005 .....	1.291300
March 30, 2005 .....	1.294400
March 31, 2005 .....	1.296900

## South Korea won:

March 1, 2005 .....	0.000996
March 2, 2005 .....	0.000993
March 3, 2005 .....	0.000994
March 4, 2005 .....	0.000992
March 5, 2005 .....	0.000992

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly  
list for March 2005 (continued):

South Korea won: (continued):

March 6, 2005 .....	0.000992
March 7, 2005 .....	0.000996
March 8, 2005 .....	0.000996
March 9, 2005 .....	0.000999
March 10, 2005 .....	0.001000
March 11, 2005 .....	0.001003
March 12, 2005 .....	0.001003
March 13, 2005 .....	0.001003
March 14, 2005 .....	0.000999
March 15, 2005 .....	0.000996
March 16, 2005 .....	0.000996
March 17, 2005 .....	0.000999
March 18, 2005 .....	0.000995
March 19, 2005 .....	0.000995
March 20, 2005 .....	0.000995
March 21, 2005 .....	0.000991
March 22, 2005 .....	0.000991
March 23, 2005 .....	0.000992
March 24, 2005 .....	0.000987
March 25, 2005 .....	0.000986
March 26, 2005 .....	0.000986
March 27, 2005 .....	0.000986
March 28, 2005 .....	0.000982
March 29, 2005 .....	0.000977
March 30, 2005 .....	0.000978
March 31, 2005 .....	0.000985

Taiwan N.T. dollar:

March 1, 2005 .....	0.032315
March 2, 2005 .....	0.032531
March 3, 2005 .....	0.032418
March 4, 2005 .....	0.032457
March 5, 2005 .....	0.032457
March 6, 2005 .....	0.032457
March 7, 2005 .....	0.032391
March 8, 2005 .....	0.032399
March 9, 2005 .....	0.032461
March 10, 2005 .....	0.032626
March 11, 2005 .....	0.032595
March 12, 2005 .....	0.032595
March 13, 2005 .....	0.032595
March 14, 2005 .....	0.032445
March 15, 2005 .....	0.032268
March 16, 2005 .....	0.032279
March 17, 2005 .....	0.032216
March 18, 2005 .....	0.032248
March 19, 2005 .....	0.032248
March 20, 2005 .....	0.032248
March 21, 2005 .....	0.031969
March 22, 2005 .....	0.031959
March 23, 2005 .....	0.031867

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for March 2005 (continued):

Taiwan N.T. dollar: (continued):

March 24, 2005 .....	0.031827
March 25, 2005 .....	0.031797
March 26, 2005 .....	0.031797
March 27, 2005 .....	0.031797
March 28, 2005 .....	0.031616
March 29, 2005 .....	0.031516
March 30, 2005 .....	0.031516
March 31, 2005 .....	0.031786

Dated: April 1, 2005

MARGARET T. BLOM,  
*Acting Chief,*  
*Customs Information Exchange.*

4/1/05

CIE C 28/03  
LIQ-03-01-RR:OO:CI

RE: SECTION 159.34 CFR

SUBJECT: CERTIFIED RATES OF FOREIGN EXCHANGE: SECOND QUARTER, 2005

LISTED BELOW ARE THE BUYING RATES CERTIFIED FOR THE QUARTER TO THE SECRETARY OF THE TREASURY BY THE FEDERAL RESERVE BANK OF NEW YORK UNDER PROVISION OF 31 USC 5151. THESE QUARTERLY RATES ARE APPLICABLE THROUGHOUT THE QUARTER EXCEPT WHEN THE CERTIFIED DAILY RATES VARY BY 5% OR MORE. SUCH VARIANCES MAY BE OBTAINED BY CALLING (646) 733-3065 OR (646) 733-3057.

QUARTER BEGINNING APRIL 1, 2005 AND  
ENDING JUNE 30, 2005

COUNTRY	CURRENCY	U.S. DOLLARS
AUSTRALIA .....	DOLLAR .....	\$0.769700
BRAZIL .....	REAL .....	\$0.376336
CANADA .....	DOLLAR .....	\$0.823316
CHINA, P.R. ....	YUAN .....	\$0.120824
DENMARK .....	KRONE .....	\$0.173160
HONG KONG .....	DOLLAR .....	\$0.128223
INDIA .....	RUPEE .....	\$0.022925
JAPAN .....	YEN .....	\$0.009296

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for March 2005 (continued):

COUNTRY	CURRENCY	U.S. DOLLARS
MALAYSIA.....	RINGGIT .....	\$0.263158
MEXICO.....	PESO .....	&0.089405
NEW ZEALAND.....	DOLLAR.....	\$0.709000
NORWAY.....	KRONE.....	\$0.157572
SINGAPORE.....	DOLLAR.....	\$0.602845
SOUTH AFRICA.....	RAND .....	\$0.160901
SRI LANKA.....	RUPEE .....	\$0.010028
SWEDEN.....	KRONA.....	\$0.140661
SWITZERLAND.....	FRANC.....	\$0.830427
THAILAND.....	BAHT.....	\$0.025497
UNITED KINGDOM.....	POUND STERLING.....	\$1.878900
VENEZUELA.....	BOLIVAR.....	\$0.000466

MARGARET T. BLOM,  
*Acting Chief,*  
*Customs Information Exchange.*

*General Notices*

**COPYRIGHT, TRADEMARK, AND  
 TRADE NAME RECORDATIONS**

**(No. 2 2005)**

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

SUMMARY: Presented herein are the copyrights, trademarks, and trade names recorded with U.S. Customs and Border Protection during the month of February 2005. The last notice was published in the CUSTOMS BULLETIN on March 5, 2005.

Corrections or updates may be sent to: Department of Homeland Security, U.S. Customs and Border Protection, Office of Regulations and Rulings, IPR Branch, 1300 Pennsylvania Avenue, N.W., Mint Annex, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Delois Johnson, Paralegal, Intellectual Property Rights Branch, (202) 572-8710.

Dated: April 6, 2005

GEORGE FREDERICK MCCRAY, ESQ.,  
*Chief,*  
*Intellectual Property Rights Branch.*

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TKN OR MSK	OWNER NAME	RES
COP0500020	20050214	20250214	BVGARI CATALOG JEWELLERY 2003/2004 STORES	BULGARI S.P.A.	N
COP0500021	20050222	20250222	GHOST IN THE SHELL: STAND ALONE COMPLEX EPISODES 1-26	PRODUCTION IG	N
SUBTOTAL RECORDATION TYPE 2					
TKH0500137	20050204	20140724	MCDONALD'S ARCH DESIGN	MCDONALD'S CORPORATION	N
TKH0500138	20050204	20130520	EZ GRIP	USA SPORTS, INC.	N
TKH0500139	20050207	20080512	BOING!	SOCIEDAD COOPERATIVA TRABAJADORE	N
TKH0500140	20050209	20090727	SPECIAL OPS	TAYLOR, STEWART A.	N
TKH0500141	20050209	20140510	MERRELL	WOLVERINE OUTDOORS, INC.	N
TKH0500142	20050209	20141214	DESIGN ONLY	ROXY TRADING INC.	N
TKH0500143	20050209	20121217	CFL AND DESIGN (CROWNED SHIELD W/EMBROIDERED LETTERS)	JAMES, JESSE	N
TKH0500144	20050209	20120507	JESSE JAMES	JAMES, JESSE	N
TKH0500145	20050209	20120108	WEST COAST CHOPPERS	JAMES, JESSE	N
TKH0500146	20050209	20121224	CHOPPERS FOR LIFE	JAMES, JESSE	N
TKH0500147	20050209	20110313	EIGHT HOUR	FD MANAGEMENT, INC.	N
TKH0500148	20050209	20140913	WHITE DIAMONDS	DF ENTERPRISES, INC.	N
TKH0500149	20050209	20110625	RED DOOR	FD MANAGEMENT, INC.	N
TKH0500150	20050209	20100130	ELIZABETH ARDEN	FD MANAGEMENT, INC.	N
TKH0500151	20050209	20140511	BEANBUDIE PLUMP PERFECT	FD MANAGEMENT, INC.	N
TKH0500152	20050209	20060415	FIFTH AVENUE	FD MANAGEMENT, INC.	N
TKH0500153	20050209	20120908	RED DOOR	FD MANAGEMENT, INC.	N
TKH0500154	20050209	20070927	ELIZABETH ARDEN	FD MANAGEMENT, INC.	N
TKH0500155	20050209	20130428	WHITE SHOULDERS	FD MANAGEMENT, INC.	N
TKH0500156	20050209	20050912	SUNFLOWERS	FD MANAGEMENT, INC.	N
TKH0500157	20050209	20140419	SUNFLOWERS	FD MANAGEMENT, INC.	N
TKH0500158	20050209	20140419	GOLDEN BOY	FD MANAGEMENT, INC.	N
TKH0500159	20050210	20141026	OP (STYLIZED)	FD MANAGEMENT, INC.	N
TKH0500160	20050210	20141211	PPK/S	FD MANAGEMENT, INC.	N
TKH0500161	20050211	20140928	COLUMBIA	LIEN HOA FOOD CORPORATION	N
TKH0500162	20050211	20140810	ACTIVISION	OCEAN PACIFIC APPAREL CORP.	N
TKH0500163	20050211	20050723	SMOOSH DESIGN	UMAREX SPORTSWEAR GMBH & CO. KG	N
TKH0500164	20050211	20140122	SMOOSH DESIGN	COLUMBIA SPORTSWEAR NORTH AMERIC	N
TKH0500165	20050211	20140713	SMOOSH DESIGN	ACTIVISION CORPORATION	N
TKH0500166	20050211	20120706	SMOOSH	NIKE INC.	N
TKH0500167	20050211	20110106	SMOOSH DESIGN	NIKE INC.	N
TKH0500168	20050211	20130510	NIKE AND SMOOSH DESIGN	NIKE INC.	N
TKH0500169	20050211	20140703	SMOOSH DESIGN	NIKE INC.	N
TKH0500170	20050211	20130525	NIKE AND SMOOSH DESIGN	NIKE INC.	N
TKH0500171	20050211	20070603	AIR AND SMOOSH DESIGN	NIKE INC.	N
TKH0500172	20050211	20110731	NIKE AND SMOOSH DESIGN	NIKE INC.	N
TKH0500173	20050211	20111225	SMOOSH DESIGN	NIKE INC.	N
TKH0500174	20050211	20120129	NIKE AND SMOOSH DESIGN	NIKE INC.	N
TKH0500175	20050211	20130819	SMOOSH AND GOLF CLUB DESIGN	NIKE INC.	N
TKH0500176	20050211	20130212	NIKE	NIKE INC.	N
TKH0500177	20050211	20140512	NIKE	NIKE INC.	N
TKH0500178	20050211	20140506	NIKE AIR & SMOOSH DESIGN	NIKE INC.	N
TKH0500179	20050211	20140703	NIKE AIR & SMOOSH DESIGN	NIKE INC.	N
TKH0500180	20050211	20050319	NIKE AND SMOOSH DESIGN	NIKE INC.	N

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DETAIL

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TMM OR MSK	OWNER NAME	RES
TKM0500181	20050211	20051112	AIR JORDAN	NIKE INC.	N
TKM0500182	20050211	20060102	NIKE GOLF AND DESIGN	NIKE INC.	N
TKM0500183	20050211	20121001	NIKE SPHERE	NIKE INC.	N
TKM0500184	20050211	20140113	NEW ENGLAND PATRIOTS	NEW ENGLAND PATRIOTS L.P.	N
TKM0500185	20050211	20050321	NEW ENGLAND SAINTS	NEW ORLEANS LOUISIANA SAINTS,LLC	N
TKM0500186	20050211	20150404	NEW ORLEANS SAINTS HELMENT DESIGN	NEW ORLEANS LOUISIANA SAINTS,LLC	N
TKM0500187	20050211	20140920	NEW YORK GIANTS	NEW YORK FOOTBALL GIANTS INC.	N
TKM0500188	20050211	20140705	HELMET DESIGN	DETROIT LIONS INC.	N
TKM0500189	20050211	20140823	ST. LOUIS RAMS	ST. LOUIS RAMS PARTNERSHIP	N
TKM0500190	20050211	20141012	HELMET DESIGN	ST. LOUIS RAMS PARTNERSHIP	N
TKM0500191	20050211	20150411	HELMET DESIGN	INDIANAPOLIS COLTS, INC.	N
TKM0500192	20050211	20131214	HELMET DESIGN	INDIANAPOLIS COLTS, INC.	N
TKM0500193	20050211	20140823	HELMET DESIGN	GREEN BAY PACKERS, INC.	N
TKM0500194	20050211	20141011	MIAMI DOLPHINS	MIAMI DOLPHINS LTD.	N
TKM0500195	20050211	20150418	HELMET DESIGN	PITTSBURGH STEELERS SPORTS INC.	N
TKM0500196	20050211	20150214	MINNESOTA VIKINGS	MINNESOTA VIKINGS FOOTBALL CLUB	N
TKM0500197	20050211	20130615	POKER CHIP DESIGN	MADELAINE CHOCOLATE NOVELTIES	N
TKM0500198	20050211	20141019	HAPPY VODKA	HAPPY VODKA CORPORATION	N
TKM0500199	20050214	20141023	SEBAGO DOCKSIDES & COBBLER DEVICE	SEBAGO INTERNATIONAL LTD.	N
TKM0500200	20050214	20141023	MY FIRST PIANO	SEBAGO INTERNATIONAL LTD.	N
TKM0500201	20050214	20081215	TRIDON AND DESIGN	SCHOENHUT PIANO COMPANY INC.	N
TKM0500202	20050214	20130530	TRIDON	TRIDON INCORPORATED	N
TKM0500203	20050214	20070715	BURTON	TRIDON INCORPORATED	N
TKM0500204	20050214	20070715	BURTON	BURTON CORPORATION	N
TKM0500205	20050214	20070715	BURTON	BURTON CORPORATION	N
TKM0500206	20050214	20120915	CONFIGURATION SINGLE COLOR MAROON	TRIDON CORPORATION	N
TKM0500207	20050214	20050629	LA STYLIZED	TRIDON CORPORATION	N
TKM0500208	20050214	20140108	WASHINGTON WIZARDS	TRIDON CORPORATION	N
TKM0500209	20050214	20140108	WASHINGTON WIZARDS	TRIDON CORPORATION	N
TKM0500210	20050214	20090119	TORONTO RAPTORS	TRIDON CORPORATION	N
TKM0500211	20050214	20100219	ORLANDO MAGIC	TRIDON CORPORATION	N
TKM0500212	20050214	20090307	ORLANDO MAGIC	TRIDON CORPORATION	N
TKM0500213	20050214	20140518	NETS	TRIDON CORPORATION	N
TKM0500214	20050214	20060213	NEW ORLEANS HORNETS	TRIDON CORPORATION	N
TKM0500215	20050214	20081122	MINNESOTA TIMBERWOLVES	TRIDON CORPORATION	N
TKM0500216	20050214	20140706	MEMPHIS GRIZZLES	TRIDON CORPORATION	N
TKM0500217	20050214	20080811	MIAMI HEAT	TRIDON CORPORATION	N
TKM0500218	20050214	20140517	BULLS	TRIDON CORPORATION	N
TKM0500219	20050214	20141025	FALL CLASSIC	TRIDON CORPORATION	N
TKM0500220	20050217	20110508	PLAY ALONG	TRIDON CORPORATION	N

SUBTOTAL RECORDATION TYPE 84

TOTAL RECORDATIONS ADDED THIS MONTH 86



### **Privacy Impact Assessment and Privacy Policy**

**The following document, “Privacy Impact Assessment and Privacy Policy” relates to a final rule entitled “Electronic Transmission of Passenger and Crew Manifests for Vessels and Aircraft” published in the April 20, 2005 Customs Bulletin on p. 1.**

**AGENCY:** Department of Homeland Security

**ACTION:** Notice, Privacy Impact Assessment and Privacy Policy

**SUMMARY:**

Pursuant to the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899 (Dec. 17, 2002), the Department of Homeland Security, Bureau of Customs and Border Protection, is publishing a privacy impact assessment and privacy policy concerning the Advanced Passenger Information System.

**DATE:** Written comments must be received on or before May 9, 2005.

**ADDRESSES:** You may submit comments, identified by Docket Number DHS-2005-0005, by one of the following methods:

EPA Federal Partner EDOCKET Web Site: <http://www.epa.gov/feddoCKET>. Follow the instructions for submitting comments on the Web site.

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

- Mail: Comments by mail are to be addressed to the Bureau of Customs and Border Protection, Office of Regulations and Rulings, 1300 Pennsylvania Avenue, N.W. (Mint Annex), Washington, D.C. 20229. Comments submitted by mail may be inspected at the Bureau of Customs and Border Protection at 799 9th Street, Washington, D.C. To inspect comments, please call (202) 572-8768 to arrange for an appointment.

**INSTRUCTIONS:** All submissions received must include the agency name and docket number for this privacy impact assessment. All comments received, including any personal information, will be posted without change to <http://www.epa.gov/feddoCKET>.

**DOCKET:** For access to the docket to read background documents or comments received, go to <http://www.epa.gov/feddoCKET>. You may also access the Federal eRulemaking Portal at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Charles Perez, Program Manager, Office of Field Operations, Bureau of Customs and Border Protection at (202) 344-2605 or Nuala O'Connor Kelly, Chief Privacy Officer, Department of Homeland Security at (202) 772-9848.

**SUPPLEMENTARY INFORMATION:**

Elsewhere in the Federal Register today, the Department of Homeland Security, Bureau of Customs and Border Protection (CBP), is publishing a final rule concerning the Advanced Passenger Information System (APIS). The rule requires that all commercial inbound and outbound air and sea carriers submit certain data on all passengers and crew members prior to entry to or departure from the United States. The data that must be provided includes the following: the country that issued the passport or alien registration number; the passenger or crew member's full name, date of birth, passport or alien registration number, country of residence, and U.S. destination address (foreign nationals only); and the locator number for the passenger's airline reservation data. For crew members and non-crew members,<sup>1</sup> the address of permanent residence and the pilot certificate number are also required.

Pursuant to the CBP Final Rule, the APIS data must be submitted to CBP by the carrier: (i) for passenger flights into the United States, 15 minutes after departure from a foreign port or place; (ii) for passenger flights departing the United States, 15 minutes prior to departure from the United States; (iii) for crew members (on passenger and all-cargo flights) and non-crew members (limited to all-cargo flights), 60 minutes prior to the departure of any covered flight<sup>2</sup> from a foreign port, the U.S. port of departure, or the U.S. port of arrival en route to a second U.S. port, as applicable; (iv) for vessel arrivals, no later than 24 hours and up to 96 hours prior to the vessel's entry at a U.S. port, depending on the length of the voyage; and (v) for vessel departures, no later than 15 minutes prior to the vessel's departure from a U.S. port. The CBP Final Rule also requires the carrier industry to submit APIS data in an electronic interchange approved by CBP.

In connection with this final rule, and in accordance with Section 208 of the E-Government Act of 2002, which requires federal agencies to conduct a privacy impact assessment when they use information technology to collect new information or make significant changes in existing information technology collections, the Department of Homeland Security conducted a Privacy Impact Assessment of APIS, and developed a privacy policy for this program. The privacy impact assessment and privacy policy are attached as appendi-

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<sup>1</sup> "Non-crew member" means air carrier employees and their family members and persons traveling onboard a commercial aircraft for the safety of the flight (such as an animal handler when animals are onboard). The definition of "non-crew member" is limited to all-cargo flights. (On a passenger or dual flight (passengers and cargo), air carrier employees, their family members, and persons onboard for the safety of the flight are considered passengers).

<sup>2</sup> A "covered flight" is one to, from, continuing within, or overflying the United States

ces to this notice, in keeping with the statutory requirement that such documents be published.

Dated: March 21, 2005

NUALA O'CONNOR KELLY,  
*Chief Privacy Officer,*  
*Department of Homeland Security.*

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## **DEPARTMENT OF HOMELAND SECURITY (DHS)**

### **Privacy Impact Assessment and Privacy Policy; Advance Passenger Information System (APIS) Program**

**SUMMARY:** The Aviation and Transportation Security Act of 2001 and the Enhanced Border Security and Visa Reform Act of 2002 together mandated the collection of certain information on all passenger and crew members who arrive in or depart from the United States on a commercial air or sea carrier. The information required to be collected and submitted to the Advance Passenger Information System (APIS) can be found on routine entry documents that passenger and crew members must provide when processed into or out of the United States. The APIS information includes full name, date of birth, citizenship, passport/alien registration card number, passport/alien registration card country of issuance, passport expiration date country of residence and U.S. destination address (where applicable). The APIS information is collected in advance of a passenger's arrival or departure from the United States in order to perform law enforcement queries to identify security risks to the aircraft or vessel, to its occupants, or to the United States and in order to expedite CBP processing.

Advance Passenger Information System APIS

### **Privacy Impact Assessment**

#### **I. Introduction**

The Advance Passenger Information System (APIS) was developed as a voluntary program by the former United States Customs Service (Customs Service) in 1989 in cooperation with the former United States Immigration and Naturalization Service (INS) and the airline industry. Air carriers and sea vessels collected passengers' biographical data and transmitted the data to the Customs Service while the flight or the vessel was en route. The Customs Service Data Center used APIS data to perform a check against the combined Federal law enforcement database known as the Interagency Border Inspection System (IBIS). Through the voluntary APIS program, these checks were performed in advance of arrival and quickly

referenced once the passengers arrived. This resulted in a significant time savings for the passengers and carriers.

In the Aviation and Transportation Security Act of 2001 (ATSA) and the Enhanced Border Security and Visa Reform Act of 2002 (EBSA), Congress made mandatory the collection of certain information on all passenger and crew members who arrive in, depart from, or transit through the United States on a commercial air or sea carrier, and, in the case of foreign crew members, those who continue domestically on a foreign carrier. The purpose of this collection is to identify high risk passengers and crew members who may pose a risk or threat to vessel or aircraft safety or to national security, while simultaneously facilitating the travel of legitimate passengers and crew members. As mentioned above, this information collection also assists in immigration processing at ports of entry, resulting in a significant time savings.

To implement the mandatory collection of APIS information under ATSA and EBSA, the Customs Service issued an interim regulation (see 19 CFR 122.49a), 66 FR 67484 (December 31, 2001), as amended 67 FR 42712 (June 25, 2002) (Interim Regulation), mandating the transmission of APIS data for all inbound commercial air carriers. The INS issued a Notice of Proposed Rulemaking (NPRM) on January 3, 2003, expanding these requirements to outbound commercial air carriers and inbound and outbound commercial sea carriers. (See 68 FR 292.) With the creation of the Department of Homeland Security (DHS), the inspection and patrol functions of the former INS were incorporated in the U.S. Customs Service which was renamed United States Customs and Border Protection (CBP) under DHS. CBP is now responsible for border enforcement activities, including the collection of APIS information.

To carry out its statutory responsibilities, CBP is now issuing a final rule to require the submission of certain biographical data to CBP through APIS prior to a passenger's or crew member's entry into and exit from the United States. CBP's final rule also provides small air and sea carriers, which do not have the means to transmit data through APIS, a web site to collect this information in the required timeframe. In keeping with the requirements of Section 208 of the E-Government Act of 2002 and Section 222 of the Homeland Security Act, the mandatory collection of information required by APIS is the subject of this Privacy Impact Assessment.

## **II. *System Overview***

### **• What Information Is To Be Collected**

The information to be collected from passengers and crew members by the air and sea carrier industry consists of: complete name, date of birth, gender, country of citizenship, passport/alien registration number and country of issuance, passport expiration date, country of residence, travel document type, U.S. destination address for

foreign nationals (other than those in transit), and the passenger name record locator number.<sup>1</sup> Most of the information collected is contained in the machine-readable zone (MRZ) of an official travel document such as a passport or alien registration card. When a traveler checks in for an international flight, the airline representative will swipe the traveler's travel document through a document reader designed to electronically capture specific information and populate the carrier's computer screen. The carrier will also collect and transmit to CBP the U.S. destination address (foreign nationals only, other than those in transit) and country of residence, which is not contained in the MRZ.

In addition to collecting information directly from the traveler, the carrier also must transmit to CBP the following supplementary information: foreign airport/port where the passengers and crew members began their air transportation to the United States; for passengers and crew member destined for the U.S. the location where the passenger will be processed through customs and immigration formalities; and for passengers and crew members that are transiting through the U.S. and not clearing customs and immigration formalities, the foreign airport of ultimate destination, and status on board (whether an individual is crew or non-crew). Finally, information also is collected about the particular flight or voyage, such as date of arrival/departure, carrier name, flight number, departure location, arrival location, country of registry.

• **Why the Information Is Being Collected and Intended Use of the Information**

The information is being collected pursuant to the ATSA and the EBSA. The purpose of the collection is to screen passengers arriving from foreign travel points and departing the United States to identify those passengers who (1) may pose a risk to the transportation industry, to other travelers and to the United States, (2) are identified as or suspected of being a terrorist or having affiliations to terrorist organizations, (3) have active wants and warrants for criminal activity, (4) are currently inadmissible, or have been previously deported from the United States, or (5) are subject to other intelligence that may identify them as a security risk.

At the same time, the system allows CBP to facilitate effectively and efficiently the entry of legitimate travelers into the United States. As travelers arrive into the United States, through APIS, CBP officers can quickly reference the results of the advanced research that has been conducted through CBP's law enforcement databases, confirm the accuracy of that information by comparison of it

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<sup>1</sup>The Passenger Name Record locator number allows CBP to access PNR if necessary, consistent with its regulatory authority under 19 C.F.R. 122.49b.

with information obtained from the traveler and from the carriers, and make immediate determinations as to a traveler's security risk and admissibility.

- **How will information be checked for accuracy?**

Upon a traveler's arrival into the United States, a CBP officer verifies that the data transmitted by the carrier is the same as that on the traveler's travel documents. If discrepancies are found, a CBP officer can correct the data at the point of entry and update the information. Additionally, CBP audits and tracks the sufficiency and error rates of individual carrier transmissions to APIS and may assess penalties against carriers that fail to transmit APIS data within system parameters on a recurring basis or incur large error rates in the review of their transmissions. CBP also performs periodic audits and routine maintenance on its Information Technology Systems to ensure that system protocols and programming remain intact and operational.

- **Will the system derive new data or create previously unavailable data about an individual through aggregation from the information collected?**

Certain APIS data is maintained and examined in order to view an individual's travel history. In addition to maintaining an individual's travel record, this data is aggregated with information from law enforcement databases to assist CBP employees in making determinations as to a traveler's security risk and admissibility into the United States.

- **What notice is given and what opportunities does an individual have to consent?**

CBP has provided notice through publication of its Interim Regulation, the NPRM, this privacy impact assessment, and its privacy policy, which is being published simultaneously.

Clearance for the arrival or departure of a commercial vessel or aircraft may be contingent upon the submission of passenger and crew manifest information to CBP through APIS.

A foreign traveler who declines to provide APIS information to a carrier is inadmissible to the United States. Such an individual may withdraw his or her application for admission, or be subject to removal proceedings.

United States citizens who refuse to provide the information to the air or sea carrier may be subject to action by that particular carrier. A carrier may prohibit the person from traveling. However, if the carrier allows the passenger to board without providing the required information, the person will be subject to security checks upon arrival.

### **3. *APIS System Architecture***

APIS is a system that resides within the Treasury Enforcement Communications System (TECS), a law enforcement database. (The most recent System of Records Notice for TECS can be found at 66 FR 52984 (October 18, 2001).) APIS comprises a subset of the data collected and maintained within TECS. The data particular to APIS is accessed through functionality that is separate from data within TECS. Certain APIS data (complete name, date of birth, date of arrival, date of departure, time arrived, means of arrival (air/sea), immigration lane, ID inspector, travel document, departure location, airline code and flight number, and result of the CBP processing) is moved to the general TECS database once an individual traveler has cleared immigration.

The APIS data is cross-referenced or compared against other law enforcement data maintained in TECS. These cross-references and comparisons occur through IBIS. IBIS resides in TECS and provides access to the National Crime Information Center (NCIC), which allows users to interface with all 50 states via the National Law Enforcement Telecommunications System (NLETS). IBIS also contains the names of individuals on terrorist watch lists.

### **4. *Maintenance and Administrative Controls on Access to the Data***

#### **With Whom the Information Will Be Shared**

The personal information collected and maintained by APIS will be accessed by employees of DHS components. Strict security and access controls are in place to ensure that only those personnel with a need for the information in the performance of their official duties will be able to access information in the system.

Additionally, the information may be shared with other federal, state, local or foreign agencies responsible for investigating or prosecuting violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where DHS becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. The system of records notice for TECS, where APIS data reside, provides notice as to the conditions of disclosure and routine uses for the information collected by APIS, and provides that any dissemination of information maintained within APIS be compatible with the purpose for which the information originally was collected.

As discussed previously, certain APIS data are transferred to the general TECS database after a traveler has cleared immigration. The information transferred to and stored in the general TECS database includes: complete name, date of birth, date of arrival, date of departure, time arrived, means of arrival (air/sea), immigration lane, ID inspector, travel document, departure location, airline code

and flight number, and result of the CBP processing. APIS is the source data for this travel information stored in the general TECS database.

For individuals subject to US-VISIT requirements, certain APIS data also is transferred to the Arrival and Departure Information System (ADIS) for effective and efficient tracking of foreign nationals. This information includes: complete name, date of birth, gender, nationality, U.S. destination address, passport number, country of issuance,<sup>2</sup> alien registration number, port of entry, entry date, port of departure, and departure date.

- **Retention and Destruction**

APIS information, which is used at the port of entry for verification purposes, is retained temporarily in the APIS component of the TECS system for no more than 12 months from the date of collection at which time the data is erased from the APIS component of the TECS system. Information that is transferred to the general TECS database (as described above) will be maintained for as long as operationally necessary, subject to retention reviews that occur both periodically and each time information is accessed, but in no case will information be retained longer than fifty years past the date of collection. Information that is transferred to ADIS (as described above) is maintained for 100 years in accordance with the retention period of the ADIS system of records notice.

- **How the Information Will Be Secured**

APIS, as a component of TECS, is approved through the TECS Certification and Accreditation (C&A) under the National Institute of Standards and Technology. The last certification was on February 23, 2003. Although APIS is currently under the TECS C&A, it will have its own certification and accreditation in calendar year 2005, to provide specific assurances regarding the safety and security of APIS data.

APIS information is secured in full compliance with the requirements of the DHS IT Security Program Handbook. This handbook establishes a comprehensive program, consistent with federal law and policy, to provide complete information security, including directives on roles and responsibilities, management policies, operational policies, and application rules, which will be applied to component systems, communications between component systems, and at interfaces between component systems and external systems.

One aspect of the DHS comprehensive program to provide information security involves the establishment of rules of behavior for each major application, including APIS. These rules of behavior re-

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<sup>2</sup>For non-immigrants authorized to work.



quire users to be adequately trained regarding the security of their systems. These rules also require a periodic assessment of technical, administrative and managerial controls to enhance data integrity and accountability. System users must sign statements acknowledging that they have been trained and understand the security aspects of their systems. System users must also complete annual privacy awareness training to maintain current access.

APIS transactions are tracked and can be monitored. This allows for oversight and audit capabilities to ensure that the data are being handled consistent with all applicable federal laws and regulations regarding privacy and data integrity.

Data exchange, which will take place over an encrypted network between the carrier industry and CBP and between CBP and other DHS components that have access to the APIS data, is limited and confined only to those entities that have a need for the data in the performance of official duties. These encrypted networks comply with standards set forth in the Interconnection Security Agreements required to be executed prior to external access to a CBP computer system.

The eAPIS Web based system, which permits submission of manifest information over the Internet by carriers who do not have the capability to transmit electronic PNR data, is subject to the same security precautions, standards, laws, and regulations with respect to the collection, retention, and safeguarding of APIS data. Exchanges of data submitted via eAPIS will be no different than exchanges of APIS data collected by other means. eAPIS submissions will be made over an encrypted Internet portal accessed via an approved username and password.

## **5. Redress**

CBP has created a Customer Satisfaction Unit in its Office of Field Operations to provide redress with respect to incorrect or inaccurate information collected or maintained by its electronic systems (including TECS, IBIS, and APIS). If the traveler believes that CBP actions are the result of incorrect or inaccurate information, then inquiries should be directed to the Customer Satisfaction Unit at the following address: Customer Satisfaction Unit, Office of Field Operations, U.S. Customs and Border Protection, Room 5.5C, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229, fax (202) 344-2791. Individuals making inquiries should provide as much identifying information as possible regarding themselves, to identify the record at issue. Individuals may provide additional information to CBP to ensure that the information maintained by CBP is accurate and complete. The Customer Satisfaction Unit will respond in writing to each inquiry.

The DHS Chief Privacy Officer will exercise comprehensive oversight of all phases of the program to ensure that privacy concerns are respected throughout the process. The DHS Chief Privacy Officer

will also serve as the final review authority for all individual complaints and concerns about the program.

## **6. *System of Records***

APIS data is a subset of the system data within the Treasury Enforcement Communications System (TECS) and is covered by the System of Records Notice for TECS. The most recent TECS publication can be found at 66 FR 52984 (October 18, 2001). APIS data is also contained in the system data for the Arrival and Departure Information System (ADIS) and is also covered by the System of Records Notice for ADIS. The most recent ADIS publication can be found at 68 FR 69412 (December 12, 2003).

### **• Privacy Controls**

APIS collects personal information necessary for its purposes. While APIS does not constitute a new system of records, the final rule requiring submission of data expands the types of data collected, the number of travelers from which the data is collected, and makes the system mandatory rather than voluntary. These changes create a potential privacy risk. This risk is mitigated, however, by establishment of the privacy policy supported and enforced by the comprehensive privacy program. This program includes mandatory privacy training for system operators and appropriate safeguards for data handling.

The APIS system collects data to be compared against an existing law enforcement database — TECS — to promote the safety and security of sea and air carriers, their passengers and the United States. Some data collected via APIS manifests is transferred to TECS and may become available for later research of the entry and exit of travelers. This presents a potential privacy risk. This risk is mitigated in several ways. First, APIS data is controlled by separate functionality within the TECS system from other data maintained in that system. While the APIS data may be compared against other data maintained in TECS, this action requires an affirmative act by the user that is subject to regular agency review and audit. Second, the TECS system, and APIS within TECS, has its own published System of Records Notice (SORN), which explains the uses to which the data that is collected will be put. This SORN includes the purposes underlying APIS as part of its terms. This SORN assists in putting the travelling public on notice of the uses of APIS data. Third, Memoranda of Understanding and of Agreement with other agencies carefully regulate the uses for TECS data. This PIA and APIS Privacy Policy make this use of APIS data transparent.

APIS intends to ensure that the program is as transparent as possible. To that end, in addition to publishing this privacy impact assessment and the final rule, CBP has developed a comprehensive

privacy policy, a copy of which is appended to this report and which is posted on the DHS web site.

## **6. Summary and Conclusions**

The APIS program is based on Congressional concerns with improving the safety and security not only of sea and air carriers and their passengers, but also the national security of the United States. Requirements for the program, including the implementation of an integrated and interoperable passenger manifest screening system, are established by various provisions of the Aviation and Transportation Security Act of 2001 and the Enhanced Border Security and Visa Reform Act of 2002. These requirements include, in particular, the integration of arrival, departure, and transit data on all passengers and crew members traveling and listed on commercial sea or air carrier manifests; and integration of this information with other law enforcement and security systems.

CBP structured the APIS program, as promulgated in the final rule, to foster the goals of these statutes, mindful of the need to protect the privacy of the individuals whose data is being collected. This PIA examines the potential privacy risks and describes those actions CBP has taken to mitigate these risks.

### **Contact Point and Reviewing Official**

*Contact Point:* Charles Perez, Program Manager, Office of Field Operations, U.S. Customs and Border Protection, (202) 344-2605.

*Reviewing Official:* Nuala O'Connor Kelly, Chief Privacy Officer, DHS, (202) 772-9848.

Dated: 3/21/05

NUALA O'CONNOR KELLY,  
*Chief Privacy Officer;*  
*Department of Homeland Security.*

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## APPENDIX

### **Advance Passenger Information System (APIS)**

#### **Privacy Policy**

#### **What Is the Purpose of the APIS Program?**

The Aviation and Transportation Security Act of 2001 and the Enhanced Border Security and Visa Reform Act of 2002 together mandated the collection of certain information on all passenger and crew members who arrive into or depart from the United States on a com-

mercial air or sea carrier. The Advance Passenger Information System (APIS) information is collected in advance of a passenger's arrival into the United States in order to perform law enforcement queries to identify security risks to the aircraft/vessel, its occupants, and the United States. The information is also used to verify departure when the traveler leaves the United States at the conclusion of a visit.

### **Who Is Affected by the Program?**

All travelers and crew members who arrive and depart the United States, all crew members on aircraft who fly over the United States, and crew members on foreign aircraft who arrive from an international departure location and continue domestically within the United States are covered by the APIS Program.

### **What Information Is Collected?**

The information to be collected from passengers and crew members by the air and sea carrier industry consists of: complete name, date of birth, gender, country of citizenship, passport/alien registration number and country of issuance, passport expiration date, country of residence, travel document type, U.S. destination address for foreign nationals (other than those in transit), and the passenger name record locator number.<sup>5</sup> Most of the information collected is contained in the machine-readable zone (MRZ) of an official travel document such as a passport or alien registration card. When a traveler checks in for an international flight, the airline representative will swipe the traveler's travel document through a document reader designed to electronically capture specific information and populate the carrier's computer screen. The carrier will also collect and transmit to CBP the U.S. destination address (foreign nationals only, other than those in transit) and country of residence, which is not contained in the MRZ.

In addition to collecting information directly from the traveler, the carrier also must transmit to CBP the following supplementary information: foreign airport/port where the passengers and crew members began their air transportation to the United States; for passengers and crew member destined for the U.S. the location where the passenger will be processed through customs and immigration formalities; and for passengers and crew members that are transiting through the U.S. and not clearing customs and immigration formalities, the foreign airport of ultimate destination, and status on board (whether an individual is crew or non-crew). Finally, information also is collected about the particular flight or voyage, such as date of

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<sup>5</sup>The Passenger Name Record locator number allows CBP to access PNR if necessary, consistent with its regulatory authority under 19 C.F.R. 122.49b.

arrival/departure, carrier name, flight number, departure location, arrival location, country of registry.

**How Is the Information Used?**

The purpose of the information collection is to screen passengers arriving from foreign travel points and departing the United States to identify those passengers who (1) may pose a risk to the transportation industry, to other travelers and to the United States, (2) are identified as or suspected of being a terrorist or having affiliations to terrorist organizations, (3) have active warrants for criminal activity, (4) are currently inadmissible, or have been previously deported from the United States, or (5) are subject to other intelligence that may identify them as a security risk.

At the same time, the system allows CBP to facilitate effectively and efficiently the entry of legitimate travelers into and through the United States. As travelers arrive into the United States, CBP officers can quickly reference the results of the advanced research conducted through the law enforcement databases and make immediate determinations as to a traveler's security risk and admissibility.

**Is the collection of APIS data duplicative of data collected by the US-VISIT?**

No. US-VISIT does not, in itself, collect traveler manifest data. US-VISIT coordinates the exchange of data collected by existing systems that are utilized by the Department of Homeland Security (DHS), such as the APIS system operated by CBP.

**Will the collection of APIS data be duplicative of the data required by the Secure Flight Program as proposed by the Transportation and Security Administration?**

No. The Secure Flight Program is proposed only for domestic carriers transporting travelers within the United States. APIS is restricted to passengers entering and exiting the United States and crew members entering, exiting, overflying, and continuing domestically on a foreign carrier.

**Who Will Have Access to the Information?**

The personal information collected and maintained by APIS will be accessed by employees of DHS components. Strict security and access controls are in place to ensure that only those personnel with a need for the information in the performance of their official duties will be able to access information in the system.

Additionally, the information may be shared with other federal, state, local, or tribal or foreign agencies responsible for investigating or prosecuting violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where DHS becomes aware of

an indication of a violation or potential violation of civil or criminal law or regulation.

### **How Will the Information Be Protected?**

Personal information will be kept secure and confidential and will not be discussed with, nor disclosed to, any person within or outside the APIS program other than as authorized by law and as required for the performance of official duties. Careful safeguards, including appropriate security controls, will ensure that the data is not used or accessed improperly. The APIS functionality is a part of the Treasury Enforcement Communications System (TECS), a law enforcement database. Its accreditation is in accordance with the CBP Information Systems Security Policy and Procedures Handbook (CIS HB 1400-05A, dated June 22, 2001) and with National Information Standards and Technology (NIST) guidance. The TECS system was certified and accredited on February 23, 2003. APIS also will have individual certification utilizing the NIST guidance in calendar year 2005.

Roles and responsibilities of DHS employees, system owners and managers, and third parties who manage or access information in the APIS program include:

#### **1. DHS Employees and Contractors**

As users of APIS systems and records, DHS employees shall:

- Access records containing personal information only when the information is needed to carry out their official duties.
- Disclose personal information only for legitimate government purposes and in accordance with applicable laws, regulations, and applicable policies and procedures.

#### **2. Owners/Managers of the DHS systems storing APIS data**

System Owners/Managers shall:

- Follow applicable laws, regulations, APIS program guidance and DHS policies and procedures in the development, implementation, and operation of information systems under their control.
- Conduct a risk assessment to identify privacy risks and determine whether it is necessary and appropriate to implement additional security controls to protect against the risk.
- Ensure that only personal information that is necessary and relevant for legally mandated or authorized purposes is collected.
- Ensure that all business processes that contain personal information have an approved Privacy Impact Assessment, which meets appropriate DHS and OMB guidance and which is updated as the system progresses through its development stages.
- Ensure that all personal information is protected and disposed of in accordance with applicable laws, regulations, APIS program guidance and DHS policies and procedures.

- Use personal information collected only for the purposes for which it was collected, unless other purposes are explicitly mandated or authorized by law.
- Establish and maintain appropriate administrative, technical, and physical security safeguards to protect personal information.

### **How Long Is Information Retained?**

APIS data is subject to temporary and permanent retention requirements. The information initially collected by APIS is used for entry screening purposes and is retained for twelve months. Certain data obtained through the APIS transmission (complete name, date of birth, date of arrival, date of departure, time arrived, means of arrival (air/sea), primary inspection, ID inspector, travel document, departure location, airline code and flight number, and result of the CBP processing), however, is moved to the general TECS database once an individual traveler has cleared primary inspection. Other information is transferred to the Arrival and Departure Information System (ADIS) for US-VISIT purposes. The transferred data is retained in accordance with the retention schedules approved for TECS and ADIS, as applicable. In general, information stored in the TECS database will be retained for as long as operationally necessary, subject to retention reviews that occur both periodically and each time information is accessed, but in no case will information be retained longer than fifty years past the date of collection. Information stored in ADIS will be retained consistent with the retention schedule for that records system (100 years).

### **Is a Form of Redress Available?**

CBP has created a Customer Satisfaction Unit in its Office of Field Operations to provide redress with respect to incorrect or inaccurate information collected or maintained by its electronic systems. Inquiries should be addressed to: Customer Satisfaction Unit, Office of Field Operations, U.S. Customs and Border Protection, Room 5.5C, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229, fax (202) 344-2791. Individuals making inquiries should provide as much identifying information as possible, to identify the record at issue.

The DHS Chief Privacy Officer will exercise comprehensive oversight of all phases of the program to ensure that privacy concerns are respected throughout the process and will also serve as the final review authority for all individual complaints and concerns about the program.

For Further Information:

Charles Perez, Program Manager, APIS  
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Department of Homeland Security

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Tel: (202) 772-9848

[Published in the Federal Register, April 7, 2005 (70 FR 17857)]

**PROPOSED COLLECTION; COMMENT REQUEST  
CERTIFICATE OF ORIGIN**

**AGENCY:** Bureau of Customs and Border Protection (CBP), Department of Homeland Security (DHS)

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Certificate of Origin. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before June 13, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments Bureau of Customs and Border Protection (CBP), Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2.C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and



clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Certificate of Origin

**OMB Number:** 1651-0016

**Form Number:** Customs Form-3229

**Abstract:** This certification is required to determine whether an importer is entitled to duty-free for goods which are the growth or product of a U.S. insular possession and which contain foreign materials representing no more than 70 percent of the goods total value.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

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

**Affected Public:** Business or other for-profit institutions

**Estimated Number of Respondents:** 10

**Estimated Time Per Respondent:** 20 minutes

**Estimated Total Annual Burden Hours:** 113

**Estimated Total Annualized Cost on the Public:** \$1,030

Dated: April 6, 2005

TRACEY DENNING,  
*Agency Clearance Officer,  
Information Services Group.*

[Published in the Federal Register, April 13, 2005 (70 FR 19496)]

### **PROPOSED COLLECTION; COMMENT REQUEST LINE RELEASE REGULATIONS**

**AGENCY:** Bureau of Customs and Border Protection (CBP), Department of Homeland Security (DHS)

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Line Release Regulations. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before June 13, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Line Release Regulations

**OMB Number:** 1651-0060

**Form Number:** N/A

**Abstract:** Line release was developed to release and track high volume and repetitive shipments using bar code technology and PCS. An application is submitted to CBP by the filer and a common commodity classification code (C4) is assigned to the application.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

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

**Affected Public:** Business or other for-profit institutions

**Estimated Number of Respondents:** 25,700

**Estimated Time Per Respondent:** 15 minutes

**Estimated Total Annual Burden Hours:** 6,425

**Estimated Total Annualized Cost on the Public:** \$452,375

Dated: April 6, 2005

TRACEY DENNING,  
*Agency Clearance Officer,  
Information Services Group.*

[Published in the Federal Register, April 13, 2005 (70 FR 19496)]

**PROPOSED COLLECTION; COMMENT REQUEST  
PERMIT TO TRANSFER CONTAINERS TO  
A CONTAINER STATION**

**AGENCY:** Bureau of Customs and Border Protection (CBP), Department of Homeland Security (DHS)

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Permit to Transfer Containers to a Container Station. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments should be received on or before June 13, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to CBP, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to CBP, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the

burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Permit to Transfer Containers to a Container Station

**OMB Number:** 1651-0049

**Form Number:** N/A

**Abstract:** This information collection is needed in order for a container station operator to receive a permit to transfer a container or containers to a container station, he/she must furnish a list of names, addresses, etc., of the persons employed by them upon demand by CBP officials.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

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

**Affected Public:** Business or other for-profit institutions

**Estimated Number of Respondents:** 1,200

**Estimated Time Per Respondent:** 20 minutes

**Estimated Total Annual Burden Hours:** 400

**Estimated Annualized Cost to the Public:** \$8,700

Dated: April 6, 2005

TRACEY DENNING,  
*Agency Clearance Officer,  
Information Services Group.*

[Published in the Federal Register, April 13, 2005 (70 FR 19495)]

### **PROPOSED COLLECTION; COMMENT REQUEST REPORT OF DIVERSION**

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Report of Diversion. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before June 13, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2.C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Report of Diversion

**OMB Number:** 1651-0025

**Form Number:** Form CBP-26

**Abstract:** CBP uses Form-26 to track vessels traveling coastwise from U.S ports to other U.S. ports when a change occurs in scheduled itineraries. This is required for enforcement of the Jones Act (46 U.S.C. App. 883) and for continuity of vessel manifest information and permits to proceed actions.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

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

**Affected Public:** Businesses, Individuals, Institutions

**Estimated Number of Respondents:** 2800

**Estimated Time Per Respondent:** 5 minutes

**Estimated Total Annual Burden Hours: 233**  
**Estimated Total Annualized Cost on the Public: \$3383**

Dated: April 6, 2005

TRACEY DENNING,  
*Agency Clearance Officer,*  
*Information Services Group.*

[Published in the Federal Register, April 13, 2005 (70 FR 19497)]

**AGENCY INFORMATION COLLECTION ACTIVITIES:  
DECLARATION OF UNACCOMPANIED ARTICLES**

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

**ACTION:** Proposed collection; comments requested.

**SUMMARY:** The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted 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: Declaration of Unaccompanied Articles. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (69 FR 76954) on December 23, 2004, 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 1320.10.

**DATES:** Written comments should be received on or before May 13, 2005.

**ADDRESSES:** Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Homeland Security Desk Officer, Washington, D.C. 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395-6974.

**SUPPLEMENTARY INFORMATION:**

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of

1995 (Pub. L.104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including 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.

**Title:** Declaration for Unaccompanied Articles

**OMB Number:** 1651-0030

**Form Number:** CBP Form-255

**Abstract:** This collection is completed by each arriving passenger for each parcel or container which is being sent from an Insular Possession at a later date. This declaration allows that traveler to claim their appropriate allowable exemption.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

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

**Affected Public:** Individuals

**Estimated Number of Respondents:** 7,500

**Estimated Time Per Respondent:** 5 minutes

**Estimated Total Annual Burden Hours:** 1,250

**Estimated Total Annualized Cost on the Public:** \$18,750

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: April 6, 2005

TRACEY DENNING,  
*Agency Clearance Officer,  
Information Services Branch.*

[Published in the Federal Register, April 13, 2005 (70 FR 19495)]

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

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

**ACTION:** General notice.

**SUMMARY:** This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning April 1, 2005, the interest rates for overpayments will be 5 percent for corporations and 6 percent for non-corporations, and the interest rate for underpayments will be 6 percent. This notice is published for the convenience of the importing public and Customs and Border Protection personnel.

**EFFECTIVE DATE:** April 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Trong Quan, National Finance Center, Collections Section, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278; telephone (317) 614-4516.

**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 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206, 112 Stat. 685) to provide 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 2005-15, the IRS determined the rates of interest for the calendar quarter beginning April 1, 2005, and ending June 30, 2005. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (3%) plus three percentage points (3%) for a total of six percent (6%). For corporate overpayments, the rate is the Federal short-term rate (3%) plus two percentage points (2%) for a total of five percent (5%). For overpayments made by non-corporations, the rate is the Federal short-term rate (3%) plus three percentage points (3%) for a total of six percent (6%).



These interest rates are subject to change for the calendar quarter beginning July 1, 2005, and ending September 30, 2005.

For the convenience of the importing public and Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

<u>Beginning Date</u>	<u>Ending Date</u>	<u>Under- payments (percent)</u>	<u>Over- payments (percent)</u>	<u>Corporate Overpay- ments (Eff. 1-1-99) (percent)</u>
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%	
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%

<u>Beginning Date</u>	<u>Ending Date</u>	<u>Under- payments (percent)</u>	<u>Over- payments (percent)</u>	<u>Corporate Overpay- ments (Eff. 1-1-99) (percent)</u>
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	063005	6%	6%	5%

Dated: April 8, 2005

ROBERT C. BONNER,  
*Commissioner,  
Customs and Border Protection.*

[Published in the Federal Register, April 13, 2005 (70 FR 19497)]

DEPARTMENT OF HOMELAND SECURITY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS.  
*Washington, DC, April 13, 2005*

The following documents of the Bureau of Customs and Border Protection ("CBP"), Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and CBP field offices to merit publication in the CUSTOMS BULLETIN.

MICHAEL T. SCHMITZ,  
*Assistant Commissioner,  
Office of Regulations and Rulings.*

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**PROPOSED REVOCATION OF RULING LETTER AND  
TREATMENT RELATING TO TARIFF CLASSIFICATION  
OF OIL PAN DRAIN PLUGS**

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

**ACTION:** Notice of proposed revocation of ruling letter and treatment relating to tariff classification of oil pan drain plugs.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that CBP intends to revoke a ruling relating to the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of oil pan drain plugs, and to revoke any treatment CBP has previously accorded to substantially identical transactions. These are cylindrical-shaped steel articles with either plastic or rubber sealing rings. They screw into the bottom of a motor vehicle engine's oil pan to allow oil to drain. CBP invites comments on the correctness of the proposed action.

**DATE:** Comments must be received on or before May 27, 2005.

**ADDRESS:** Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations & Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted com-

ments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** James A. Seal, Commercial Rulings Division (202) 572-8779.

**SUPPLEMENTARY INFORMATION:**

**Background**

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke a ruling relating to the tariff classification of oil pan drain plugs. Although in this notice CBP is specifically referring to one ruling, NY K83555, dated March 11, 2004, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been identified. Any party who has received an interpretative ruling or decision (i.e., ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice, should advise CBP during this notice period.

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

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

In NY K83555, oil pan drain plugs were held to be classifiable as other parts and accessories of motor vehicles, in subheading 8708.99.8080, Harmonized Tariff Schedule of the United States Annotated (HTSUSA). This ruling was based on the belief that the merchandise met the qualifications for this classification. NY K83555 is set forth as "Attachment A" to this document.

It is now CBP's position that oil pan drain plugs are classifiable in subheading 8409.91.5080, HTSUSA, as other parts suitable for use solely or principally with the engines of heading 8407 or 8408. Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY K83555 and any other ruling not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis in HQ 967560, which is set forth as "Attachment B" to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment it previously accorded to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

**DATED:** April 12, 2005

Robert Altneu for MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

Attachments



[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,

**NY K83555**  
March 11, 2004  
CLA-2-87:RR:NC:MM:101 K83555  
CATEGORY: Classification  
TARIFF NO.: 8708.99.8080

Mr. JOSEPH R. HOFFACKER  
BARTHCO TRADE CONSULTANTS  
7575 Holstein Avenue  
Philadelphia, Pennsylvania 19153

RE: The tariff classification of an Oil Pan Drain Plug from Taiwan

DEAR MR. HOFFACKER:

In your letter dated February 26, 2004 you requested a tariff classification ruling on behalf of your client Chicago Rawhide Division of SKF USA Inc.

You submitted a sample and a technical drawing of:

- Part Number 534291, Oil Pan Drain Plug. It is made of steel with fluoroelastomer (plastic) sealing ring, and
- You submitted a technical drawing of Part Number 536189, Oil Pan Drain Plug. It is made of steel with HNBR (rubber) sealing ring.

The applicable subheading for the two Oil Pan Drain Plugs will be 8708.99.8080, Harmonized Tariff Schedule of the United States (HTS), which provides for Parts and accessories of the motor vehicles of headings 8701 to 8705: Other parts and accessories: Other: Other: Other: Other . . . Other. The rate of duty will be 2.5% ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Robert DeSoucey at 646-733-3008.

ROBERT B. SWIERUPSKI,  
*Director;*  
*National Commodity Specialist Division.*

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,

**HQ 967560**  
**CLA-2 RR:CR:GC 967560 JAS**  
**CATEGORY:** Classification  
**TARIFF NO.:** 8409.91.5080

JOSEPH R. HOFFACKER  
BARTHCO TRADE CONSULTANTS  
7575 Holstein Avenue  
Philadelphia, PA 19153

**RE:** Oil Pan Drain Plugs; NY K83555 Revoked

MR. HOFFACKER:

In NY K83555, which the Director, National Commodity Specialist Division, U.S. Customs and Border Protection (CBP), New York, issued to you on March 11, 2004, on behalf of Chicago Rawhide Division of SKF USA, Inc., two models of an oil pan drain plug were found to be classifiable as other motor vehicle parts and accessories, in subheading 8708.99.8080, Harmonized Tariff Schedule of the United States Annotated (HTSUSA). NY K83555 is incorrect and no longer represents CBP's position of the classification of this merchandise.

**FACTS:**

Technical drawings submitted with the ruling request that resulted in NY K83555 depict oil pan drain plugs. They are cylindrically-shaped articles with a hex head on one end and a screw thread machined beneath the head.

One plug, designated part 534291, is of steel construction with a fluoroelastomer (plastic) sealing ring, while a second plug, designated part 536189, is also of steel construction but with a HNBR (rubber) sealing ring. These articles screw into the bottom of an internal combustion engine's oil pan by means of a wrench and permit the engine's oil to be drained and replaced.

The HTSUS provisions under consideration are as follows:

**8409** Parts suitable for use solely or principally with the engines of heading 8407 or 8408:

Other:

**8409.91** Suitable for use solely or principally with spark-ignition internal combustion piston (including rotary engines):

Other:

**8409.91.5080** Other

\* \* \* \* \*

**8708** Parts and accessories of the motor vehicles of headings 8701 to 8705:

Other parts and accessories:

**8708.99** Other:

**8708.99.8080** Other

#### ISSUE:

Whether the oil pan drain plugs are goods of heading 8409.

#### LAW AND ANALYSIS:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.


Section XVI, Note 2(b), HTSUS, states, in part, that parts suitable for use solely or principally used with a number of machines of the same heading are to be classified with machines of that kind or in heading 8409, as appropriate. Section XVII, Note 2(e), HTSUS, states, in part, that the expressions "parts" and "parts and accessories" do not apply to machines or apparatus of headings 8401 to 8479, or parts thereof. Thus, if the oil pan drain plugs at issue constitute parts of internal combustion engines of headings 8407 or 8408, they are to be classified in heading 8409 and not in heading 8708. It appears that in addition to use with internal combustion piston engines, drain plugs can also be used with transmissions, differentials, air compressors and coolant fluid drains, as well as a variety of other machines using an oil sump. However, the available information indicates that these drain plugs are designed for use principally with internal combustion piston engines of the type provided for in headings 8407 and 8408. See NY D83802, dated October 27, 1998.

**HOLDING:**

Under the authority of GRI 1, and Section XVI, Note 2(b), HTSUS, oil pan drain plugs represented by model numbers 534291 and 536189 are provided for in heading 8409. They are classifiable in subheading 8409.91.5080, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), dutiable in 2005 at the rate of 2.5 percent ad valorem. Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at [www.usitc.gov](http://www.usitc.gov).

NY K83555, dated March 11, 2004, is revoked.

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*



**PROPOSED REVOCATION OF RULING LETTERS AND  
TREATMENT RELATING TO THE TARIFF CLASSIFICA-  
TION OF MOTOR SUPPORT BEARINGS, OIL FILLER  
CAPS, AND FELT WICK LUBRICATORS**

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

ACTION: Notice of proposed revocation of tariff classification ruling letters and revocation of treatment relating to the classification of motor support bearings, oil filler caps, and felt wick lubricators.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke two ruling letters relating to the tariff classification of three items packaged together, motor support bearings, oil filler caps, and felt wick lubricators under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP proposes to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the proposed actions.

DATE: Comments must be received on or before May 27, 2005.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted com-



ments should be made in advance by calling Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Robert Dinerstein, General Classification Branch, at (202) 572-8721.

SUPPLEMENTARY INFORMATION:

### BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke two ruling letters relating to the tariff classification of certain motor support bearings, oil filler caps, and felt wick lubricators. Although in this notice CBP is specifically referring to the revocation of New York Ruling Letter (NY) K88338, dated August 23, 2004, and NY J88158 dated September 9, 2003 (Attachments A and B, respectively), this notice also covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise CBP during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625 (c)(2)), as amended by section 623 of Title VI, CBP intends to revoke any treatment previously accorded by CBP to sub-

stantially identical merchandise. Any person involved with substantially identical transactions should advise CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action. In NY J88158, CBP classified support motor support bearings, oil filler caps and felt wick lubricators that were used in diesel trucks in subheading 8302.30.30, HTSUS as: "Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal; and base metal parts thereof: other mountings, fittings and similar articles suitable for motor vehicles; and parts thereof: Of iron or steel, of aluminum or of zinc."

In NY K88338, CBP considered the classification of these same items when they were used to support the traction motors of railroad locomotives rather than the traction motors of diesel trucks. CBP determined in NY K88338 that the three items were classified in subheading 8302.49.60, HTSUS, which provides for "Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal; and base metal parts thereof; other mountings, fittings and similar articles, and parts thereof: Other: Other: : Of iron or steel, of aluminum or Of zinc..

Based on our analysis of the scope of the terms of heading 8302, HTSUS, we now believe the following three items, motor support bearings, oil filler caps and felt wick lubricators, subject to this notice are classified as a set in subheading 8483.30.80, HTSUS, as transmission shafts (including camshafts and crankshafts) and cranks; bearing housings, housed bearings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft coupling (including universal joints), parts thereof: bearing housings; plain shaft bearings: Other.

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY J88158 and NY K88338 and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letters (HQs) 967417 and 967544 (Attachments C and D, respectively). Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical

transactions that is contrary to the determination set forth in this notice. Before taking this action, consideration will be given to any written comments timely received.

DATED: April 12, 2005

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,

NY K88338  
August 23, 2004  
CLA-2-83:RR:NC:N1:113 K88338  
CATEGORY: Classification  
TARIFF NO.: 8302.49.6045

MR. GERN F. SCOTT  
PBB GLOBAL LOGISTICS  
*670 Young Street*  
*Tonawanda, NY 14150*

RE: The tariff classification of a diesel locomotive motor support bearing, an oil cap with probe and a felt wick lubricator from Brazil.

DEAR MR. SCOTT:

In your letter dated August 6, 2004, on behalf of Miller Felpax Corp., you requested a ruling on behalf of Miller Felpax Corp. on tariff classification.

You submitted samples and literature of a Diesel Motor Support Bearing, an Oil Cap with Probe and a Felt Wick Lubricator. The item is used as an entirety on a locomotive. You state that the traction motor has three suspension mounts in the truck. Two are provided by the support bearings that connect to one side of the traction motor to the wheel axle. The third point is provided by two lugs on the motor frame that contact the top and bottom of the nose support assembly on the truck frame. The nose suspension thus arrests the upward or downward movement of the motor depending on the direction of rotation when power is applied. The support bearings are of the split "hour glass" design. A half of each bearing assembly is inserted in the motor frame while the mating half is installed in the support bearing cap. Both halves are machined together and are identified by a serial number. The bearings are thus matched and must be kept together and installed in sets. The commutator end and pinion end bearing assemblies of the current narrow window type are interchangeable. The motor support bearings have a machined brass outer surface, and an inner surface of steel. Each bearing half is 12¼" long, having an outside diameter at the flange end of 12", and an outside diameter of 9" at the opposite end. The thickness of the housing is approximately 9/16". One half of the bearing support has a slot to accept the

felt wick lubricator. It is 7" long by 1 7/8" wide. Together, the two motor support bearing halves weigh approximately 70 pounds. Lubrication of traction motor support bearings is provided by a felt wick inserted in the oil reservoir in each bearing cap. A spring loading arrangement keeps the wicks in firm contact with the wheel axle through an opening in the bearing. A narrow window traction motor support bearing cap and support bearing arrangement has been in use since the late D-47 traction motor. The narrow window provides increased oil capacity and larger bearing surface as well as an improved wick lubricator. The Oil Filler Cap is predominately steel with a plastic cap. It has a central metal probe with a spring surrounding the probe.

In your letter, you suggest classification under heading 8607, HTS. Section XVI, Note 2, however, defines certain items as "parts of general use," which includes items classifiable in heading 8302, HTS.

The applicable subheading for this product will be 8302.49.6045, Harmonized Tariff Schedule of the United States (HTS), which provides for base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like, other, for railway vehicles. The general rate of duty will be 5.7 percent ad valorem.

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

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

ROBERT B. SWIERUPSKI,  
*Director,*  
*National Commodity Specialist Division.*



[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,

NY J88158  
September 9, 2003  
CLA-2-83:RR:NC:MM:101 J88158  
CATEGORY: Classification  
TARIFF NO.: 8302.30.3060

MR. JAMES F. MORGAN  
PBB GLOBAL LOGISTICS  
883-D Airport Park Road  
Glen Burnie, Maryland 21061

RE: The tariff classification of a Diesel Motor Support Bearing, Oil Cap with Probe and Felt Wick Lubricator from Brazil

DEAR MR. MORGAN:

In your undated letter you requested a tariff classification ruling on behalf of your client Miller Felpax Corporation.

You submitted samples and literature of a Diesel Motor Support Bearing, an Oil Cap with Probe and a Felt Wick Lubricator.

You state that the traction motor has three suspension mounts in the truck. Two are provided by the support bearings that connect to one side of the traction motor to the wheel axle. The third point is provided by two lugs on the motor frame that contact the top and bottom of the nose support assembly on the truck frame. The nose suspension thus arrests the upward or downward movement of the motor depending on the direction of rotation when power is applied. The support bearings are of the split "hour glass" design. A half of each bearing assembly is inserted in the motor frame while the mating half is installed in the support bearing cap. Both halves are machined together and are identified by a serial number. The bearings are thus matched and must be kept together and installed in sets. The commutator end and pinion end bearing assemblies of the current narrow window type are interchangeable. The motor support bearings have a machined brass outer surface, and an inner surface of steel. Each bearing half is 12¼" long, having an outside diameter at the flange end of 12", and an outside diameter of 9" at the opposite end. The thickness of the housing is approximately 9/16". One half of the bearing support has a slot to accept the felt wick lubricator. It is 7" long by 1 7/8" wide. Together, the two motor support bearing halves weigh approximately 70 pounds.

Lubrication of traction motor support bearings is provided by a felt wick inserted in the oil reservoir in each bearing cap. A spring loading arrangement keeps the wicks in firm contact with the wheel axle through an opening in the bearing. A narrow window traction motor support bearing cap and support bearing arrangement has been in use since the late D-47 traction motor. The narrow window provides increased oil capacity and larger bearing surface as well as an improved wick lubricator.

The Oil Filler Cap is predominately steel with a plastic cap. It has a central metal probe with a spring surrounding the probe.

The applicable subheading for the Diesel Motor Support Bearing, Oil Cap with Probe and Felt Wick Lubricator will be 8302.30.3060, Harmonized Tariff Schedule of the United States (HTS), which provides for Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal; and base metal parts thereof: Other mountings, fittings and similar articles suitable for motor vehicles; and parts thereof: Of iron or steel, of aluminum or zinc . . . Other. The rate of duty will be 2% ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Robert DeSoucey at 646-733-3008.

ROBERT B. SWIERUPSKI,  
*Director,*  
*National Commodity Specialist Division.*

## [ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,

**HQ 967417**  
**CLA-2 RR:CR:GC 967417 RSD**  
**CATEGORY:** Classification  
**TARIFF NO.:** 8483.30.80

GERN F. SCOTT  
SENIOR CONSULTANT, TRADE AND REGULATORY SERVICES  
PBB GLOBAL LOGISTICS  
*670 Young Street*  
*Tonawanda, New York 14150*

**RE:** Revocation of NY K88338 regarding the classification of motor support bearings, felt wicks and oil filler caps that are used to support traction motors on diesel railroad locomotives

DEAR MR. SCOTT:

This is in response to your letter dated October 21, 2004, on behalf of Miller Felpax Corporation requesting reconsideration of NY K88338 dated August 23, 2004, which concerned the classification of motor support bearings, felt wick lubricators and oil filler caps that are used on diesel railway locomotive cars under the Harmonized Tariff Schedule United States (HTSUS).

**FACTS:**

The merchandise under consideration consists of three items that are used in diesel railway locomotive vehicles. The three items are motor support bearings, felt wick lubricators, and oil filler caps. All three items work together in the traction motor of railway locomotive cars. The motor support bearings are split bearings used to support the weight of the traction motor on the locomotive drive. The felt wick lubricator is an oil reservoir with a spring loading device that keeps the felt wick in contact with the wheel axle. The oil filler cap is predominately made of steel with a plastic outer cap. It has a central metal probe with a spring surrounding the probe.

A traction motor suspension bearing is a split-sleeve bearing, normally 200 mm to 230 mm in diameter and 280 mm long. The bearing surface is babbitt-cast on brass supporting half sleeves. Typical radial and lateral bearing clearance are 0.3–1.2 mm and 1.6–5 mm, respectively. Two of these bearings, one each at the commutator and pinion end, support the weight of the traction motor on the locomotive drive axle. The traction motor support bearings are lubricated by a felt wick assembly, which is typically 25 mm thick by 150 mm wide, with one end held against the axle surface by spring pressure and the opposite end immersed up to 100 mm deep in a 5 liter capacity oil reservoir.

Oil is drawn up from the oil reservoir through the wick to the axle surface by capillary action. The traction motor has three suspension mounts on the locomotive. Two are provided by the support bearings, which connect one side of the traction motor to the wheel axle. The third point is provided by two lugs on the motor frame that contact the top and bottom of the nose support assembly on the locomotive frame.

The nose suspension arrests the upward or downward movement of the motor depending on the direction of rotation when power is applied. The support bearings are of a split "hour glass" design. A half of each bearing assembly is inserted in the motor frame while the mating half is installed in the support in the support bearing cap. Both halves are machined together and are identified by a serial number. The bearings are matched and must be kept and installed together. The oil filler cap is predominantly made of steel with a plastic outer cap. It has a central metal probe with the spring surrounding the probe. There is a U.S. patent on these products.

In NY K88338 dated August 23, 2004, Customs and Border Protection (CBP) determined that the items under consideration were classified in sub-heading 8302.49.60 HTSUS, as: "Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal; and base metal parts thereof: Other mountings, fittings and similar articles, and parts thereof: Other mountings: Other: Other: Of iron or steel, of aluminum or of zinc."

**ISSUE:**

Whether the motor support bearings, felt wick lubricators and oil filler caps are classified in heading 8302, HTSUS, as other mounting fittings and similar articles, or in heading 8607, HTSUS, as parts of railway locomotives, or in heading 8483, HTSUS, as plain shaft bearings?

**LAW AND ANALYSIS:**

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

The HTSUS provisions under consideration are as follows:

8302	Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal; and base metal parts thereof:
	Other mountings.....
8302.49	Other:
	Other:
8302.49.60	Of iron or steel, of aluminum or of zinc . . .
*	* * * * *
8483	Transmission shafts (including camshafts and crankshafts) and cranks; bearing housings, housed bearings and plain

shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft coupling (including universal joints); parts thereof:

8483.30	Bearing housings; plain shaft bearings:
8483.30.80	Other . . .
* * *	* * * * *
8607	Parts of railway or tramway locomotives or rolling stock:
	Other:
8607.91.00	Of locomotives . . .
* * *	* * * * *

When interpreting and implementing the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, while neither legally binding nor dispositive, provide a guiding commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. CBP believes the ENs should always be consulted. See, T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN 83.02 provides in pertinent part:

This heading covers general purpose classes of base metal accessory fittings and mountings, such as are used largely on furniture, doors, windows, coachwork, etc. Goods within such general classes remain in this heading even if they are designed for particular uses (e.g., door handles or hinges for automobiles). The heading **does not**, however, **extend** to goods forming an essential part of the structure of the article, such as window frames or swivel devices for revolving chairs.

The heading covers:

...

(C) **Mountings, fittings and similar articles suitable for motor vehicles** (e.g. motor cars, lorries or motor coaches) not being parts or accessories of **Section XVII**. For example: made up ornamental beading strips; foot rests; grip bars, rails and handles; fittings for blinds (rods, brackets, fastening fittings, spring mechanisms, etc.); interior luggage racks; window opening mechanisms; specialised ash trays; tail-board fastening fittings.

Because neither the HTSUS nor the ENs define the terms mountings and fittings, we have looked at standard dictionary definitions for these terms to determine whether the diesel motor support bearings are classifiable in heading 8302, HTSUS. Webster's New World Dictionary, Second College Edition, 1974 defines the word fitting as:

... 2. a small part used to join, adjust, or adapt other parts, as in a sys-



tem of pipes 3. [pl.] the fixtures, furnishings, or decoration of a house, office, automobile, etc.

The web site Dictionary.com defines the word mounting when used as a noun as:

1. The act or manner of mounting. 2. A means of conveyance, such as a horse, on which to ride. 3. An opportunity to ride a horse in a race. 4. An object to which another is affixed or on which another is placed for accessibility, display, or use, especially:

- a. A glass slide for use with a microscope.
- b. A hinge used to fasten stamps in an album.
- c. A setting for a jewel.
- d. An undercarriage or stand on which a device rests while in service.

Based on these definitions for the terms mountings and fittings, we find that the motor support bearings for railroad cars under consideration cannot be characterized as either a fitting or a mounting that would be classified in heading 8302, HTSUS. Accordingly, we look at the alternative heading of 8483, HTSUS.

EN 84.83 describes bearing housings and plain shaft bearings as:

**(B) BEARING HOUSINGS AND PLAIN SHAFT BEARINGS**

...

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

The *McGraw-Hill Encyclopedia of Science & Technology* defines the term anti-friction bearing as: "A machine element that permits free motion between moving and fixed parts. Anti-friction bearings are essential to mechanized equipment: they hold or guide moving machine parts and minimize friction and wear."

The web site <http://www.micropat.com/classdef/CLSDEF/class384/s000000.html> gives further guidance by explaining that bearings are devices:

designed for general use, where one element continuously bears the weight of another, either suspended therefrom, or imposed thereon, and wherein there is either linear motion (e.g., cross head) rotary motion (e.g., of a shaft or axle), or oscillating movement (e.g. a lever) between the two elements. The bearings may have either sliding, or rolling contact with the supported member.

The class includes (a) supports for bearings where such supports are specially formed to receive, and are placed in combination with, bearings, and when not limited to any classified art; (b) antifriction means, as balls, or rollers, designed to receive a rotating shaft, or to be used in connection with a pivoted, sliding, or rotary element; and (c) lubricating devices wherein any of the above bearings are modified for receiving and supplying lubricant.

The web site [http://www.grindwellnorton.co.in/UsefulInfo/ui\\_\\_bearing.htm](http://www.grindwellnorton.co.in/UsefulInfo/ui__bearing.htm) indicates:

Bearings are “the Essential items” required to reduce or eliminate the friction between moving parts.

\* \* \*

Bearings can be used to provide sliding contact between mating parts or rolling contact between the mating parts. Hence broadly the bearing can be classified into two main types:

**Plain Bearings:** Used to minimize “friction” by providing sliding contact between mating parts.

**Rolling Contact Bearings:** Used to minimize “friction” by providing rolling contact between mating parts.

**Plain Bearings:**

Plain bearings operate on the principle of Boundary layer lubrication. The load carrying capacity of plain bearings depends on the type of film which is formed between the mating surfaces.

The web site Engineering.com explains that:

The relative motions between the mating surfaces of a plain bearing may take place in the following ways:

1. As pure sliding with any lubricating medium between the moving surfaces.
2. With hydrodynamic lubrication where a film buildup of lubricating medium is produced.
3. With hydrostatic lubrication where a lubricating medium is introduced under pressure between the moving surfaces.
4. With a combination of hydrodynamic and hydrostatic lubrication.

Based on the information available, we conclude that the motor support bearings under consideration are split-sleeve bearings used on the commutator and pinion end of a traction motor of a railway locomotive. The traction motor bearings are sliding bearings that rely on an oil film rather than rolling elements, such as metal balls, to mediate against the friction associated with a rotating shaft. Sliding type bearings are provided for as plain shaft bearings in heading 8483, HTSUS.

We note that although the motor support bearings are used in railroad locomotive cars, they are excluded from being classified in heading 8607, HTSUS, as parts of railroad cars under Note 2(e) to Section XVII which states that: “The expressions ‘parts’ and ‘parts and accessories’ do not apply to the following articles, whether or not they are identifiable as for the goods of this section:

- (e) Machines or apparatus of heading 8401 to 8479 or parts thereof; articles of heading 8481 or 8482 or, provided they constitute integral parts of engines or motors, articles of heading 8483;

The motor support bearings are necessary for the traction motor to perform its function in the railway locomotives, and they are classifiable in heading 8483, HTSUS, as plain shaft bearings. Thus, we conclude that they are integral parts of the traction motors, and under Note 2(e), to Section XVII, they are excluded from being classified in heading 8607, HTSUS.

In addition to the motor support bearings, the merchandise under consideration includes two other items, felt wick lubricators and oil filler caps. It is our understanding that the three parts work together in coordinated manner. The felt wick lubricator supplies the lubrication of the traction motor support bearing, and oil filler cap serves as the storage device of the lubricant that the traction motor support bearing slides upon.

GRI 3 states that: “[w]hen by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings classification shall be effected as follows”:

...

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

The relevant part of the ENs states that for purposes of Rule 3 the term “goods put up in sets for retail sale” means goods which: (a) consist of at least two different articles which are, *prima facie*, classifiable in different headings; (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and, (c) are put up in a manner suitable for sale directly to users without repacking (e.g., in boxes or cases or on boards).

Applying these criteria to the three items, the traction motor support bearings, felt wick lubricators, and oil filler caps, we find that these articles meet each of the three requirements for “sets” stated in the ENs. As noted above, the bearing is *prima facie* classifiable in heading 8483, HTSUS, as a plain shaft bearing. The felt wick lubricator is *prima facie* classifiable in heading 5602, HTSUS, as felt, and the oil filler cap, which is mostly made of steel, is *prima facie* classifiable in heading 7326, HTSUS, as other articles of iron or steel. In providing the lubricant on which the traction motor support bearing slides, the felt wick and oil filler cap work with the traction motor support bearing so that the three items can effectively function together to carry out the specific activity of supporting and reducing friction in the traction motor of a railroad locomotive.

We recognize that the bearing kits are not sold directly to consumers. However, in HQ 083968 dated July 6, 1989, CBP considered fuel modifications kits delivered without repacking to car dealers, who as the ultimate consumers, installed the components of the kits on recalled cars without charge to the owners. We noted that because the items were put up in a manner suitable for sale directly to users they were sets. We pointed out that there is no requirement that sets actually be sold at retail. In this case, the motor support bearing, felt wick lubricators and oil filler caps are packaged together and are sold directly to users who will install these items into the traction motor of a railroad locomotive without being repackaged. Thus, we conclude that the three items under consideration constitute a set. Accordingly, we must then determine which of the three items imparts the essential character to the set.

The ENs indicate that essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of the constituent material in relation to the use of the goods. In regard to the

three items in the set, the bearing has a far greater bulk, weight and value than the two other components. The bearings also play the principal role in reducing friction and supporting the traction motor of a railroad locomotive. Therefore, of the three components, we conclude that the motor support bearing imparts the essential character to the set. As such, the three items (the motor support bearings, the felt lubricators and the oil filler caps) are classified as a set in the same heading as the motor support bearing, heading 8483, HTSUS, as bearing housings, housed bearings and plain shaft bearings.

**HOLDING:**

By application of GRI 3(b), the traction motor support bearings for railroad locomotives, felt wick lubricators, and oil filler caps are classified as a set based on the essential character of the set being the bearing in heading 8483, HTSUS. It is provided for in subheading 8483.30.80, HTSUS, as “[t]ransmission shafts (including camshafts and crankshafts) and cranks; bearing housings, housed bearings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft coupling (including universal joints); parts thereof: Bearing housings; plain shaft bearings: Other . . .” with a column one, general rate of duty of 4.5 percent *ad valorem*.

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

**EFFECT ON OTHER RULINGS:**

NY K88338 dated August 23, 2004 is revoked.

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

[ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,

**HQ 967544**  
**CLA-2 RR:CR:GC 967544 RSD**  
**CATEGORY:** Classification  
**TARIFF NO.** 8483.30.80

MR. JAMES F. MORGAN  
PBB GLOBAL LOGISTICS  
883-D Airport Park Road  
Glen Burnie, Maryland 21061

**RE:** Revocation of NY J88158 regarding the tariff classification of a diesel truck motor support bearing, oil cap with a probe and felt wick lubricator

DEAR MR. MORGAN:

This is in reference to New York Ruling Letter (NY) NY J88158 dated September 9, 2003, issued by the Customs and Border Protection (CBP) Na-

tional Commodity Specialist Division, (NCSA) regarding the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of a diesel motor support bearing, oil cap with a probe and felt wick lubricator used in a truck. We have reconsidered NY J88158 and determined that the classification of the support bearing, the oil cap and the felt wick lubricator is not correct.

**FACTS:**

In NY J88158, CBP stated that the traction motor has three suspension mounts in the truck. Two are provided by the support bearings that connect to one side of the traction motor to the wheel axle. The third point is provided by two lugs on the motor frame that contact the top and bottom of the nose support assembly on the truck frame. The nose suspension thus arrests the upward or downward movement of the motor depending on the direction of rotation when power is applied. The support bearings are of the split "hour glass" design. A half of each bearing assembly is inserted in the motor frame while the mating half is installed in the support bearing cap. Both halves are machined together and are identified by a serial number. The bearings are thus matched and must be kept together and installed in sets. The commutator end and pinion end bearing assemblies of the current narrow window type are interchangeable. The motor support bearings have a machined brass outer surface, and an inner surface of steel. Each bearing half is 12¼" long, having an outside diameter at the flange end of 12", and an outside diameter of 9" at the opposite end. The thickness of the housing is approximately 9/16". One half of the bearing support has a slot to accept the felt wick lubricator. It is 7" long by 1 7/8" wide. Together, the two motor support bearing halves weigh approximately 70 pounds.

Lubrication of traction motor support bearings is provided by a felt wick inserted in the oil reservoir in each bearing cap. A spring loading arrangement keeps the wicks in firm contact with the wheel axle through an opening in the bearing. A narrow window traction motor support bearing cap and support bearing arrangement has been in use since the late D-47 traction motor. The narrow window provides increased oil capacity and larger bearing surface as well as an improved wick lubricator.

The Oil Filler Cap is predominately steel with a plastic cap. It has a central metal probe with a spring surrounding the probe.

In J88158, CBP held that the applicable subheading for diesel motor support bearing, oil cap with probe and felt wick lubricator was 8302.30.30, HTSUS, which provides for: "Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal; and base metal parts thereof: Other mountings, fittings and similar articles suitable for motor vehicles; and parts thereof: Of iron or steel, of aluminum or of zinc."

**ISSUE:**

Whether the motor support bearings, felt wick lubricators and oil filler caps are classified in heading 8302, HTSUS, as other mounting fittings and similar articles suitable for motor vehicles, or in heading 8483, HTSUS, as plain shaft bearings?

**LAW AND ANALYSIS:**

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

The HTSUS provisions under consideration are as follows:

8302	Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal; and base metal parts thereof:
8302.30	Other mountings, fittings and similar articles suitable for motor vehicles; and parts thereof:
8302.30.60	Of iron or steel, aluminum or of zinc...
*	* * * * *
8483	Transmission shafts (including camshafts and crankshafts) and cranks; bearing housings, housed bearings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft coupling (including universal joints); parts thereof:
8483.30	Bearing housings; plain shaft bearings:
8483.30.80	Other . . .
*	* * * * *

When interpreting and implementing the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, while neither legally binding nor dispositive, provide a guiding commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. CBP believes the ENs should always be consulted. See, T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN 83.02 indicates:

This heading covers general purpose classes of base metal accessory fittings and mountings, such as are used largely on furniture, doors, windows, coachwork, etc. Goods within such general classes remain in this heading even if they are designed for particular uses (e.g., door handles or hinges for automobiles). The heading **does not**, however, **extend** to goods forming an essential part of the structure of the article, such as window frames or swivel devices for revolving chairs.

The heading covers:

...

(C) **Mountings, fittings and similar article suitable for motor vehicles** (e.g. motor cars, lorries or motor coaches) not being parts or accessories of **Section XVII**. For example: made up ornamental beading strips; foot rests; grip bars, rails and handles; fittings for blinds (rods, brackets, fastening fittings, spring mechanisms, etc.); interior luggage racks; window opening mechanisms; specialised ash trays; tail-board fastening fittings.

Because neither the HTSUS nor the ENs define the terms mountings and fittings, we have looked at the standard dictionary definitions for these terms to determine whether the diesel motor support bearings are classifiable in heading 8302, HTSUS. Webster's New World Dictionary, Second College Edition, 1974 defines the word fitting as:

. . . 2. a small part used to join, adjust, or adapt other parts, as in a system of pipes 3. [pl.] the fixtures, furnishings or decoration of a house, office, automobile, etc.

The web site Dictionary.com defines the word mounting when used as a noun as:

1. The act or manner of mounting. 2. A means of conveyance, such as a horse, on which to ride. 3. An opportunity to ride a horse in a race. 4. An object to which another is affixed or on which another is placed for accessibility, display, or use, especially:

- a. A glass slide for use with a microscope.
- b. A hinge used to fasten stamps in an album.
- c. A setting for a jewel.
- d. An undercarriage or stand on which a device rests while in service.

Based on these dictionary definitions for the terms mountings and fittings, we find that the diesel motor support bearings under consideration cannot be characterized as either a fitting or a mounting that would be classified in heading 8302, HTSUS. Thus, we look at the alternative heading proposed, heading 8483, HTSUS, to determine if it describes the diesel motor support bearing of a truck.

EN 84.83 describes bearing housing and plain shaft bearings as:

**(B) BEARING HOUSINGS AND PLAIN SHAFT BEARINGS**

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

The *McGraw-Hill Encyclopedia of Science & Technology* defines the term anti-friction bearing as "A machine element that permits free motion between moving and fixed parts. Anti-friction bearings are essential to mechanized equipment: they hold or guide moving machine parts and minimize friction and wear."

The web site <http://www.micropat.com/classdef/CLSDEF/class384/s000000.html> gives further guidance by explaining that bearings are devices:

designed for general use, where one element continuously bears the weight of another, either suspended therefrom, or imposed thereon, and

wherein there is either linear motion (e.g., cross head) rotary motion (e.g., of a shaft or axle), or oscillating movement (e.g., a lever) between the two elements. The bearings may have either sliding, or rolling contact with the supported member.

The class includes (a) supports for bearings where such supports are specially formed to receive, and are placed in combination with, bearings, and when not limited to any classified art; (b) antifriction means, as balls, or rollers, designed to receive a rotating shaft, or to be used in connection with a pivoted, sliding or rotary element; and (c) lubricating devices wherein any of the above bearing are modified for receiving and supplying lubricant.

The web site [http://www.grindwellnorton.co.in/UsefulInfo/ui\\_\\_bearing.htm](http://www.grindwellnorton.co.in/UsefulInfo/ui__bearing.htm) indicates:

Bearings are “the Essential items” required to reduce or eliminate the friction between moving parts.

\* \* \*

Bearing can be used to provide sliding contact between mating parts or rolling contact between the mating parts. Hence broadly the bearing can be classified into two main types:

**Plain Bearings:** Used to minimize “friction” by providing sliding contact between mating parts.

**Rolling Contact Bearings:** Used to minimize “friction” by providing rolling contact between mating parts.

**Plain Bearings:**

Plain bearings operate on the principle of Boundary layer lubrication. The load carrying capacity of plain bearings depends on the type of film which is formed between the mating surfaces.

The web site Engineering.com explains that:

The relative motions between the mating surfaces of a plain bearing may take place in the following ways:

1. As pure sliding with any lubricating medium between the moving surfaces.
2. With hydrodynamic lubrication where a film buildup of lubricating medium is produced.
3. With hydrostatic lubrication where a lubricating medium is introduced under pressure between the moving surfaces.
4. With a combination of hydrodynamic and hydrostatic lubrication.

Based on the information available, we conclude that the motor support bearings under consideration are split-sleeve bearings used on the traction motor of a diesel truck. The diesel motor traction support bearings are sliding bearings that rely on an oil film rather than rolling elements, such as metal balls, to mediate against the friction associated with a rotating shaft that are provided for as plain shaft bearings in heading 8483, HTSUS.

In addition to the motor support bearings, the merchandise under consideration includes two other items, felt wick lubricators and oil filler caps. It is our understanding that three parts work together as a unit. The felt wick



lubricator supplies the lubrication to the traction motor support bearing, and oil filler cap serves as a storage device for the lubricant that is used by the support bearing.

GRI 3(b) states that [w]hen by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings classification shall be effected as follows:

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

The relevant ENs state that for purposes of Rule 3 the term “goods put up in sets for retail sale” means goods which: (a) consist of at least two different articles which are, *prima facie*, classifiable in different headings; (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and, (c) are put up in a manner suitable for sale directly to users without repacking (e.g., in boxes or cases or on boards).

Applying these criteria to the three items, the traction motor support bearings, felt wick lubricators, and oil filler caps, we find that these articles meet each of the three requirements for “sets” stated in the ENs. As noted above, the bearing is *prima facie* classifiable in heading 8483, HTSUS, as a plain shaft bearing. The felt wick lubricator is *prima facie* classifiable in heading 5602, HTSUS, as felt, while the oil filler cap, which is mostly made of steel, is *prima facie* classifiable in heading 7326, HTSUS, as other articles of iron or steel. In providing the lubricant on which the traction motor support bearing slides, the felt wick and oil filler cap work with the traction motor support bearing so that the three items can effectively function together to carry out the specific activity of supporting and reducing friction in the traction motor of a diesel truck.

We recognize that the bearing kits are not sold directly to consumers. However, in HQ 083968 dated July 6, 1989, CBP considered fuel modification kits that were delivered without repacking to car dealers, who as the ultimate consumers, installed the components of the kits on recalled cars without charge to the owners. We determined that because the items were put up in a manner suitable for sale directly to users they were sets. In support of this determination, we pointed out that there is no requirement that sets actually be sold at retail. In this case, the motor support bearing, felt wick lubricators and oil filler caps are packaged together and sold directly to users who will install the items into the traction motor of a diesel truck without being repackaged. Thus, we conclude that the three items under consideration constitute a set. Accordingly, we must then determine which of the three items in the set imparts the essential character to the set.

The ENs indicate that essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight, value, or by the role of the constituent material in relation to the use of the goods. In the regard to the three items in the set under consideration, the motor support bearing has far greater bulk, weight and value as compared to the other components in the set. Of the three components in the set, the motor support bearing also plays the principal role of providing the support and reducing friction in the traction motor of a diesel truck. Therefore, we conclude that the traction mo-

tor support bearing is the component that imparts the essential character to the set. Accordingly, the three items under consideration (the motor support bearings, felt lubricators and the oil filler caps) are classified as a set in the same heading as the motor support bearing, heading 8483, HTSUS, as bearing housings, housed bearings and plain shaft bearings.

**HOLDING:**

By application of GRI 3(b), the traction motor support bearings, felt wick lubricators, and oil filler caps used on diesel trucks are classified as a set based on the essential character of the set being transaction motor support bearing in heading 8483, HTSUS. It is provided for in subheading 8483.30.80, HTSUS, as [t]ransmission shafts (including camshafts and crankshafts) and cranks; bearing housings, housed bearings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft coupling (including universal joints); parts thereof: bearing housings; plain shaft bearings: Other . . . ” with a column one, general rate of duty of 4.5 percent *ad valorem*.

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

**EFFECT ON OTHER RULINGS:**

NY J88158 dated September 9, 2003, is revoked.

MYLES B. HARMON,  
*Director;*  
*Commercial Rulings Division.*