

U.S. Customs and Border Protection



8 CFR Part 235
CBP Dec. No. 13-09

RIN 1651-AA95

EXTENSION OF BORDER ZONE IN THE STATE OF NEW MEXICO

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This final rule amends Department of Homeland Security (DHS) regulations to extend the distance that certain nonimmigrant Mexican nationals presenting a Border Crossing Card, or other proper immigration documentation, may travel in New Mexico without obtaining a U.S. Customs and Border Protection (CBP) Form I-94 (Form I-94), Arrival/ Departure Record. This change is intended to promote commerce and tourism in southern New Mexico while still ensuring that sufficient safeguards are in place to prevent illegal entry to the United States.

DATES: This rule is effective July 12, 2013

FOR FURTHER INFORMATION CONTACT: Colleen Manaher, CBP Office of Field Operations, telephone (202) 344-3003, email: *colleen.m.manaher@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Executive Summary

Under current DHS regulations, certain nonimmigrant Mexican nationals presenting a Border Crossing Card (BCC), or other proper immigration documentation, are not required to obtain a Form I-94 if they remain within 25 miles of the U.S.-Mexico border (75 miles in

Arizona).¹ This region is known as the “border zone” and includes portions of Arizona, California, New Mexico, and Texas. The majority of Mexican nationals who are exempt from the Form I-94 requirement possess and apply for admission to the United States with a BCC. The BCC is one of the most secure travel documents used at the border and allows for faster processing at both the port of entry and interior immigration checkpoints. The currently issued BCC is a laminated, credit card style document with many security features, a ten year validity period and vicinity-read Radio Frequency Identification (RFID) technology and a machine-readable zone. Using these features, CBP is able to electronically authenticate the BCC against the Department of State (DOS) issuance records.

Although the border zone, established in 1953, was intended to promote the economic stability of the border region by allowing for freer flow of travel for Mexican visitors with secure documents, New Mexico has no metropolitan areas and few tourist attractions within 25 miles of the border and thus benefits very little from the current 25-mile border zone. In order to facilitate commerce, trade, and tourism in southern New Mexico, while still ensuring that sufficient safeguards are in place to prevent illegal entry to the United States, on August 9, 2012, CBP published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (77 FR 47558), proposing to extend the distance certain Mexican nationals admitted to the United States as nonimmigrant visitors may travel in New Mexico without obtaining a Form I-94 from 25 miles to 55 miles from the U.S.-Mexico border. The NPRM also solicited public comments.

All but two of the 40 comments received were very supportive of the proposal. Those commenters supporting the proposed extension include local and state law enforcement officials, elected officials of the region, as well as individual citizens and other stakeholders in the business and academic communities. Many commenters stated that the expanded border zone will maintain security of the border while increasing economic activity in New Mexico’s border region and providing a boost to this relatively impoverished region. The two commenters who oppose the proposed expansion cited security concerns. CBP is of the view that the expanded border zone will facilitate commerce, trade, and tourism in southern New Mexico, while still ensuring that sufficient safeguards are in place to prevent illegal entry to the United States. In addition to promoting the economy in this area and facilitating legitimate travel, the extension will in-

¹ The I-94 requirement and exceptions can be found at 8 CFR 235.1(h). On March 27, 2013, DHS published an Interim Final Rule in the **Federal Register** (78 FR 18457) entitled “Definition of Form I-94 to Include Electronic Format.” The rule makes various amendments to 8 CFR to enable DHS to automate the Form I-94 at air and sea ports of entry.

crease CBP's administrative efficiency by reducing unnecessary paperwork burdens associated with the I-94 process and allowing CBP to focus resources on security enhancing activities to the greatest extent possible.

This rule will not impose any new costs on the public or on the United States government. Further, this rule is expected to reduce costs to Mexican visitors to the United States, improve security, and benefit commerce in a relatively impoverished region. The majority of comments that CBP received supported this conclusion.

Therefore, after consideration of the comments, CBP is adopting as final the proposed amendments to 8 CFR 235.1(h).

Background

Under § 235.1(h)(1) of the DHS regulations (8 CFR 235.1(h)(1)), each arriving nonimmigrant who is admitted to the United States is issued a Form I-94, Arrival/Departure Record, as evidence of the terms of admission, subject to specified exemptions. This form is not required for a Mexican national admitted as a nonimmigrant visitor with certain documentation if he or she remains within 25 miles of the U.S.-Mexico border (75 miles within Arizona), for no more than either 30 days or 72 hours, depending upon the type of travel document the nonimmigrant visitor possesses. The area bounded by these limits is referred to in this document as the "border zone."

To be admitted to the border zone without a Form I-94, a Mexican national must be in possession of a BCC,² or a passport and valid visa, or for a Mexican national who is a member of the Texas Band of Kickapoo Indians or Kickapoo Tribe of Oklahoma, a Form I-872 American Indian Card. *See* 8 CFR 235.1(h)(1)(iii) and (v). Mexican nationals entering the United States with a BCC or with a Form I-872 may remain in the border zone for up to 30 days without having to obtain a Form I-94. Mexican nationals entering the United States with a passport and visa may remain in the border zone for up to 72 hours without having to obtain an I-94.

Mexican nationals traveling beyond these specified zones, or who will remain beyond the time periods indicated above or seek entry for purposes other than as a temporary visitor for business or pleasure, are required to obtain and complete a Form I-94. At land border ports of entry, the Form I-94 issuance process requires a secondary inspection that includes review of travel documents, examination of belongings, in-depth interview, database queries, collection of biometric

² Effective October 2, 2002, the Form DSP-150, B-1/B-2 Visa and Border Crossing Card became the border crossing card valid for entry into the United States. *See* 67 FR 71443. The BCC is an approved document to establish identity and citizenship at the border and also serves as a B-1/B-2 visitor's visa.

data, and collection of a \$6 fee. A Form I-94 issued at a land border is generally valid for multiple entries for six months.

The majority of Mexican nationals who are exempt from the Form I-94 requirement possess and apply for admission to the United States with a BCC. To obtain a BCC, applicants must be vetted extensively by the Department of State (DOS). The vetting process includes collection of information, such as fingerprints, photographs, and other information regarding residence, employment and reason for border crossing, and an interview, as well as security checks to identify any terrorism concerns, disqualifying criminal history, or past immigration violations. The BCC includes many security features such as vicinity-read Radio Frequency Identification (RFID) technology and a machine-readable zone. Using these features, CBP is able to electronically authenticate the BCC and compare the biometrics, photo and fingerprints of the individual presenting the BCC against DOS issuance records in order to confirm that the document is currently valid and that the person presenting the document is the one to whom it was issued.

Notice of Proposed Rulemaking

On August 9, 2012, CBP published an NPRM in the **Federal Register** (77 FR 47558) proposing to amend the DHS regulations to expand the zone in which Mexican nationals presenting certain documentation may travel in New Mexico without having to obtain a Form I-94. Although the border zone was intended to promote the economic stability of the border region by allowing for freer flow of travel for Mexican visitors with secure documents, New Mexico has no metropolitan areas and few tourist attractions within 25 miles of the border and thus benefits very little from the current 25-mile border zone. In order to facilitate commerce, trade, and tourism in southern New Mexico, while still ensuring that sufficient safeguards are in place to prevent illegal entry to the United States, CBP proposed extending the border zone in New Mexico from 25 miles to 55 miles from the U.S.-Mexico border.

With the extension of the border zone to 55 miles, Mexican nationals meeting the requirements for legal entry into the United States would be able to travel to metropolitan areas in New Mexico, such as the city of Las Cruces or the smaller towns of Deming and Lordsburg, and other destinations, without having to leave their vehicle and wait in line to undergo the additional Form I-94 application process at secondary inspection. This extension would not affect the 30-day time limit of the border zone applicable to BCC holders or the 72-hour time limit of the border zone applicable to Mexican nationals presenting a visa and passport.

Additionally, while the extension of the border zone to 55 miles from the U.S.-Mexico border includes most of Interstate Highway I-10, there is a short stretch of Interstate Highway I-10 that is outside the 55-mile zone. Thus, to facilitate travel, CBP proposed a provision to include all of Interstate Highway I-10 in the state of New Mexico in addition to the extension to 55 miles from the border.

The NPRM also proposed two technical corrections to § 235.1 of title 8 CFR. First, in paragraph (h)(1)(iii), CBP proposed correcting the paragraph citation from (f)(1)(v) to (h)(1)(v), as this citation was inadvertently not changed when paragraph (f) was redesignated as paragraph (h) by the Western Hemisphere Travel Initiative (WHTI) air final rule (71 FR 68412). Second, CBP proposed updating several references to § 212.1 of title 8 CFR to reflect changes contained in the WHTI land and sea final rule (73 FR 18384).

The background section of the NPRM provides more detailed information on the proposed extension, the history and development of the border zone, the BCC and its uses, and the proposed technical corrections. The NPRM provided a 60-day public comment period.

Discussion of Comments

CBP received 40 comments³ during the comment period, all of which addressed the proposed expansion of the border zone. No comments were received on the proposed technical corrections. All but two of the comments were in favor of the proposal. Those commenters supporting the expansion of the border zone included state and local law enforcement agencies and elected officials of the region, as well as individual citizens and many other stakeholders in the business and academic communities. The two comments opposing the expansion were both from individuals.

Many of the commenters who support the proposal stated that the expanded border zone will maintain security of the border while increasing economic activity in New Mexico's border region. Some noted that the current geographic limitation on BCC holders limits commerce in a relatively impoverished region. Many commenters were of the view that the 25-mile border zone is antiquated and places the region at a competitive disadvantage compared to border regions in neighboring states. Many also stated that the region experiences high levels of unemployment and poverty, and believed that the extension of the border zone would stimulate the local economy by increasing sales, creating or saving jobs, and bolstering tax revenues. One commenter noted that local agencies with bi-national coopera-

³ Four of the comments were from one person who sent four separate letters in different capacities.

tion agreements are hindered in their work by the limited border zone, and often travel to El Paso for meetings rather than inviting their Mexican counterparts to join them in Las Cruces due to the additional paperwork. A few commenters stated that when the border zone was expanded in Arizona in 1999, retail sales in the area increased and the region experienced a boost in its economy. These commenters were of the view that the same boost would occur in New Mexico if the border zone is expanded there.

Many commenters, including local police and sheriff departments, stated that the expansion would have no negative effect on security in the region. A few commenters also noted that the expansion of the zone would increase efficiency of the admission process and allow CBP to focus greater attention on securing the border from illegal entries. A few commenters stated that the expansion of the border zone will foster goodwill with the Mexican communities on the other side of the border.

CBP received comments in support of the proposal from a state senator and a state representative from New Mexico who both noted that the New Mexico Senate and House of Representatives passed a resolution in 2011 in support of extending the border zone, with unanimous and bipartisan support. CBP also received a comment in support of the proposal from Senators Bingaman and Udall and Congressman Pearce of New Mexico. The U.S. Senators and Congressman stated that the expansion of the border zone will result in increased efficiency by allowing low-risk visitors the opportunity to travel to New Mexico to shop, visit family, and conduct business while maintaining border security.

Two commenters opposed the extension of the border zone due to concerns relating to security. They are concerned that extending the border zone would result in increased illegal crossings into the United States and would lead to an increase in criminal activity in the area. One of the commenters is concerned that the extension of the border zone would increase traffic from Mexico and that this would result in decreased scrutiny of aliens entering the United States at the border, which may increase illegal activity.

Response to Comments

CBP has been very mindful of the potential impact of the extension on local law enforcement efforts as well as the impact to agencies responsible for enforcing the immigration laws along the southwest border. However, CBP believes that the extension of the border zone in New Mexico will not increase illegal crossings or illegal activity in the area. The extension of the border zone will not affect the current

visa requirements for foreign nationals wishing to enter the United States nor will it affect the threshold requirements for admission into the United States as a nonimmigrant B-1/B-2 BCC⁴ or B visa holder, including residence abroad and no intent to abandon that residence, intent to visit temporarily for business or pleasure, and eligibility based on applicable statutory and regulatory requirements. Travelers remain subject to questioning regarding intent and purpose of travel during inspection upon arrival in the United States. CBP Officers are able to verify at the ports of entry through biometric matching (photo and/or fingerprints) that the individual presenting a BCC is the authorized holder and, by comparison against DOS's issuance records in a shared database, that the document is valid. The existing use of Border Patrol checkpoints within 100 miles of the border serve as a second tier of enforcement deterring the further movement of illegal immigration to the interior of the United States.

CBP notes that law enforcement officials in some of the affected areas, including the Chiefs of Police of the cities of Las Cruces, Deming, and Lordsburg, the Sheriffs of Hidalgo and Luna Counties, and the Marshal of the town of Mesilla each stated in their comments that no negative law enforcement ramifications were anticipated.

CBP believes that the expanded border zone will allow CBP to better allocate its resources while enhancing its enforcement posture. The expanded border zone will reduce the number of Mexican nationals required to obtain a Form I-94 and thus will increase CBP's administrative efficiency by reducing unnecessary paperwork burdens associated with the Form I-94 process and allowing CBP to reallocate that staff time to other security enhancing activities.

CBP anticipates that the extension of the border zone will encourage Mexican nationals visiting New Mexico to use the BCC, which will further enhance security in the region. The BCC is CBP's preferred method of identification for Mexican nationals entering the United States at land border ports of entry. The BCC is one of the most secure travel documents used at the border, and BCC holders undergo extensive vetting by CBP and DOS. BCCs contain numerous, layered security features, such as enhanced graphics and technology, that provide protection against fraudulent use. Using existing technology, CBP can very quickly verify the validity of the card, the identity of the cardholder, and other pertinent information about the cardholder. The use of a BCC card has increased security in process-

⁴ The BCC can be used as both a Border Crossing Card and also as a B-1/B-2 visa. The full name of the document is "Form DSP-150, B-1/B-2 Visa and Border Crossing Card." See 8 CFR 212.1(c)(1)(i).

ing travelers by allowing the ability to affirmatively identify the individual and conduct admissibility checks.

CBP also anticipates that the expansion of the border zone will enhance security due to the time savings from an increased use of the BCC, which enables CBP to identify more quickly whether travelers present a risk, and allows CBP to reallocate resources that would have been used for processing these travelers to processing for higher risk individuals, both at ports of entry and inland immigration checkpoints. Inspections at the border will remain thorough, but the increased use of travel documents containing RFID technology, such as the BCC, will contribute to reducing individual inspection processing time. Law enforcement queries regarding travelers with RFID travel documents, such as the BCC, are 20 percent faster than for persons with documents containing only a machine-readable zone, and 60 percent faster than manual entry of information from a paper document.⁵ The use of RFID technology in the BCC enables CBP to more quickly authenticate the documents, and thus helps CBP more quickly assess whether the traveler presents a risk. Greater use of RFID travel documents such as the BCC will allow CBP to focus its personnel time on higher risk individuals while providing efficiencies in the flow of legitimate trade and travel in the area. CBP anticipates that any delays resulting from the increase in traffic will be offset by more efficient processing and better use of officers assigned to the port of entry.

Adoption of the Proposal

After review of the comments, CBP has determined to adopt as final the proposed rule published in the **Federal Register** to extend the border zone in New Mexico and to adopt the proposed technical corrections to 8 CFR 235.1. A map of the expanded border zone can be found in the docket for this rulemaking (docket number US-CBP-2012-0030) on www.regulations.gov.

Authority

These regulations are being amended pursuant to 8 U.S.C. 1101, 1103, 1185, 1185 note, and 1225.

Statutory and Regulatory Requirements

Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regula-

⁵ Statistics derived from operational data stored in TECS, the official system of record for CBP operational and enforcement data.

tion is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule is a “significant regulatory action,” although not an economically significant regulatory action, under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has reviewed this regulation.

Mexican nationals entering the United States in New Mexico at land border ports of entry are required to present a BCC or a passport and a visa in order to be admitted to the United States. Visitors intending to travel beyond the border zone, or longer than 30 days (72 hours for certain individuals) are also required to obtain a Form I-94 and use it in conjunction with their BCC or passport and visa. Currently, if the traveler is admitted using a passport and visa, he or she is only able to travel up to 25 miles from the U.S.-Mexico border in New Mexico and remain in the United States for up to 72 hours without obtaining a Form I-94; if the traveler is admitted using a BCC, he or she is able to travel up to 25 miles from the border and stay for up to 30 days without obtaining a Form I-94. Travelers who obtain a Form I-94 are able to travel anywhere in the United States and stay for up to six months.⁶

However, in practice, travelers generally either enter the United States with a BCC and stay within the border zone or obtain a Form I-94, for use with a passport and visa or with a BCC, to go beyond the border zone. In 2011, about 900,000 Mexican nationals entered the United States in New Mexico. About sixty percent, or 540,000, of these travelers used a BCC. The remainder, 360,000, entered using a Form I-94 with their passport and visa. There were approximately 136,000 Form I-94s issued to Mexican nationals at New Mexico land border ports in 2011. Multiple trips are allowed during the Form I-94's validity period, which accounts for the difference in the total number of Form I-94 crossings and the total number of Form I-94s issued.

Costs

This final rule expands the geographic limit for BCC holders traveling in New Mexico who have not obtained a Form I-94. Under existing regulations, BCC holders can travel anywhere within 25 miles of the border without obtaining a Form I-94. This rule allows BCC holders to travel anywhere in New Mexico within 55 miles from

⁶ See 8 CFR 235.1(h)(1)(iii) and (v); 8 CFR 212.1(c).

the U.S.-Mexico border or as far north as Interstate Highway I-10, whichever is farther north, without obtaining a Form I-94. No new infrastructure is required to support this change, as CBP already has several ports of entry and inland immigration checkpoints in place throughout New Mexico. In addition, federal, state, and local law enforcement officials have indicated that they do not anticipate any security risks with expanding the geographic limit. Given these observations, CBP does not anticipate any significant costs associated with this final rule. CBP sought comments on the possibility of additional costs associated with this rule, but did not receive any.

Benefits

This expanded border zone will allow Mexican BCC holders to travel to many New Mexico destinations that currently require a Form I-94 to access, including several cities, state parks, and a major university. To the extent that BCC holders are obtaining Form I-94s for the purpose of visiting destinations within the expanded border zone, there will be fewer Form I-94s that will need to be completed as a result of this final rule, generating both time and cost savings for Mexican nationals and CBP Officers. At land borders, the Form I-94 application process is completed at the port of entry at secondary inspection and includes an interview with a CBP Officer, fingerprinting, electronic vetting, paperwork, and the payment of a \$6 fee. CBP estimates that this process takes eight minutes to complete. CBP maintains two ports of entry along the Mexican border in New Mexico—Columbus and Santa Teresa. Between 2010 and 2011, the port of Columbus issued an average of approximately 27,000 Form I-94s per year, and the port of Santa Teresa issued an average of approximately 114,000 Form I-94s per year. CBP does not know how many of the travelers who are now required to obtain these forms will benefit from the expanded geographic limit, but believes that the percentage benefitting from this final rule will be less than 25 percent. CBP sought comments on this assumption, but did not receive any. CBP believes the percentage will be significantly lower for crossings at Santa Teresa because those crossings are predominantly bound for El Paso, which is already within the current 25-mile border crossing card limit. CBP sought comments on this assumption, but did not receive any. Eliminating the need for these travelers to leave the vehicle to undergo the additional Form I-94 application process at secondary inspection and pay the \$6 fee could be a significant savings for Mexican travelers who are affected, and could benefit the travel and tourism industry in the U.S.-Mexico border zone. CBP sought comments on the possible savings for Mexican travelers who

would no longer complete the Form I-94, but did not receive any. CBP will not be adversely affected by this loss in Form I-94 fee revenue because this fee revenue is used exclusively to pay for the processing of the Form I-94. Therefore, the reduction in revenue will be offset by a reduction in workload.

Because this rule will make it unnecessary for some travelers to obtain a Form I-94, CBP will be able to inspect travelers more efficiently and focus its efforts on higher risk individuals. CBP expects this increase in efficiency to more than offset any new workload caused by a small increase in travelers to the United States that may result from this final rule. CBP may experience additional time savings from this rule with the increased use of BCCs as border crossing documents. The BCC is one of the most secure travel documents used at the border and allows for faster processing at both the port of entry and interior immigration checkpoints. BCCs contain numerous, layered security features, such as enhanced graphics and technology, that provide protection against fraudulent use. Moreover, BCC holders undergo extensive vetting by CBP and DOS. Using existing technology, CBP can very quickly verify the validity of the card, the identity of the cardholder, and other pertinent information about the cardholder. A faster inspection will allow CBP to spend more time inspecting higher risk individuals and could therefore improve security. Several commenters agreed with this conclusion.

Perhaps the greatest benefit of this final rule is the potential for increased economic activity in New Mexico's border region. According to the U.S. Census Bureau's American Community Survey, the estimated poverty rate for the United States in 2006-2010 was 13.8 percent.⁷ For the three counties most affected by this change—Doña Ana, Hidalgo, and Luna—the American Community Survey estimates poverty rates of 24.5 percent, 22.6 percent, and 32.8 percent, respectively. Under existing regulations, main population centers like Las Cruces, New Mexico and other smaller cities in Doña Ana, Hidalgo, and Luna Counties are at a disadvantage in attracting travelers from Mexico because they are outside of the 25-mile border zone. In contrast, many main population centers along the Arizona and Texas borders are within border zone limits (75 miles in Arizona and 25 miles in Texas) and offered more shopping and recreation opportunities for Mexican travelers than New Mexico border zone areas. Such limited travel and tourism opportunities in New Mexico's 25-mile border zone create significant disincentives for Mexican visi-

⁷ U.S. Census Bureau, American Community Survey five-year estimate (2006 to 2010), table S1701. This data can be queried via the American Fact Finder database located at <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>.

tors to engage in commerce in New Mexico rather than its neighboring states. This border expansion will increase the number of shopping and recreation options in New Mexico for Mexican travelers, which may spur economic growth in this rule's affected regions. Under existing border zone regulations, visitors from Mexico also face road travel limitations. BCC holders can travel much of the Interstate Highway I-10 corridor in Arizona, but are prevented from continuing into New Mexico unless they have a Form I-94. This rule expands the border zone enough to allow BCC holders to travel on Interstate Highway I-10 from Tucson, Arizona to Las Cruces, New Mexico and El Paso, Texas, benefitting commerce in the entire region. CBP received comments in support of this assumption, as outlined in the "Discussion of Comments" section. This regulatory action is expected to increase access to U.S. markets for Mexican travelers and is expected to result in increased travel through the New Mexico border region, which will lead to increased sales, employment, and local tax revenue. CBP received a number of comments on the possible benefits of expanding the U.S.-Mexico border zone. Many commenters stated that New Mexico communities within the expanded border zone would gain increased sales, jobs, and tax revenue due to rises in Mexican tourists. A few commenters also asserted that the border expansion would allow Mexican nationals to visit family members and medical facilities once outside of the zone limits. These comments are discussed in more detail in the "Discussion of Comments" section above.

Net Impact

In summary, by expanding the border zone for BCC holders, this rule will not impose any new costs on the public or on the United States government. Further, this rule is expected to reduce costs to Mexican visitors to the United States, improve security, and benefit commerce in a relatively impoverished region. The majority of comments that CBP received supported this conclusion. These comments are discussed in more detail in the "Discussion of Comments" section above.

The Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a

small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

This rule directly regulates individuals rather than small entities. In addition, this rule is purely beneficial to these individuals as it expands the area BCC holders may travel without needing to obtain a Form I-94. As explained above, CBP is not aware of any direct costs imposed on the public by expanding the geographic limit for BCC holders but is aware of a cost savings for the traveling public by expanding the geographic limit. CBP sought comment on this conclusion but did not receive any. Accordingly, DHS certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. CBP's form that is affected by this rule is the Form I-94 (Arrival/Departure Record). CBP anticipates that this rule will result in a slight decrease in the number of Form I-94s filed annually. The Form I-94 was previously reviewed and approved by OMB in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under OMB Control Number 1651-0111.

This rule would result in an estimated reduction of 12,450 Forms I-94 completed by paper, and an estimated reduction of 1,656 burden hours. The remaining estimated burden associated with the Form I-94 is as follows:

Estimated Number of Respondents: 4,387,550.

Estimated Number of Total Annual Responses: 4,387,550.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 583,544.

List of Subjects in 8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons set forth in the preamble, CBP is amending 8 CFR part 235 as set forth below.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

■ 1. The general authority citation for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1103, 1183, 1185 (pursuant to E.O. 13323, 69 FR 241, 3 CFR, 2004 Comp., p.278), 1201, 1224, 1225, 1226, 1228, 1365a note, 1365b, 1379, 1731–32; Title VII of Pub. L. 110–229; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458).

■ 2. In § 235.1, revise paragraphs (h)(1)(iii) and (h)(1)(v)(A) and (B) and add paragraphs (h)(1)(v)(C) and (D) to read as follows:

§ 235.1 Scope of examination.

* * * * *

(h) * * *

(1) * * *

(iii) Except as provided in paragraph (h)(1)(v) of this section, any Mexican national admitted as a nonimmigrant visitor who is:

(A) Exempt from a visa and passport pursuant to § 212.1(c)(1) of this chapter and is admitted for a period not to exceed 30 days to visit within 25 miles of the border; or

(B) In possession of a valid visa and passport and is admitted for a period not to exceed 72 hours to visit within 25 miles of the border;

* * * * *

(v) * * *

(A) Exempt from a visa and passport pursuant to § 212.1(c)(1) of this chapter and is admitted at the Mexican border POEs in the State of Arizona at Sasabe, Nogales, Mariposa, Naco or Douglas to visit within the State of Arizona within 75 miles of the border for a period not to exceed 30 days; or

(B) In possession of a valid visa and passport and is admitted at the Mexican border POEs in the State of Arizona at Sasabe, Nogales, Mariposa, Naco or Douglas to visit within the State of Arizona within 75 miles of the border for a period not to exceed 72 hours; or

(C) Exempt from visa and passport pursuant to § 212.1(c)(1) of this chapter and is admitted for a period not to exceed 30 days to visit within the State of New Mexico within 55 miles of the border or the area south of and including Interstate Highway I–10, whichever is further north; or

(D) In possession of a valid visa and passport and is admitted for a period not to exceed 72 hours to visit within the State of New Mexico within 55 miles of the border or the area south of and including Interstate Highway I–10, whichever is further north.

* * * * *

JANET NAPOLITANO,
Secretary.

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

(No. 5 2013)

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

SUMMARY: The following copyrights, trademarks, and trade names were recorded with U.S. Customs and Border Protection in May 2013. The last notice was published in the CUSTOMS BULLETIN on May 22, 2013.

Corrections or updates may be sent to: Intellectual Property Rights Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, D.C. 20229-1177.

FOR FURTHER INFORMATION CONTACT: Delois Johnson, Paralegal, Intellectual Property Rights Branch, Regulations & Rulings, Office of International Trade, (202) 325-0088.

Dated: June 12, 2013

CHARLES R. STEUART

Chief,

*Intellectual Property Rights Branch
Regulations & Rulings Office of International
Trade*

CBP IPR RECORDATION — MAY 2013

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
COP 93-00094	5/3/2013	5/3/2033	TAZ-MANIA STYLE GUIDE (1991)	WARNER BROS.	No
COP 93-00136	5/10/2013	5/10/2033	DAFFY DUCK STYLE GUIDE (1992)	WARNER BROS.	No
COP 93-00139	5/16/2013	5/16/2033	FOGHORN LEGHORN & HENERY HAWK STYLE GUIDE (1992)	WARNER BROS.	No
COP 93-00140	5/16/2013	5/16/2033	MARC ANTONY & PUSSYFOOT STYLE GUIDE (1992)	WARNER BROS.	No
COP 93-00141	5/16/2013	5/16/2033	ELMER FUDD STYLE GUIDE (1992)	WARNER BROS.	No
COP 93-00142	5/16/2013	5/16/2033	PEPE LE PEW & PENELOPE STYLE GUIDE (1992)	WARNER BROS.	No
COP 93-00143	5/16/2013	5/16/2033	ROAD RUNNER STYLE GUIDE (1992)	WARNER BROS.	No
COP 93-00144	5/16/2013	5/16/2033	TWEETY'S GLOBAL PATROL STYLE GUIDE (1992)	WARNER BROS.	No
COP 93-00137	5/16/2013	5/16/2033	SPEEDY GONZALES STYLE GUIDE (1992)	WARNER BROS.	No
COP 93-00138	5/16/2013	5/16/2033	LOONEY TUNES GUIDELINES STYLE GUIDE (1992)	WARNER BROS.	No
COP 93-00145	5/10/2013	5/10/2033	ACME ROAD GEAR STYLE GUIDE (1992)	WARNER BROS.	No
COP 93-00146	5/16/2013	5/16/2033	PORKY PIG & PETUNIA PIG STYLE GUIDE (1992)	WARNER BROS.	No

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COP 93-00147	5/10/2013	5/10/2033	YOSEMITE SAM STYLE GUIDE (1992)	WARNER BROS.	No
COP 93-00148	5/16/2013	5/16/2033	MARVIN THE MARTIAN STYLE GUIDE (1992)	WARNER BROS.	No
TMK 03-00439	5/3/2013	3/9/2023	AX ARMANI EXCHANGE	GIORGIO ARMANI S.P.A.	No
TMK 03-00520	5/3/2013	1/26/2023	FJ (STYLIZED)	ACUSHNET COMPANY	No
TMK 03-00420	5/16/2013	5/16/2023	GREEN EYELET DEVICE	TOMMY HILFGER LICENSING LLC	No
TMK 03-00833	5/3/2013	11/17/2022	ARIZONA	ARIZONA BOARD OF REGENTS ON BEHALF OF THE UNIVERSITY OF ARIZONA	No
TMK 04-00005	5/29/2013	7/14/2023	MISS DIOR (STYLIZED)	PARFUMS CHRISTIAN DIOR, S.A.	No
TMK 03-00681	5/22/2013	10/20/2023	QUAD	QUADION LLC	No
TMK 04-00289	5/6/2013	1/23/2023	ABERCROMBIE & FITCH	ABERCROMBIE & FITCH TRADING CO.	No
TMK 04-00383	5/3/2013	3/2/2023	MISCELLANEOUS DESIGN	GARRETT ELECTRONICS INC.	No
COP 13-00095	5/30/2013	5/30/2033	NEW SUPER MARIO BROS.U.	NINTENDO OF AMERICA INC.	No
TMK 04-00692	5/6/2013	3/25/2023	JACOB & CO.	JACOB & COMPANY WATCHES, INC.	No
TMK 04-00720	5/6/2013	11/12/2022	HOLLISTER CO.	ABERCROMBIE & FITCH TRADING CO.	No
TMK 05-00494	5/16/2013	3/15/2024	ME	MISS ELAINE, INC.	Yes
TMK 05-00640	5/6/2013	6/24/2023	SHEER COVER	GUTHY-RENKER LLC	No
TMK 05-00852	5/3/2013	12/1/2022	BOSTON	BOSTON RED SOX BASEBALL CLUB LTD	No

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TMK 05-00907	5/3/2013	3/18/2023	FJ	ACUSHNET COMPANY	Yes
TMK 13-00428	5/3/2013	2/12/2023	MEDAMORPHIS	MEDAMORPHIS LLC	No
TMK 13-00427	5/3/2013	8/13/2016	BANANA BOAT AND DESIGN	SUN PHARMACEUTICALS, LLC	No
COP 13-00064	5/3/2013	5/3/2033	BVLGARI COLLEZIONE PELLETERIA E ACCESSORI 2013.	BULGARI, S.P.A.	No
TMK 06-01170	5/3/2013	12/28/2022	STANFORD	BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY	No
TMK 13-00429	5/3/2013	3/19/2019	THE BAG FOR ALL SEASONS; THE BAG FOR ALL REASONS	DIANE E PIPER	No
TMK 13-00430	5/3/2013	3/19/2023	SHOULD YOU COVER?	DIANE E PIPER	No
COP 13-00084	5/6/2013	5/6/2033	TIBETAN BAICAO TEA	SHIRLEY LEE,	No
TMK 11-00766	5/29/2013	7/29/2023	DUAC	STIEFEL LABORATORIES, INC.	No
TMK 07-00042	5/29/2013	5/15/2023	AMOXIL	GLAXOSMITHKLINE LLC	No
TMK 07-00246	5/3/2013	1/21/2023	MARSHALL UNIVERSITY	MARSHALL UNIVERSITY	No
TMK 02-00932	5/10/2013	4/21/2023	CHRISTIAN DIOR	PARFUMS CHRISTIAN DIOR, S.A.	No
TMK 07-00980	5/3/2013	2/4/2023	SWIM-STERS	FUTURE PRODUCTS	No
TMK 07-01288	5/3/2013	3/18/2023	VOSS	VOSS OF NORWAY ASA	No
TMK 08-00049	5/29/2013	8/26/2023	DIORSKIN	PARFUMS CHRISTIAN DIOR	No
TMK 03-00636	5/3/2013	3/18/2023	SILHOUETTED BATTER LOGO DESIGN	MAJOR LEAGUE BASEBALL	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/k/Tm	Owner Name	GM Restricted
TMK 13-00426	5/3/2013	11/10/2019	MICRO	SHARADHA TERRY PRODUCTS	No
TMK 13-00431	5/3/2013	7/16/2022	RESCUE	STERLING INTERNATIONAL INC.	No
TMK 13-00432	5/3/2013	10/7/2018	DESIGN	STERLING INTERNATIONAL INC.	No
TMK 13-00433	5/3/2013	2/19/2023	LUCK O' THE IRISH	PANTHER BRANDS	No
TMK 08-00215	5/3/2013	2/16/2023	SENSORTRACS	QUALCOMM INCORPORATED	No
TMK 08-01071	5/3/2013	4/22/2023	MICHAEL KORS	MICHAEL KORS, LLC	No
TMK 13-00482	5/10/2013	8/5/2018	STAR HOME FASHIONS AND DESIGN (STAR LOGO)	JACOBO S. COJAB	No
TMK 09-00378	5/29/2013	3/18/2023	SWAN LOGO	RICHARD E. SWAN	No
TMK 09-00379	5/29/2013	3/18/2023	S.I.R.	RICHARD E. SWAN	No
COP 13-00074	5/3/2013	5/3/2033	MON JASMIN NOIR L'ELIXIR-JASMIN NOIR L'ELIXIR.	BULGARI S.P.A.	No
COP 13-00073	5/3/2013	5/3/2033	BVLGARI PILLAR BB SIGN BROCHURE 2012	BULGARI, S.P.A.	No
TMK 10-00575	5/3/2013	7/15/2023	SOUR PUNCH	AMERICAN LICORICE CO.	No
TMK 10-00674	5/3/2013	5/10/2023	SUPER ROPES	AMERICAN LICORICE CO.	No
TMK 11-00508	5/16/2013	5/18/2023	THE SIMPSONS	TWENTIETH CENTURY FOX FILM CORPORATION	No
TMK 11-00949	5/29/2013	8/10/2023	IMITREX	GLAXO GROUP LIMITED	No
COP 13-00063	5/3/2013	5/3/2033	BRAND FEMALE CATALOGUE 2012.	BULGARI S.P.A.	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
COP 13-00083	5/6/2013	5/6/2033	PILLAR SERPENTI BROCHURE 2012	BULGARI, S.P.A.	No
COP 13-00075	5/3/2013	5/3/2033	MON JASMIN NOIR L'EAU EXQUISSE.	BULGARI S.P.A.	No
TMK 12-00215	5/3/2013	10/6/2019	URBAN DECAY	L'OREAL USA, INC	No
TMK 12-00150	5/3/2013	8/16/2021	NAKED URBAN DECAY	L'OREAL USA, INC.	No
TMK 12-00207	5/3/2013	11/1/2021	UD	L'OREAL USA, INC.	No
TMK 12-00201	5/3/2013	8/16/2021	NAKED URBAN DECAY	L'OREAL USA, INC.	No
TMK 12-00507	5/3/2013	4/20/2023	TRIANGLE DESIGN	BISSELL HOMECARE, INC.	No
TMK 12-00788	5/29/2013	6/15/2023	SUN	ORACLE AMERICA, INC.	No
COP 13-00081	5/3/2013	5/3/2033	JASMIN NOIR L'ESSENCE	BULGARI S.P.A.	No
COP 13-00076	5/3/2013	5/3/2033	OMNIA COLLECTION	BULGARI, S.P.A.	No
COP 13-00082	5/3/2013	5/3/2033	THE BRIDAL COLLECTION 2011	BULGARI, S.P.A.	No
COP 13-00079	5/3/2013	5/3/2033	MEDITERRANEAN FLOWER LIMITED EDITION SUNGLASSES.	BULGARI S.P.A.,	No
COP 13-00080	5/3/2013	5/3/2033	BVLGARI JEWELLERY RETAILERS CATALOGUE 2012.	BULGARI, S.P.A.,	No.
COP 13-00068	5/3/2013	5/3/2033	MON JASMIN NOIR.	BULGARI S.P.A.,	No
COP 13-00069	5/3/2013	5/3/2033	THE BRIDAL COLLECTION 2012.	BULGARI, S.P.A.,	No
COP 13-00072	5/3/2013	5/3/2033	BVLGARI OCTO MASERATI BROCHURE 2012.	BULGARI, S.P.A.,	No
TMK 13-00460	5/3/2013	6/19/2021	J. CREW	J. CREW INTERNATIONAL, INC.	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 13-00398	5/3/2013	4/13/2019	SUN XTENDER	CONCORDE BATTERY	No
TMK 13-00317	5/6/2013	6/10/2023	TRIPOWER	TRIJICON, INC.	No
COP 13-00054	5/3/2013	5/3/2033	BVLGARI SAVE THE CHILDREN.	BULGARI, S.P.A.,	No
COP 13-00089	5/15/2013	5/15/2033	ISABELLA ROSSELLINI BROCHURE 2012	BULGARI S.P.A.	No
TMK 13-00399	5/3/2013	1/22/2023	XDS	SPRINGFIELD, INC.	No
TMK 13-00400	5/3/2013	3/23/2020	POLY-WOOD	POLY-WOOD, INC.	No
TMK 13-00401	5/3/2013	4/16/2023	BROWNSVILLE STATION	BROWNSVILLE STATION, INC.	No
TMK 13-00402	5/3/2013	8/12/2016	MAUI JIM	MAUI JIM, INC.	No
COP 13-00053	5/3/2013	5/3/2033	BVLGARI MAN EXTREME	BULGARI S.P.A.	No
TMK 13-00461	5/3/2013	3/2/2023	BANANA BOAT	PLAYTEX PRODUCTS, LLC	No.
COP 13-00071	5/3/2013	5/3/2033	NEW SUPER MARIO BROS. 2	NINTENDO OF AMERICA INC.	No
TMK 13-00462	5/3/2013	4/26/2020	BOCA CLIPS	BETTER THINGS, LLC	No
COP 13-00070	5/3/2013	5/3/2033	LIQUID METAL COLLECTION 3.	LIQUID METAL, INC.	No
TMK 13-00463	5/3/2013	12/9/2013	INTUITION	EVEREADY BATTERY COMPANY,	No
TMK 13-00472	5/3/2013	2/10/2014	QUATTRO	EVEREADY BATTERY COMPANY,	No
TMK 13-00473	5/3/2013	11/20/2022	POLYWOOD	POLY-WOOD, INC.	No
TMK 13-00466	5/3/2013	3/17/2019	POLY-WOOD	POLY-WOOD, INC.	No
TMK 13-00471	5/3/2013	1/31/2018	HAWAIIAN TROPIC AND DESIGN	TANNING RESEARCH	No
TMK 13-00474	5/3/2013	2/26/2023	HIDEIT MOUNTS	HIDEIT MOUNTS, INC.	No

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TMK 13-00469	5/3/2013	3/26/2023	DESIGN	SEASONAL WHISPERS LTD.	No
TMK 13-00470	5/3/2013	9/13/2015	EYE SAFETY SYSTEMS	EYE SAFETY SYSTEMS, INC.	No
TMK 13-00467	5/3/2013	6/8/2020	CROSSBOW	EYE SAFETY SYSTEMS, INC.	No
TMK 13-00465	5/3/2013	12/10/2016	MCINTOSH	MCINTOSH LABORATORY, INC.	No
TMK 13-00468	5/3/2013	1/31/2018	HAWAIIAN TROPIC	TANNING RESEARCH	No
TMK 13-00442	5/3/2013	1/31/2016	JUICY	BBK TOBACCO & FOODS, LLP	No
TMK 13-00443	5/3/2013	1/2/2017	CABI (STYLIZED)	CABI, LLC	No
TMK 13-00448	5/3/2013	10/23/2022	MY WEIGH	BBK TOBACCO & FOODS, LLP	No
TMK 13-00444	5/3/2013	4/10/2017	CABI AND DESIGN	CABI, LLC	No
TMK 13-00445	5/3/2013	6/8/2020	CROSSBOW	EYE SAFETY SYSTEMS, INC.	No
TMK 13-00446	5/3/2013	10/24/2022	ELEMENTS	BBK TOABACCO & FOODS, LLP	No
COP 13-00077	5/3/2013	5/3/2033	JASMIN NOIR THE ESSENCE OF A JEWELLER	BULGARI S.P.A.	No
TMK 13-00447	5/3/2013	4/2/2023	UNIMOUNT	LIGHTFORCE USA, INC. D/B/A NIGHT-FORCE OPTICS INC.	No
TMK 13-00449	5/3/2013	4/2/2023	ULTRALITE	LIGHTFORCE U.S.A., INC. D/B/A NIGHT-FORCE OPTICS INC.	No
TMK 13-00450	5/3/2013	4/2/2023	NXS	LIGHTFORCE U.S.A., INC. D/B/A NIGHT-FORCE OPTICS INC.	No
TMK 13-00454	5/3/2013	9/10/2022	TOMMY HILFGER	TOMMY HILFGER LICENSING LLC	No

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TMK 13-00453	5/3/2013	8/14/2022	J. CREW	J. CREW INTERNATIONAL, INC.	No
TMK 13-00452	5/3/2013	10/24/2016	CREWCUT\$	J. CREW INTERNATIONAL, INC.	No
COP 13-00066	5/3/2013	5/3/2033	POKEMON BLACK VERSION 2	GAME FREAK INC.	No
TMK 13-00424	5/3/2013	2/15/2021	HIBISCUS FLOWER DESIGN	TANNING RESEARCH	No
TMK 13-00455	5/3/2013	11/4/2018	HEART OF CABI FOUNDATION	CABI, LLC	No
TMK 05-00536	5/3/2013	7/20/2013	LUNGFUNG (IN CHINESE CHARACTERS)	ANHING CORPORATION	No
TMK 13-00425	5/3/2013	1/4/2020	DESIGN (SILHOUETTE OF A MAN)	TBL LICENSING LLC	No
TMK 13-00456	5/3/2013	2/1/2020	SMARTWOOL	TBL LICENSING LLC	No
TMK 13-00457	5/3/2013	1/8/2018	MICRO COTTON	SHARADHA TERRY PRODUCTS	No
COP 13-00078	5/3/2013	5/3/2033	PILLAR MONETE BROCHURE 2012.	BULGARI, S.P.A.	No
TMK 13-00459	5/3/2013	11/24/2017	TIGER AND DESIGN	HAW PAR CORPORATION LIMITED	No
COP 13-00067	5/3/2013	5/3/2033	LIQUID METAL COLLECTION : NO. 5	LIQUID METAL, INC.	No
COP 13-00065	5/3/2013	5/3/2033	LIQUID METAL COLLECTION : NO. 7	LIQUID METAL, INC.	No
TMK 13-00434	5/3/2013	11/28/2019	D.Y.	DAVID YURMAN IP LLC	No
TMK 13-00435	5/3/2013	6/10/2018	MAUI JIM (STYLIZED)	MAUI JIM, INC.	No
TMK 13-00423	5/3/2013	8/22/2016	CAROL ANDERSON BY INVITATION	CABI, LLC	No
TMK 13-00438	5/3/2013	4/27/2023	G	LVMH FRAGRANCE BRANDS	No
TMK 13-00436	5/3/2013	2/26/2018	VERNASHEN	LEBANESE ARAK CORPORATION DBA LAC PRODUCTS	No

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TMK 13-00437	5/3/2013	8/29/2019	D.YURMAN	DAVID YURMAN IP LLC	No
TMK 13-00451	5/3/2013	5/7/2016	SMARTWOOL (STYLIZED)	TBL LICENSING LLC	No
TMK 13-00439	5/3/2013	4/2/2023	DESIGN (STYLIZED 3-PETAL IRIS)	PR TRADING COMPANY, INC. DBA PR SUNGLASSES	No
TMK 13-00440	5/3/2013	10/26/2022	NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 13-00441	5/3/2013	4/2/2023	OC (STYLIZED)	PR TRADING COMPANY, INC. DBA PR SUNGLASSES	No
TMK 13-00411	5/3/2013	8/28/2022	RESCUE	STERLING INTERNATIONAL INC.	No
COP 13-00055	5/3/2013	5/3/2033	BRUTUS SELF DEFENSE KEYCHAIN.	PANTHER BRANDS, INC.	No
TMK 13-00412	5/3/2013	4/27/2015	SCHICK	EVEREADY BATTERY COMPANY,	No
COP 13-00056	5/3/2013	5/3/2033	WII U MICROPHONE (US HARDWARE PACKAGING)	NINTENDO OF AMERICA INC.,	No
TMK 13-00413	5/3/2013	4/4/2020	RAGO	RAGO FOUNDATIONS LLC	No
TMK 12-00221	5/3/2013	8/23/2021	UD	L'OREAL USA, INC.	No
TMK 13-00417	5/3/2013	4/29/2017	SKINTIMATE	EVEREADY BATTERY COMPANY,	No
TMK 13-00415	5/3/2013	2/14/2016	WILKINSON SWORD	EVEREADY BATTERY COMPANY,	No
TMK 13-00416	5/3/2013	2/28/2022	ASHOUR	AL-NOUR IMPORT INC.	No
COP 13-00057	5/3/2013	5/3/2033	POKEMON BLACK VERSION 2 (US COMMERCIAL	CREATURES INC.	No
COP 13-00059	5/3/2013	5/3/2033	NINTENDO LAND.	NINTENDO OF AMERICA INC.,	No

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COP 13-00058	5/3/2013	5/3/2033	WII U MENU	NINTENDO OF AMERICA INC.	No
COP 13-00061	5/3/2013	5/3/2033	NEW SUPER MARIO BROS.U (US COM-MERCIAL PACKAGING)	NINTENDO OF AMERICA INC.,	No
TMK 13-00418	5/3/2013	10/20/2022	DAVID YURMAN	DAVID YURMAN IP LLC	No
TMK 13-00419	5/3/2013	12/22/2022	ALCON	ALCON LABORATORIES, INC.	No
TMK 13-00420	5/3/2013	8/30/2015	RAW	BBK TOBACCO & FOODS, LLP	No
TMK 13-00414	5/3/2013	10/22/2015	EDGE	EVEREADY BATTERY COMPANY,	No
COP 13-00060	5/3/2013	5/3/2033	POKEMON WHITE VERSION 2 (US COMMERCIAL	CREATURES INC.,	No
TMK 13-00421	5/3/2013	9/2/2018	CAROL ANDERSON BY INVITATION	CABI, LLC	No
TMK 13-00422	5/3/2013	11/5/2016	DAVID YURMAN	DAVID YURMAN IP LLC	No
COP 13-00062	5/3/2013	5/3/2033	LIQUID METAL COLLECTION : NO. 8.	SERGIO GUTIERREZ, 1965	No
TMK 13-00395	5/3/2013	7/8/2018	YEASTURE	GENZONE TECH INC	No
TMK 13-00396	5/3/2013	7/21/2017	TIGER BALM	HAW PAR CORPORATION LIMITED	No
TMK 13-00397	5/3/2013	8/30/2021	CA STYLIZED	CABI, LLC	No
TMK 13-00511	5/15/2013	2/26/2015	WV (STYLIZED)	WEST VIRGINIA BOARD OF	No
TMK 13-00521	5/16/2013	5/14/2022	SUN-STACHES	WORLDWIDE DYNASTY INC.	No
TMK 13-00533	5/16/2013	1/22/2018	X AND DESIGN	USA KW TRADING, INC.	Yes
TMK 13-00534	5/16/2013	4/12/2021	ZPLAND DESIGN	SHIRLEY LEE	No
TMK 13-00519	5/16/2013	7/26/2023	DESIGN	SOCIETE DES PRODUITS NESTLE	No

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TMK 13-00520	5/16/2013	12/18/2021	BENEFUL	SOCIETE DES PRODUITS NESTLE	No
TMK 13-00535	5/16/2013	3/4/2018	BUSY	SOCIETE DES PRODUITS NESTLE	No
TMK 13-00498	5/10/2013	1/29/2023	SUNFLAIR	MELINDA SELLER	No
TMK 13-00526	5/16/2013	5/7/2023	SHENGCAO TEA	AMERICAN TIBETAN HEALTH INSTITUTE, INC.	No
TMK 13-00512	5/15/2013	9/6/2021	GL (STYLIZED)	SOCIETE GUY LAROCHE	No
TMK 13-00527	5/16/2013	10/13/2017	PRO PLAN	SOCIETE DES PRODUITS NESTLE	No
TMK 13-00530	5/16/2013	3/27/2014	CAT CHOW	SOCIETE DES PRODUITS NESTLE	No
TMK 13-00525	5/16/2013	12/12/2020	FRISKIES	SOCIETE DES PRODUITS NESTLE	No
TMK 13-00549	5/22/2013	4/4/2020	PURINA	SOCIETE DES PRODUITS NESTLE	No
TMK 13-00546	5/22/2013	2/19/2022	TIDY CATS	SOCIETE DES PRODUITS NESTLE	No
TMK 13-00531	5/16/2013	4/21/2021	CABELA'S	CABELA, INC.	No
TMK 13-00529	5/16/2013	4/12/2020	STEREOZOOM (STYLIZED)	LEICA MICROSYSYSTEMS (SCHWEIZ)	No
TMK 13-00524	5/16/2013	1/14/2023	PURINA ONE	SOCIETE DES PRODUITS NESTLE	No
TMK 13-00544	5/22/2013	5/10/2021	TIFOS	TIFOSI OPTICS, INC.	No
TMK 13-00528	5/16/2013	2/16/2015	ALPO	SOCIETE DES PRODUITS NESTLE	No
TMK 13-00523	5/16/2013	3/12/2018	DOG CHOW	SOCIETE DES PRODUITS NESTLE	No
TMK 13-00522	5/16/2013	10/30/2017	PZ. (STYLIZED)	USA KW TRADING, INC.	Yes
TMK 13-00404	5/3/2013	11/17/2017	MAUI JIM WITH A PARROT DESIGN	MAUI JIM, INC.	No
TMK 13-00513	5/15/2013	11/15/2021	PROSOURCE AND DESIGN	PROSOURCE DISCOUNTS, INC	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 13-00548	5/22/2013	9/8/2019	T AND DESIGN	TIPOSI OPTICS, INC.	No
TMK 13-00550	5/22/2013	9/5/2016	GUY LAROCHE	SOCIETE GUY LAROCHE	No
TMK 13-00541	5/22/2013	6/27/2020	HID AND DESIGN	HID GLOBAL CORPORATION	No
TMK 13-00485	5/10/2013	8/10/2020	H HURST SHIFTERS AND DESIGN	B&M RACING & PERFORMANCE PRODUCTS INC.	No
TMK 13-00484	5/10/2013	9/14/2021	HURST	B&M RACING & PERFORMANCE PRODUCTS INC.	No
TMK 13-00483	5/10/2013	3/16/2023	CIRRUS LOGIC AND DESIGN	CIRRUS LOGIC INC.	No
TMK 13-00405	5/3/2013	6/1/2019	HID	HID GLOBAL CORPORATION	No
TMK 13-00497	5/10/2013	3/15/2021	MYO CASE	CLAUDIA, GOMEZ	No
TMK 13-00506	5/15/2013	7/30/2022	WVU	WEST VIRGINIA BOARD OF	No
TMK 13-00406	5/3/2013	9/24/2016	STERLING	STERLING INTERNATIONAL INC.	No
TMK 13-00407	5/3/2013	1/1/2023	SHADOW OPS (STYLIZED)	PANTHER BRANDS	No
TMK 13-00536	5/16/2013	5/17/2015	BEGGIN'	SOCIETE DES PRODUITS NESTLE	No
TMK 13-00532	5/16/2013	5/7/2023	TIBETAN BAICAO TEA	AMERICAN TIBETAN HEALTH INSTITUTE, INC.	No
TMK 13-00547	5/22/2013	3/5/2023	DESIGN OF A MUSTACHE	WORLDWIDE DYNASTY INC.	No
TMK 13-00516	5/15/2013	10/23/2022	CM AND DESIGN	CHUNMA USA, INC.	No
TMK 13-00486	5/10/2013	11/11/2017	CIRRUS	CIRRUS LOGIC INC.	No
TMK 13-00517	5/15/2013	1/15/2023	DESIGN (CIRRUS DESIGN 2012)	CIRRUS LOGIC INC.	No

CBP IPR RECORDATION — MAY 2013

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 13-00408	5/3/2013	1/6/2019	RESCUE	STERLING INTERNATIONAL INC.	No
COP 13-00088	5/10/2013	5/10/2033	MOONLIGHT ICE.	YURMAN STUDIO, INC.,	No
TMK 13-00499	5/10/2013	7/1/2018	CIRRUS LOGIC	CIRRUS LOGIC INC.	No
TMK 13-00515	5/15/2013	5/7/2023	DESIGN (HORSE)	AMERICAN TIBETAN HEALTH	No
TMK 13-00556	5/29/2013	8/19/2018	BOY LONDON WITH EAGLE DESIGN	SUR, SAMUEL	No
TMK 03-00649	5/10/2013	3/11/2023	W WARN WORKS (& DESIGN)	WARN INDUSTRIES, INC.	No
COP 13-00087	5/10/2013	5/10/2033	COLLECTION FRAGRANCES 2011.	BULGARI S.P.A.	No
TMK 13-00501	5/10/2013	11/5/2022	PIKACHU	NINTENDO OF AMERICA INC.	No
TMK 13-00514	5/15/2013	6/23/2018	PIONEER	PARKER DAVIS HVAC SYSTEMS,	No
TMK 13-00500	5/10/2013	12/18/2022	DATSUN	NISSAN JIDOSHA KABUSHIKI KAISHA TA NISSAN MOTOR CO.	No
COP 13-00086	5/10/2013	5/10/2033	LE GEMME	BULGARI, S.P.A.	No
TMK 13-00509	5/15/2013	5/7/2023	DESIGN	AMERICAN TIBETAN HEALTH INSTITUTE, INC.	No
COP 13-00085	5/10/2013	5/10/2033	BRAND FEMALE CATALOGUE 2011	BULGARI, S.P.A.	No
TMK 13-00496	5/10/2013	11/18/2013	SUPERNOVA	ADDAS INTERNATIONAL B. V. CORPORATION NETHERLANDS	No
TMK 13-00518	5/15/2013	5/24/2015	GIT-R-DONE	DANIEL D. WHITNEY	No
TMK 13-00507	5/15/2013	3/19/2023	IKIT	TOTAL RESOURCES	No
TMK 13-00477	5/6/2013	3/26/2023	SPECTRUM ANTENNA	DAVID CHUC	No

CBP IPR RECORDATION — MAY 2013

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 13-00487	5/10/2013	7/24/2017	WALL WHALE	GABCO PRODUCTS, INC.	No
TM K 13-00488	5/10/2013	2/19/2023	DESIGN	URBAN ARMOR GEAR, LLC	No
TMK 13-00508	5/15/2013	9/29/2022	CATS	ARIZONA BOARD OF REGENTS ON BEHALF OF THE UNIVERSITY OF	No
TMK 13-00403	5/3/2013	2/19/2023	MEAN BITCH	PANTHER BRANDS	No
TMK 13-00476	5/6/2013	3/1/2015	UC-II	INTERHEALTH NUTRACEUTICALS	No
TMK 13-00475	5/6/2013	1/25/2021	RED DEER AND DESIGN	PANTHER BRANDS	No
TMK 13-00489	5/10/2013	9/9/2018	POLARIZEDPLUS2 ADVANCED PERFORMANCE ONLY FROM	MAUI JIM, INC.	No
TMK 13-00490	5/10/2013	4/16/2023	CATCH THE CONVERSATION -MONITOR-MENTOR-GUIDE	GYPEPES, THOMAS	No
TMK 13-00491	5/10/2013	11/25/2023	H HURST	B&M RACING & PERFORMANCE PRODUCTS, INC.	No
TMK 05-00604	5/10/2013	3/6/2023	ARIAT AND DESIGN (THREE INTER-LOCKING HORSESHOES	ARIAT INTERNATIONAL, INC.	No
TMK 13-00510	5/15/2013	9/3/2022	MOUNTAINEERS	WEST VIRGINIA BOARD OF	No
TMK 13-00458	5/3/2013	9/15/2018	SMARTWOOL	TBL LICENSING LLC	No
TMK 13-00492	5/10/2013	1/31/2022	B&M AND DESIGN	B&M RACING & PERFORMANCE PRODUCTS INC.	No
TMK 13-00493	5/10/2013	10/2/2022	UAG (STYLIZED)	URBAN ARMOR GEAR, LLC	No

CBP IPR RECORDATION — MAY 2013

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 13-00410	5/3/2013	9/30/2017	THREE CHINESE CHARACTERS	HAW PAR CORPORATION LIMITED	No
TMK 13-00409	5/3/2013	4/9/2023	TIGER-USA	PANTHER BRANDS	No
TMK 13-00494	5/10/2013	3/15/2021	MYO	GOMEZ, CLAUDIA	No
TMK 13-00495	5/10/2013	12/11/2022	BOOMER BALL	DAVID HOWARD SCHULTZ	No
TMK 13-00504	5/15/2013	8/27/2022	WEST VIRGINIA	WEST VIRGINA BOARD OF	No
TMK 13-00502	5/15/2013	9/24/2027	MARY MACLEOD'S SHORTBREAD HANDMADE ALL BUTTER	2130637 ONTARIO INC.	No
TMK 13-00503	5/15/2013	1/3/2022	BELVIQ	ARENA PHARMACEUTICALS GMBH	No
TMK 13-00478	5/10/2013	10/22/2022	URBAN ARMOR GEAR	URBAN ARMOR GEAR, LLC	No
TMK 13-00481	5/10/2013	10/27/2019	THERMOFLECT	ENCOMPASS GROUP, LLC	No
TMK 13-00479	5/10/2013	9/22/2022	CIRRUS LOGIC AND DESIGN	CIRRUS LOGIC INC.	No
TMK 13-00464	5/3/2013	11/1/2015	POLARIZEDPLUS2	MAUI JIM, INC.	No
TMK 13-00480	5/10/2013	1/31/2022	B&M	B&M RACING & PERFORMANCE PRODUCTS INC.	No
TMK 13-00505	5/15/2013	9/10/2017	CELLAIRIS	GLOBAL CELLULAR, INC.	No
TMK 13-00565	5/29/2013	10/2/2022	BACPAC	WOODMAN LABS, INC.	No
TMK 13-00564	5/29/2013	12/20/2015	GOPRO	WOODMAN LABS, INC.	No
TMK 13-00570	5/30/2013	3/13/2019	M STYLIZED	MICREL, INCORPORATED	No
COP 13-00092	5/29/2013	5/29/2033	THE LEGEND OF ZELDA: SKYWARD SWORD (US	NINTENDO OF AMERICA INC.,	No

CBP IPR RECORDATION — MAY 2013

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 13-00567	5/29/2013	11/1/2021	VINCULUM AND DESIGN	FUTURE TECHNOLOGY DEVICES INTERNATIONAL LIMITED	No
TMK 13-00539	5/22/2013	11/8/2021	DESIGN	HID GLOBAL CORPORATION	No
TMK 13-00571	5/30/2013	3/22/2021	DESIGN OF A HORSE	EMPIONEER CORP	No
COP 13-00096	5/30/2013	5/30/2033	[CRYSTAL CROSS]	SAM DAE ENTERPRISES, INC.	No
TMK 13-00569	5/30/2013	2/19/2018	#17	RICHARD E. SWAN	No
TMK 13-00537	5/22/2013	12/4/2022	DESIGN	PRL USA HOLDINGS, INC.	No
TMK 13-00563	5/29/2013	9/9/2018	ZEAL	ZEAL OPTICS, INC.	No
TMK 13-00568	5/29/2013	2/7/2015	SPORTWORKS	SPORTWORKS NORTHWEST INC	No
TMK 13-00538	5/22/2013	7/25/2016	RL	PRL USA HOLDINGS, INC.	No
COP 13-00090	5/29/2013	5/29/2033	RENAISSANCE COLLECTION VII 2005.	YURMAN STUDIO, INC.	No
TMK 13-00540	5/22/2013	11/8/2021	DESIGN	HID GLOBAL CORPORATION	No
COP 13-00091	5/29/2013	5/29/2033	MUSTACHE SUNGLASSES / EYE WARE -SUN-STACHES.	WORLDWIDE DYNASTY INC.	No
TMK 13-00553	5/22/2013	10/6/2022	LTL	LTL WHOLESALE, INC. D/B/A LTL HOME PRODUCTS, INC.	No
TMK 13-00551	5/22/2013	8/25/2022	LTL	LTL WHOLESALE, INC. D/B/A LTL HOME PRODUCTS, INC.	No
TMK 13-00560	5/29/2013	1/7/2023	EX-PRESS	NOVARTIS AG	No
COP 13-00094	5/30/2013	5/30/2033	CRYSTAL SKULL.	SAM DAE ENTERPRISES, INC.	No

CBP IPR RECORDATION — MAY 2013

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 13-00566	5/29/2013	6/19/2022	FTDI	FUTURE TECHNOLOGY DEVICES INTERNATIONAL LIMITED	No
TMK 13-00561	5/29/2013	7/1/2018	MARA HOFFMAN	MARA HOFFMAN, INC.	No
TMK 13-00559	5/29/2013	9/18/2022	FLYGRIP	FLYGRIP INC.	No
TMK 13-00542	5/22/2013	4/5/2018	NCAA	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION	No
COP 13-00093	5/30/2013	5/30/2033	HOMIES SOUTH CENTRAL.	BRIAN LICHTENBERG LLC. ADDRESS: 819 S. MAPLE AVENUE, 3RD FLOOR SUITE B, LOS	No
TMK 13-00545	5/22/2013	11/8/2021	DESIGN	HID GLOBAL CORPORATION	No
TMK 13-00562	5/29/2013	5/19/2019	DEFENDER SERIES	OTTER PRODUCTS, LLC	No
TMK 13-00543	5/22/2013	11/8/2021	DESIGN	HID GLOBAL CORPORATION	No
TMK 13-00552	5/22/2013	9/22/2019	RL	PRL USA HOLDINGS, INC.	No
TMK 13-00558	5/29/2013	4/15/2017	POLO PLAYER SYMBOL	PRL USA HOLDINGS, INC.	No
TMK 13-00557	5/29/2013	4/12/2021	FDL	SYMELI INC	No
TMK 13-00554	5/29/2013	6/5/2022	FTDI CHIP AND DESIGN	FUTURE TECHNOLOGY DEVICES INTERNATIONAL LIMITED	No
TMK 13-00555	5/29/2013	3/3/2018	MICREL	MICREL, INCORPORATED	No

Total Records: 277

Date as of: 6/19/2013

ANNOUNCEMENT OF FOREIGN-TRADE ZONES TEST

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

ACTION: General notice.

SUMMARY: This notice announces U.S. Customs and Border Protection's ("CBP's") plan to conduct a voluntary general test regarding certain foreign-trade zone ("FTZ" or "zone") activities. Pursuant to the FTZ test, under prescribed conditions, zone operators will be permitted liberalized procedures for certain zone activities. Specifically, zone operators approved for participation in the test will not be required to submit a CBP Form 216 ("Application for Foreign-Trade Zones Activity Permit") for the manipulation, manufacture, or exhibition of merchandise within an FTZ where such activity has been previously approved in that zone's Grant of Authority by the FTZ Board. In addition, zone operators approved for participation in the test will have the option of allowing duty-paid merchandise that has been entered for consumption to remain in an activated zone area for up to 90 calendar days after CBP releases the merchandise, so long as the merchandise remains segregated, does not undergo further manufacturing, and is accurately recorded in the Inventory Control and Recordkeeping system within five (5) business days of release.

The FTZ test is intended to evaluate whether liberalizing certain FTZ operational procedures will impact CBP's supervision and control over the zone, as well as the agency's ability to enforce applicable laws. This notice invites public comment concerning any aspect of the planned test, describes the eligibility, procedural and documentation requirements for voluntary participation in the test, and outlines the development and evaluation methodology to be used in the test.

DATES: A zone operator interested in voluntary participation in the FTZ test must submit an email to CBP establishing that he or she meets the eligibility criteria for participation in the test by July 8, 2013. CBP will notify interested parties of their test participation status within 10 calendar days of receipt of the email requesting participation in the test. The initial phase of the FTZ test will commence July 17, 2013, and will run for approximately two years. CBP will begin an evaluation of this test approximately 90 days after the test's commencement.

ADDRESSES: Comments concerning this notice or any aspect of the test may be submitted via email, with a subject line identifier reading "Comment on FTZ Test," to FTZtest@cbp.dhs.gov. An email expressing interest in participating in the FTZ test should be sent

to *FTZtest@cbp.dhs.gov*, with a subject line identifier reading “Participation in FTZ Test.”

FOR FURTHER INFORMATION CONTACT: Alyce Modesto, Acting Director, Cargo Security and Control, Office of Field Operations, (202) 344–2549 or via email at *alyce.m.modesto@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

General

A Foreign-Trade Zone (“FTZ” or “zone”) is a secure area under U.S. Customs and Border Protection (“CBP”) control and supervision that is within the United States, but considered to be outside the customs territory of the United States. Formal CBP entry procedures and payments of duties are not required on foreign merchandise lawfully within the FTZ until the merchandise enters the U.S. customs territory for domestic consumption. Merchandise that is lawfully admitted to an FTZ may undergo prescribed activities, such as storage, manipulation, manufacture, exhibition and destruction.

The Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u), created the Foreign-Trade Zones Board (“FTZ Board”), which is responsible for the review and approval of applications to establish, operate and maintain FTZs. Upon approval, the FTZ Board issues a Grant of Authority to the zone grantee (the corporate recipient of the grant of authority for the establishment, operation, and maintenance of a zone project) to permit specified operations within the zone. Daily management of the zone is typically delegated to a zone operator (a CBP-approved entity that operates a zone under the terms of the Grant of Authority on behalf of the Zone grantee).

Before merchandise may be admitted into a zone, CBP must approve activation of the FTZ. CBP is responsible for the transfer of merchandise into and out of the zone and for matters involving revenue collection. The CBP port director, in whose port a zone is located, is charged with enforcing applicable laws and overseeing zone activity as the local representative of the FTZ Board. The port director controls the admission, handling, and disposition of merchandise within the zone, and the removal of merchandise from the zone.

The Foreign-Trade Zones Act is administered through two sets of regulations, the FTZ Board regulations (15 CFR Part 400) and CBP regulations (19 CFR Part 146). FTZs are also subject to the laws and

regulations of the United States, as well as those of the states and communities in which they are located.

Description of the Foreign-Trade Zones Test

Under this FTZ test, zone operators who are approved FTZ test participants will be permitted liberalized procedures for two zone activities under prescribed circumstances. This test is intended to increase efficiencies and reduce administrative burdens for both CBP and the trade without compromising CBP's obligation to supervise and exercise control over the zone and enforce applicable laws. This test will evaluate whether liberalizing certain FTZ operational procedures will impact CBP's obligations.

I. CBP Form 216 Not Required for Manipulation, Manufacture, or Exhibition of Goods Within an FTZ When the Subject Activity Has Already Been Approved in the Zone's Grant of Authority

Section 146.52(a), within subpart E of part 146 of the CBP regulations (19 CFR 146.52(a)), provides that a zone operator, prior to any action being taken, must apply for a permit on the CBP Form 216 ("Application for Foreign-Trade Zones Activity Permit") to manipulate, manufacture, exhibit, or destroy merchandise in a zone or transfer merchandise for any purpose from a zone. The CBP Form 216 pertains to both individual and blanket permits. The blanket permit covers continuous or repetitive activity for up to a one-year period.

Under this FTZ test, approved test operators will not be required to submit a CBP Form 216 for permission to manipulate or manufacture goods, or exhibit goods under certain circumstances, within an FTZ if the subject activity has already been approved in the zone's Grant of Authority. In the case of exhibition of merchandise within a zone, a CBP Form 216 will not be required if the test operators can demonstrate that the conditions designated for exhibition are suitable for preventing confusion of the identity or status of the merchandise and that the approved test operator exercises adequate oversight of individuals granted access to the FTZ, including those present for purposes of the exhibition.

In these circumstances, CBP views the permit function served by the CBP Form 216 as duplicative and unnecessary inasmuch as the subject activities have already been permitted by the FTZ Board with CBP's concurrence. As the CBP port director has access to the zone's Grant of Authority, the elimination of the requirement to submit a CBP Form 216 that describes a manipulation, manufacturing, or exhibition activity that has already been authorized in the zone's Grant of Authority is intended to simplify paperwork and adminis-

trative burdens for both CBP and the FTZ trade without impacting security controls and revenue collection functions.

It is noted that submission of a CBP 216 remains a requirement for approved test operators for the following zone activities:

- Destruction of goods.
- Sampling.
- Temporary removal of goods (including temporary removal for purposes of exhibition *outside* of the FTZ).
- Manipulation or manufacture (including processing and production) of goods when the subject activity is *not* within the scope of the grant of authority for the FTZ operation.

II. Elimination of 5-Day Time Limit on Merchandise Remaining in a Zone After Issuance of CBP Permit for Transfer to U.S. Customs Territory

Section 146.71, within subpart F of part 146 of the CBP regulations (19 CFR 146.71), prescribes the release and removal of merchandise from a zone. Paragraph (a) states that, except as provided for in § 146.43, no merchandise will be transferred from a zone without a CBP permit on the appropriate entry or withdrawal form or other document as required in this part. Section 146.71(c) provides that, except in the case of articles for use in a zone, merchandise for which a CBP permit for transfer to U.S. customs territory has been issued must be physically removed from the zone within five (5) working days of issuance of that permit and that merchandise awaiting removal within the required time limit will not be further manipulated or manufactured in the zone, but will be segregated or otherwise identified by the operator as merchandise that has been constructively transferred to the U.S. customs territory.

Pursuant to this FTZ test, an approved test operator will have the option of allowing duty-paid merchandise that has been entered for consumption to remain in an activated zone area for up to 90 calendar days after CBP releases the merchandise, so long as the merchandise remains segregated, does not undergo further manufacturing, and is accurately recorded in the Inventory Control and Recordkeeping (“ICR”) system within five (5) business days of release. Such merchandise is considered to be constructively transferred to the customs territory of the United States and, while remaining in the zone, will have no zone status. *See* 19 CFR Part 146, Subpart D. Approved test operators are reminded that the procedures manual required by 19 CFR 146.21(b) should be updated to reflect changes in their proce-

dures to comply with the FTZ test, including which status indicator is being used to describe the merchandise. The 5-day ICR system requirement is intended to ensure timely inventory control and to enable CBP to ascertain the status of merchandise within a zone without hindering CBP's supervision and control over the zone, and its ability to enforce applicable laws. It is noted that merchandise that is constructively transferred to the customs territory of the United States, which is removed from a zone but does not enter the commerce of the United States, may not be readmitted to a zone in domestic status.

Elimination of the requirement, for purposes of this FTZ test, to remove merchandise from a zone within the prescribed 5-day period after release is intended to benefit the trade by permitting them to focus on production and accurate maintenance of their ICR system, rather than the timing of merchandise moving in and out of the zone. In addition, in situations where data or documentation from other government agencies is required, elimination of the 5-day zone removal requirement is intended to simplify logistics in that merchandise will not have to be moved from a secured FTZ location pending receipt of that information.

FTZ Test Participant Eligibility

Participation in this FTZ test is voluntary and open to all FTZ operators who timely notify CBP of their interest in participating in the test and establish, to CBP's satisfaction, that they: (1) Are authorized and approved in an activated FTZ; (2) have an approved FTZ operator bond on file with CBP; and (3) can demonstrate the ability to comply with the requirements of the test.

Authorization for the Test

This FTZ test is being conducted in accordance with § 101.9(a) of the CBP regulations (19 CFR 101.9(a)), which prescribes general test requirements.

Regulatory Provisions Suspended

The following regulatory provisions will be suspended to the extent that they conflict with the terms of this FTZ test. The regulatory suspensions will remain in effect for the duration of this test and will apply to approved test participants only; the regulatory provisions remain in effect for all non-test participants:

- Section 146.51, which requires that no merchandise, other than domestic status merchandise provided for in § 146.43, will be

manipulated, manufactured, exhibited, destroyed or transferred from a zone in any manner or for any purpose, except under CBP permit.

- Section 146.52(a), to the extent that it requires a zone operator, prior to any action being taken, to apply for a blanket permit on the CBP Form 216 to manipulate, manufacture, or exhibit merchandise in a zone.
- Section 146.71(c), which requires that merchandise for which a CBP permit for transfer to the U.S. customs territory has been issued must be physically removed from the zone within five (5) working days of issuance of that permit, except in the case of articles for use in a zone.

Test Dates

This FTZ test will commence no earlier than July 17, 2013, and will run for approximately two years from that date with a final evaluation to take place at the end of the test period. CBP may extend, terminate, or change the terms of the test at any time, by way of announcement in the **Federal Register**.

Test Evaluation

CBP will begin an evaluation of the FTZ test approximately 90 days after its commencement.

Misconduct under the Test

An FTZ test participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, and/or discontinuance from participation in this test for any of the following:

- Failure to follow the terms and conditions of this test.
- Failure to exercise reasonable care in the execution of participant obligations.
- Failure to abide by applicable laws and regulations that have not been waived.

The Director, Cargo Security and Control, Office of Field Operations, CBP Headquarters, will administer the suspension or revocation of participation privileges for misconduct under the test. CBP will issue a written notice to the test participant that describes the proposed action and includes a description of the facts or conduct warranting the action. The test participant may appeal the decision, in writing, within ten (10) calendar days of receipt of the written notice. The appeal must be submitted to U.S. Customs and Border

Protection, Office of Field Operations, Cargo and Conveyance Security (“CCS”), 1300 Pennsylvania Ave. NW., Suite 2.3D, Washington, DC 20229–1015 or by email to *FTZtest@cbp.dhs.gov*. The Executive Director, CCS, will issue a written decision on the proposed action within 30 working days after receiving a timely filed appeal from the test participant. If no timely appeal is received, the proposed notice becomes the final decision of the agency as of the date that the appeal period expires.

Except in the case of willful misconduct, or where a test participant’s conduct may cause immediate harm to the public health, interest, or safety, a proposed discontinuance of a test participant’s participation privileges will not take effect until the time to file an appeal has expired. In the case of willful misconduct, or where a test participant’s conduct may cause immediate harm to the public health, interest, or safety, the Director, Cargo Security and Control, OFO, may immediately discontinue a participant’s test privileges upon written notice to the test participant. The notice will contain a description of the facts or conduct warranting the immediate action.

The test participant will be offered the opportunity to appeal the decision within ten (10) calendar days of receipt of the written notice providing for immediate discontinuance. The appeal must be submitted to U.S. Customs and Border Protection, Office of Field Operations, CCS, 1300 Pennsylvania Ave. NW., Suite 2.3D, Washington, DC 20229–1015 or by email to *FTZtest@cbp.dhs.gov*. The immediate discontinuance will remain in effect during the appeal period. The Executive Director, CCS, will issue a decision in writing on the discontinuance within 15 working days after receiving a timely filed appeal from the test participant. If no timely appeal is received, the notice becomes the final decision of the Agency as of the date that the appeal period expires.

Test Evaluation Criteria

The following is a non-exhaustive list of evaluation factors that CBP may use to assess the merits of the FTZ test:

1. Workload impact;
2. Policy and procedure accommodations;
3. Cost savings;
4. Trade compliance impact;
5. System efficiency;
6. Operational efficiency; or
7. Other issues raised by public comment or by the test participants.

Results of the FTZ test will be formulated at the conclusion of the test and will be made available to the public upon request.

Dated: June 3, 2013.

DAVID A. MURPHY,
*Acting Assistant Commissioner,
Office of Field Operations.*

[Published in the Federal Register, June 7, 2013 (78 FR 34395)]

GENERAL NOTICE**19 CFR PART 177****PROPOSED REVOCATION OF A RULING LETTER AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
THE TARIFF CLASSIFICATION OF A 3D STARTER PACK
KIT FOR A 3D OR 3D-READY DLP TELEVISION**

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

ACTION: Notice of proposed revocation of a ruling letter and treatment concerning the tariff classification of a 3D Starter Pack Kit for a 3D or 3D-Ready DLP Television.

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 a ruling letter relating to the tariff classification of a 3D Starter Pack Kit for a 3D or 3D-Ready DLP Television (hereinafter “3D Starter Pack Kit”) under the Harmonized Tariff Schedule of the United States (HTSUS). CBP also proposes to revoke any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the proposed action.

DATES: Comments must be received on or before July 26, 2013.

ADDRESSES: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations and Rulings, Office of International Trade, Attention: Trade and Commercial Regulations Branch, 90 K Street, 10th Floor, N.E., Washington, D.C. 20229–1177. Submitted comments may be inspected at U.S. Customs and Border Protection, 90 K Street, 10th Floor, N.E., Washington, D.C. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Dwayne S. Rawlings, Tariff Classification and Marking Branch, (202) 325–0092.

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

Pursuant to section 625 (c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke a ruling letter pertaining to the tariff classification of a 3D Starter Pack Kit. Although in this notice, CBP is specifically referring to the revocation of NY N123038, dated October 5, 2010 (Attachment A), this notice covers any rulings on this merchandise that may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

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

agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action.

In NY N123038, CBP classified a 3D Starter Pack Kit in heading 9013, HTSUS, specifically subheading 9013.80.90, HTSUS, which provides for “Liquid crystal devices not constituting articles provided for more specifically in other headings; lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this chapter; parts and accessories thereof: Other devices, appliances and instruments: Other.” It is now CBP’s position that the article is properly classified in subheading 9004.90.00, HTSUS, which provides for “Spectacles, goggles and the like, corrective, protective or other: Other.” Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY N123038 and any other ruling not specifically identified, in order to reflect the proper analysis contained in proposed HQ H234514, set forth in Attachment B to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions.

Before taking this action, consideration will be given to any written comments timely received.

Dated: May 8, 2013

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N123038

October 5, 2010

CLA-2-90:OT:RR:NC:N4:414

CATEGORY: Classification

TARIFF NO.: 9013.80.9000

MR. W. J. POLKINHORN
BILL POLKINHORN, INC.
2401 PORTICO BLVD.
P.O. BOX 712
CALEXICO, CALIFORNIA 92231

RE: The tariff classification of the 3D Starter Pack Kit for a 3D or 3D Ready DLP Television from Mexico

DEAR MR. POLKINHORN:

In your letter dated September 7, 2010 you requested a tariff classification ruling on behalf of Mitsubishi Digital Electronics, Inc.

The kit, model 3DC-1000, is designed to aid the viewer of a television to achieve a 3D viewing experience. The kit contains two pairs of 3D active LCD shutter glasses, a 3D signal adapter, an infrared (IR) emitter, a Blu-Ray showcase disc, a 3D adaptor remote control and one HDMI cable. These items will be imported into the United States packaged in a carton for retail sale.

The 3D active LCD shutter glasses (hereafter referred to as 3D glasses) are powered by a lithium battery. The lenses of the 3D glasses are LCD shutter lenses made of two pieces of glass with liquid crystal material between the pieces of glass. The liquid crystal material becomes dark when voltage is applied.

The 3D signal adapter is connected by means of the HDMI cable to the television receiver via the 3D Blu-Ray player. The 3D signal adapter converts several different formats of incoming 3D signals to a checkerboard 3D format signal output and transfers it to the IR emitter which sends infrared light synchronization signals to the infrared light sensor in the 3D glasses. The sensor in the glasses converts these signals into electrical synchronization signals which travel through the electrical control circuits of the glasses and it is these signals that initiate the blocking state (closed) or the viewing state (open) of the liquid crystal material in the glasses. The signal allows the glasses to alternately darken over one eye and then the other eye in synchronization with the refresh rate of the television screen. The lenses turn on and off up to 60 times per second or 4080 times per minute.

You have suggested that the 3D Starter Pack Kit is classifiable under subheading 9004.90.0000, HTSUS, which provides for spectacles, goggles and the like, corrective, protective or other: other. However, the 3D glasses do not provide any vision correction. Nor do the 3D glasses protect the eyes from sunlight, or protect the eyes from flying objects. These 3D glasses perform the function of alternately blocking the view of either the right eye or the left eye by rapidly darkening as explained above. Accordingly, the active shutter 3D glasses containing LCD shutter lenses are not classifiable under subheading 9004.90.0000, HTSUS. The 3D glasses are liquid crystal devices provided for in heading 9013, HTSUS.

The Explanatory Notes to GRI 3(b) at (X) state that for the purposes of this rule, the term “goods put up in sets for retail sale” shall be taken to mean goods which (a) consist of at least two different articles which are, prima facie, classifiable in different headings; (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; (c) are put up in a manner suitable for sale directly to users without repacking. The 3D Starter Pack Kit meets the requirements for classification as a set for tariff purposes.

Under GRI 3(b), goods put up in sets for retail sale shall be classified as if they consist of the material or component that gives them their essential character. The essential character of the 3D Starter Pack Kit cannot be determined. The items which equally merit consideration, the 3D adapter and the 3D glasses, are comparable in value based on the cost breakdown of the items in the kit. Also, the 3D adapter and the 3D glasses perform an equally essential part of the intended function of the 3D Starter Pack Kit which is to produce a 3D image.

When goods cannot be classified by reference to GRI 3(b), they are classified under GRI 3(c) under the heading which occurs last in the numerical order among those equally meriting consideration. The 3D signal adapter, which is classified in chapter 85, HTSUS, and the 3D glasses, which are classified in chapter 90, HTSUS, equally merit consideration. Accordingly, the 3D Starter Pack Kit is classified under heading 9013 because it occurs last in numerical order.

The applicable subheading for the 3D Starter Pack Kit will be 9013.80.9000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for liquid crystal devices not constituting articles provided for more specifically in other headings; other devices, appliances and instruments: other. The rate of duty will be 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 World Wide Web at <http://www.usitc.gov/tata/hts/>.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Barbara Kiefer at (646) 733-3019.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT B]

HQ H234514
CLA-2 OT:RR:CTF:TCM H234514 DSR
CATEGORY: Classification
TARIFF NO.: 9004.90.00

MR. W.J. POLKINHORN
BILL POLKINHORN, INC.
2401 PORTICO BLVD.
P.O. BOX 712
CALEXICO, CALIFORNIA 92231

RE: Revocation of NY N123038; tariff classification of a 3D Starter Pack Kit for a 3D or 3D-Ready DLP Television from Mexico

DEAR MR. POLKINHORN:

This letter is in reference to New York Ruling Letter (NY) N123038 issued to you on October 5, 2010, regarding the tariff classification under the 2010 Harmonized Tariff Schedule of the United States (HTSUS) of a 3-dimensional (“3D”) Starter Pack Kit for a 3D or 3D-Ready DLP Television from Mexico. The ruling classified the article under subheading 9013.80.90, HTSUS, which provides for “Liquid crystal devices not constituting articles provided for more specifically in other headings; lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this chapter; parts and accessories thereof: Other devices, appliances and instruments: Other.”

We have reviewed the tariff classification of the article and have determined that the cited ruling is in error. Therefore, NY N123038 is revoked for the reasons set forth in this ruling.

FACTS:

In NY N123038, we stated that the kit, identified as the “3DC-1000,” is designed to aid the viewer of a television to achieve a 3D viewing experience. The kit contains two pairs of 3D active LCD shutter glasses, a 3D signal adapter, an infrared (IR) emitter, a Blu-Ray showcase disc, a 3D adapter remote control and one HDMI cable. These items will be imported into the United States packaged in a carton for retail sale.

The 3D active shutter glasses (hereinafter referred to as “3D shutter glasses”) are powered by a lithium battery. Their lenses are LCD shutter lenses made of two pieces of glass with liquid crystal material between the pieces of glass. The liquid crystal material becomes dark when voltage is applied.

The 3D signal adapter is connected to the television receiver by means of the HDMI cable via a 3D Blu-Ray player. The 3D signal adapter converts several different formats of incoming 3D signals to a checkerboard 3D format signal output and transfers it to the IR emitter. The IR emitter sends infrared light infrared light synchronization signals to the infrared light sensor in the 3D shutter glasses. The sensor in the glasses converts these signals into electrical synchronization signals that travel through the electrical control circuits of the glasses. It is these signals that initiate the blocking state (closed) or the viewing state (open) of the liquid crystal material in the glasses. The signal allows the glasses to alternatively darken over one eye and then the other eye in synchronization with the refresh rate of the

television screen. The lenses open and close up to 60 times per second or 4080 times per minute. The result of this rapid action is that the viewer perceives the television images as 3-dimensional.

ISSUE:

Whether the article in question is classified under subheading 9004.90.00, HTSUS, as other spectacles, or 9013.80.90, HTSUS, as other optical appliances and instruments.

LAW AND ANALYSIS:

The following HTSUS provisions are under consideration:

9004	Spectacles, goggles and the like, corrective, protective or other: * * *
9004.90.00	Other. * * * *
9013	Liquid crystal devices not constituting articles provided for more specifically in other headings; lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this chapter; parts and accessories thereof: * * *
9013.80	Other devices, appliances and instruments: * * *
9013.80.90	Other. * * * *

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRI's). 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 based on GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's 2 through 6 may then be applied in order.

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

The main components of the 3D Starter Pack Kit are the 3D signal adapter and the 3D shutter glasses. The 3D signal adapter is described by heading 8525, HTSUS. The 3D shutter glasses are possibly covered by either heading 9004, or heading 9013, HTSUS. Heading 9013, HTSUS, covers, in relevant part “[l]iquid crystal devices not constituting articles provided for more specifically in other headings.” Therefore, before we can consider the applicability of heading 9013, we must consider whether the 3D shutter glasses can instead be classified in heading 9004, HTSUS.

Heading 9004, HTSUS, provides broadly for “[s]pectacles, goggles and the like, corrective, protective or other.” EN 90.04 provides an example of a group

of such “other” spectacles, i.e., “spectacles for viewing stereoscopic (three-dimensional) pictures,” and later refines the example by citing to “polarizing spectacles fitted with lenses of plastics for viewing three-dimensional films (whether or not with a paperboard frame).” As a rule, the ENs cannot restrict or limit the scope of the legal texts to which they correspond. Instead, the ENs provide a commentary on the scope of the legal text of each heading. EN 90.04 provides an example of one form of spectacles (polarized, with plastic lenses) that are used to view three-dimensional images and does not use limiting language to do so. Indeed, the purpose of the polarized spectacles with plastic lenses is the same as the purpose of the instant 3D shutter glasses, which is to create the illusion of three-dimensional images by restricting the light that reaches each eye while viewing stereoscopic films. The manner in which the 3D shutter glasses achieve that purpose does not exclude it from heading 9004, HTSUS. Thus, it is now the position of CBP that the proper heading for the shutter glasses is 9004, HTSUS, which provides for other spectacles.

Because no single heading of the HTSUS completely describes the 3D Starter Pack Kit and, as noted above, its components are *prima facie* classifiable in two or more headings, classification must fall to GRI 3. GRI 3 provides, in pertinent part:

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

- (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.
- (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.
- (c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

The Explanatory Notes to GRI 3(b) state the following

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

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

The 3D Starter Pack Kit meets the above requirements, and is a “set” for purposes of GRI 3(b). In its discussion of the essential character of composite goods, EN (VIII) to GRI 3(b) states:

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

There have been several court decisions on “essential character” for purposes of classification under GRI 3(b). See *Conair Corp. v. United States*, 29 C.I.T. 888 (2005); *Structural Industries v. United States*, 360 F. Supp. 2d 1330, 1337–1338 (C.I.T. 2005); and *Home Depot USA, Inc. v. United States*, 427 F. Supp. 2d 1278, 1295–1356 (C.I.T. 2006), *aff’d.* by 491 F.3d 1334 (Fed. Cir. 2007) (“[E]ssential character is that which is indispensable to the structure, core or condition of the article, *i.e.*, what it is.”) (quoting *A.N. Deringer, Inc. v. United States*, 66 Cust. Ct. 378, 383 (1971)). In particular, the court stated “[a]n essential character inquiry requires a fact intensive analysis.” *Id.* at 1284. Here, we are unable to determine whether the 3D signal adapter or the 3D shutter glasses provide the essential character of the set. The 3D adapter and the 3D shutter glasses are comparable in value based upon the cost breakdown of the items in the kit. Also, the 3D adapter and the 3D shutter glasses play equally essential roles in achieving the intended function of the 3D Starter Pack Kit. Without the glasses, a viewer cannot view the 3D image as intended, regardless of the presence and functionality of the adapter. Without the adapter, source 3D video is not converted to a format that displays on a television and no signal is provided to the IR emitter (and ultimately to the 3D glasses) that would allow a viewer to view 3D video as intended.

Per GRI 3(c), when a good cannot be classified by reference to GRIs 3(a) or 3(b), it is classified under the heading that occurs last in numerical order among those meriting equal consideration. Here, the 3D signal adapter is classifiable in heading 8525, HTSUS, and the 3D shutter glasses are classifiable in heading 9004, HTSUS. Therefore heading 9004 prevails, and the applicable subheading for the 3D Starter Pack Kit is 9004.90.00, HTSUS, which provides for other spectacles.

HOLDING:

By application of GRI 1 and GRI 3(c), the 3D Starter Pack Kit is classified in heading 9004, HTSUS. Specifically, it is covered by subheading

9004.90.00, HTSUS, which provides for “Spectacles, goggles and the like, corrective, protective or other: Other.” The column one, general rate of duty is 2.5% *ad valorem*. Duty rates are provided for your convenience and subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY N123038, dated December 13, 2010, is hereby revoked.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**MODIFICATION OF RULING LETTER AND
MODIFICATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF A CERTAIN DRY SUIT**

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

ACTION: Notice of modification of ruling letter and treatment relating to tariff classification of a certain dry suit.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) is modifying one ruling letter relating to the tariff classification of a dry suit identified as the “Style MSD577vSR Tactical Operations Dry Suit” under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also modifying any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 47, No. 10, on February 27, 2013. No comments were received in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 26, 2013.

FOR FURTHER INFORMATION CONTACT: Aaron Marx, Tariff Classification and Marking Branch: (202) 325–0195.

SUPPLEMENTARY INFORMATION:**Background**

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

Pursuant to section 625 (c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)(1)), this notice advises interested parties that CBP is modifying one ruling letter pertaining to the tariff classification of the “Style MSD577vSR Tactical Operations Dry Suit.” Although in this notice, CBP is specifically referring to the modification of New York Ruling Letter (NY) N068477, dated August 6, 2009, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the notice period.

Similarly, pursuant to section 625 (c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)(2)), CBP is modifying any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during this notice period. An importer’s failure to advise CBP of substantially identical transactions or of a specific

ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final notice of this action.

In NY N068477, CBP determined that, with regard to the “Style MSD577vSR Tactical Operations Dry Suit,” the plastic is not visible to the naked eye in cross section. CBP further determined that this product was classified in heading 6211, HTSUS, specifically 6211.43.0010, HTSUS, which provides for: “Track suits, ski-suits and swimwear; other garments: Other garments, women’s or girls’: Of man-made fibers”. Finally, CBP determined that this product did not satisfy the requirements of General Note (GN) 12, HTSUS, and was therefore ineligible for treatment under the North American Free Trade Agreement (NAFTA).

It is now CBP’s position that this product is properly classified in heading 6210, HTSUS, specifically 6210.50.50, HTSUS, which provides for “Garments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907: Other women’s or girls’ garments: Of man-made fibers: Other”. Furthermore, it is now CBP’s position that the product does satisfy the requirements of GN 12, HTSUS, and is therefore eligible for treatment under NAFTA.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is modifying NY N068477 and modifying any other ruling not specifically identified, in order to reflect the proper classification of the subject dry suit according to the analysis contained in proposed Headquarters Ruling Letter (HQ) H073928 (Attachment). Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is modifying any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: May 6, 2013

MYLES B. HARMON

Director

Commercial and Trade Facilitation Division

Attachment

HQ H073928

May 6, 2013

CLA-2 OT:RR:CTF:TCM H073928 AMM

CATEGORY: Classification

TARIFF NO.: 6210.50.50

MR. CRAIG FISHER
MUSTANG SURVIVAL CORP.
7525 LOWLAND DRIVE
BURNABY, BC V5J 5L1

RE: Modification of New York Ruling Letter N068477; Tariff Classification of a Dry Suit; NAFTA status of Dry Suits from Canada

DEAR MR. FISHER,

This is in reference to New York Ruling Letter (NY) N068477, dated August 6, 2009, regarding the classification under the Harmonized Tariff Schedule of the United States (HTSUS) and NAFTA eligibility of a certain Dry Suit, identified as the “Style MSD577vSR Tactical Operations Dry Suit” (Style MSD577vSR). In that ruling, Customs and Border Protection (CBP) classified the Style MSD577vSR product under heading 6211, HTSUS, which provides in pertinent part for “[O]ther garments”, and found that the product was not eligible for NAFTA preferential treatment. We have reviewed NY N068477 and found it to be incorrect with respect to the above identified product. For the reasons set forth below, we are modifying that ruling.

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, 2186 (1993), notice of the proposed modification of treatment relating to the tariff classification of a certain dry suit was published on February 27, 2013, in the Customs Bulletin, Volume 47, Number 10. No comments were received in connection to this proposal.

FACTS:

The Style MSD577vSR product is a unisex coverall garment designed for over-water and waterborne tactical operation teams. It is described as follows:

Style MSD577vSR features a stand up neoprene collar with a draw cord and cord locks, neoprene shoulder gussets, long sleeves with a hook and loop closure at the wrist and a neoprene inner cuff, reflective bands on each sleeve near the cuff, padded elbow patches, an interior draw cord and cord lock at the waist, an interior suspender system with buckles, a diagonal zipper across the chest, a horizontal zipper below the waist, an interior coccyx pad, a lining on the lower body and legs, a neoprene mid-section, a web belt with a plastic buckle closure at the waist, wide belt loops, abrasion fabric on the hip and seat, adjustable thigh straps, padded overlays at the knees, ankle zippers, elasticized cuffs with hook and loop closures and attached boots.

See NY N068477. The Style MSD577vSR product is constructed from the following components: a three-layer woven nylon/ePTFE/woven polyester fabric manufactured in the United States, a neoprene/nylon laminated fabric

manufactured in the United States, a nylon/spandex knit fabric manufactured in the United States, a nylon/Kevlar/PET/PU fabric manufactured in Taiwan, and internal foam pads manufactured in Taiwan. The nylon/ePTFE/polyester fabric is both breathable and waterproof, and comprises the outer shell of the product. The nylon/spandex knit fabric is a small component used as a “waist drainage patch.” The neoprene/nylon fabric is used as trim around the neck and wrists to provide a watertight seal, and is also used in the elbow patches. The nylon/Kevlar/PET/PU fabric is used for abrasion resistance at the knees and seat. These fabrics are cut, sewn, and assembled into a finished garment in Canada.

CBP classified the Style MSD577vSR product under heading 6211, HTSUS, which provides in pertinent part for “[O]ther garments”. Furthermore, CBP determined that this product was not eligible for NAFTA preferential treatment, because it did not satisfy the required tariff shift.

ISSUE:

What is the proper classification of the instant MSD577vSR Tactical Operations Dry Suit under the HTSUS?

LAW AND ANALYSIS:

In NY N068477, CBP considered the classification and NAFTA eligibility of two dry suits manufactured by Mustang. The first, identified as the Style MSD575 Water Rescue Dry Suit (Style MSD575), was classified under heading 6210, HTSUS, specifically under subheading 6210.50.50, HTSUS, which provides for “Garments, made up of fabrics of heading ... 5903 [or] 5906 ...: Other women’s or girls’ garments: Of man-made fibers: Other”. This product was found to be eligible for NAFTA preferential treatment. Mustang does not dispute the classification or eligibility determination of the Style MSD575 product. The second product, identified as the Style MSD577vSR Tactical Operations Dry Suit (Style MSD577vSR), was classified under heading 6211, HTSUS, specifically under subheading 6211.43.00, HTSUS, which provides for “[O]ther garments: Other garments, women’s or girls’: Of man-made fibers”. This product was found not to qualify for NAFTA preferential treatment. Mustang disputes both the classification and the eligibility determination of the Style MSD577vSR product.

I. Classification

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

The 2013 HTSUS provisions at issue are as follows:

5407

Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 5404:

5903 Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902:

 6210 Garments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907:

6210.50 Other women's or girls' garments:

Of man-made fibers:

6210.50.50 Other

 6211 Track suits, ski-suits and swimwear; other garments:

Other garments, women's or girls':

6211.43.00 Of man-made fibers

 GRI 3, HTSUS, states, in pertinent part:

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

* * *

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

* * *

Note 2 to Chapter 59, HTSUS, states, in pertinent part:

Heading 5903 applies to:

(a) Textile fabrics, impregnated, coated, covered or laminated with plastics, whatever the weight per square meter and whatever the nature of the plastic material (compact or cellular), other than:

(1) Fabrics in which the impregnation, coating or covering cannot be seen with the naked eye (usually chapters 50 to 55, 58 or 60); for the purpose of this provision, no account should be taken of any resulting change of color;

* * *

Note 8 to Chapter 62, HTSUS, states, in pertinent part: “[G]arments which cannot be identified as either men's or boys' garments or as women's or girls' garments are to be classified in the headings covering women's or girls' garments.”

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs), constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of the headings. It is CBP's practice to consult, whenever possible, the terms of the ENs when

interpreting the HTSUS. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN 59.03 states, in pertinent part:

This heading covers textile fabrics which have been impregnated, coated, covered or laminated with plastics (e.g., poly(vinyl chloride)).

Such products are classified here whatever their weight per m² and whatever the nature of the plastic component (compact or cellular), provided:

- (1) That, in the case of impregnated, coated or covered fabrics, the impregnation, coating or covering can be seen with the naked eye otherwise than by a resulting change in colour.

Textile fabrics in which the impregnation, coating or covering cannot be seen with the naked eye or can be seen only by reason of a resulting change in colour usually fall in Chapters 50 to 55, 58 or 60. Examples of such fabrics are those impregnated with substances designed solely to render them crease-proof, moth-proof, unshrinkable or waterproof (e.g., waterproof gabardines and poplins). Textile fabrics partially coated or partially covered with plastics and bearing designs resulting from these treatments are also classified in Chapters 50 to 55, 58 or 60.

* * *

The laminated fabrics of this heading should not be confused with fabrics which are simply assembled in layers by means of a plastic adhesive. These fabrics, which have no plastics showing in cross-section, generally fall in Chapters 50 to 55.

* * *

In NY N068477, CBP classified the Style MSD577vSR under heading 6211, HTSUS, which provides, in pertinent part for “other garments.” Mustang asserts in their request for reconsideration that the product is properly classified under heading 6210, HTSUS, which provides, in pertinent part for “Garments, made up of fabrics of heading ... 5903 ...”.

The Style MSD577vSR product is constructed from the following components: a three-layer woven nylon/ePTFE/woven polyester fabric, a neoprene/nylon laminated fabric, a nylon/spandex knit fabric, a nylon/Kevlar/ PET/PU fabric and internal foam pads. The nylon/ePTFE/polyester fabric is both breathable and waterproof, and comprises the outer shell of the product. The nylon/spandex knit fabric is a small component used as a “waist drainage patch.” The neoprene/nylon fabric is used as trim around the neck and wrists to provide a watertight seal. The nylon/Kevlar/PET/PU fabric is used for abrasion resistance at the knees and seat.

It is a well accepted maxim of Customs law that a garment will ordinarily be classified according to the material of its outer shell. *See* Headquarters Ruling Letter (HQ) H042543, dated November 30, 2009; HQ 087527, dated October 21, 1992; HQ H087157, dated October 21, 1992; HQ H087156, dated October 21, 1992; HQ H086504, dated December 27, 1990; HQ 080817, dated

August 31, 1987. *See also* HQ 959732, dated April 28, 1997 (classifying firefighter's protective garments according to the outer shell fabric).

Furthermore, CBP has previously stated, in "Classification of Garments Composed in Part of Linings or Interlinings of Specialized Fabrics or Non-woven Insulating Layers," T.D. 91-97, 56 Fed. Reg. 46372 (Sep. 12, 1991), that:

[I]t is usually the outer shell which imparts the essential character to the garment because the outer shell normally creates the garment.

* * *

Garments which have outer shells of fabrics specified in Headings 6113 and 6110, HTSUS, are classifiable, pursuant to GRI 3(b), under those headings.

* * *

The outer shell of the Style MSD577vSR product is composed of a laminated fabric consisting of a top layer of nylon woven fabric, a middle layer of ePTFE, and a bottom layer of polyester knit fabric. You assert that, because this outer shell fabric is properly classified under heading 5903, HTSUS, as a coated fabric that the instant product is properly classified under heading 6210, HTSUS, which provides, in pertinent part for "Garments, made up of fabrics of heading ... 5903 ...".

However, in NY N068477, CBP stated that this outer shell fabric was excluded from heading 5903, HTSUS, by Note 2(a)(1) to Chapter 59, HTSUS, because the plastic could not be seen with the naked eye. CBP also found that the outer shell fabric was properly classified under heading 5407, HTSUS, which provides for "Woven fabrics of synthetic filament yarn ...".

When reviewing fabrics assembled in layers under Note 2(a)(1) to Chapter 59, HTSUS, CBP examines the fabrics to ascertain whether the plastics layer is visible in the cross-section to the naked eye. *See* HQ H005538, dated November 30, 2007; HQ W968304, dated December 1, 2006; NY M82475, dated August 29, 2006; NY L80809, dated December 28, 2004. Additionally, CBP examines whether the plastics layer is visible through one of the assembled layers of fabric. In situations where one of the fabrics is of a loosely knitted or woven construction that allows the coating to be seen through that layer of fabric, CBP has considered such coating to be "visible to the naked eye." *See* HQ H005538; NY L89462, dated January 13, 2006; NY K87940, dated July 23, 2004 (both in which CBP found plastic film to be visible through a knit layer).

Upon further review of the samples you submitted on February 8, 2011, CBP has determined that the ePTFE plastic layer is visible to the naked eye through the knit polyester layer. Therefore, because the outer shell fabric is a plastic laminated textile fabric, in which the plastic layer is visible to the naked eye, it is properly classified under heading 5903, HTSUS. *See also* EN to heading 59.03; HQ H005538. Furthermore, in accordance with T.D. 91-97 and GRI 3(b), the Style MSD577vSR product is properly classified under heading 6210, HTSUS, which provides for "Garments, made up of fabrics of heading ... 5903 ...", because its outer shell is classifiable under heading 5903, HTSUS. *See also* HQ H042543; HQ 080817.

Since the garments are described as “unisex,” they are classified in subheadings covering women’s or girls’ garments. See Note 8 to Chapter 62, HTSUS. Therefore, the Style MSD577vSR product is properly classified under subheading 6210.50.50, HTSUS, which provides for “Garments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907: Other women’s or girls’ garments: Of man-made fibers: Other”.

II. NAFTA Eligibility

General Note (GN) 12, HTSUS, incorporates Article 401 of the North American Free Trade Agreement (NAFTA) into the HTSUS. GN 12(a)(i), HTSUS, provides, in pertinent part, that:

Goods that originate in the territory of a NAFTA party under the terms of subdivision (b) of this note and that qualify to be marked as goods of Canada under the terms of the marking rules set forth in regulations issued by the Secretary of the Treasury (without regard to whether the goods are marked), and goods enumerated in subdivision (u) of this note, when such goods are imported into the customs territory of the United States and are entered under a subheading for which a rate of duty appears in the “Special” subcolumn followed by the symbol “CA” in parentheses, are eligible for such duty rate, in accordance with section 201 of the North American Free Trade Agreement Implementation Act.

Accordingly, the Style MSD577vSR product will be eligible for the “Special” “CA” rate of duty provided: (1) it is deemed to be NAFTA originating under the provisions of GN 12(b), HTSUS; and, (2) it qualifies to be marked as a product of Canada under the NAFTA Marking Rules that are set forth in Part 102 of the Code of Federal Regulations (19 C.F.R. §102).

A. NAFTA Originating under GN 12(b)

In order to determine whether the Style MSD577vSR product is NAFTA-originating, we must consult GN 12(b), HTSUS, which provides, in pertinent part, as follows:

For the purposes of this note, goods imported into the Customs territory of the United States are eligible for the tariff treatment and quantitative limitations set forth in the tariff schedule as “goods originating in the territory of a NAFTA party” only if—

* * *

(ii) they have been transformed in the territory of Canada, Mexico and/or the United States so that—

(A) except as provided in subdivision (f) of this note, each of the non-originating materials used in the production of such goods undergoes a change in tariff classification described in subdivisions (r), (s) and (t) of this note or the rules set forth therein, or

* * *

GN 12(t), HTSUS, states, in pertinent part:

(t) *Change in Tariff Classification Rules.*

* * *

Chapter 62.

* * *

Chapter rule 3: For purposes of determining the origin of a good of this chapter, the rule applicable to that good shall only apply to the component that determines the tariff classification of the good and such component must satisfy the tariff change requirements set out in the rule for that good. If the rule requires that the good must also satisfy the tariff change requirements for visible lining fabrics listed in chapter rule 1 for this chapter, such requirement shall only apply to the visible lining fabric in the main body of the garment, excluding sleeves, which covers the largest surface area, and shall not apply to removable linings.

* * *

32C. A change to headings 6208 through 6210 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54, or headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is both cut and sewn or otherwise assembled in the territory of one or more of the NAFTA parties.

* * *

35. A change to subheadings 6211.32 through 6211.49 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5518, 5801 through 5802 or 6001 through 6006, provided that the good is both cut and sewn or otherwise assembled in the territory of one or more of the NAFTA parties.

* * *

In NY N068477, CBP determined that the Style MSD577vSR product was classified in subheading 6211.43, HTSUS, and that the outer shell fabric was classified in heading 5407, HTSUS. CBP also determined that the Style MSD577vSR product did not satisfy GN 12(t)/62.35, HTSUS, because the change to subheading 6211.43, HTSUS, from Chapter 54, HTSUS, does not meet the required tariff shift.

However, the Style MSD577vSR product was not correctly classified in NY N068477. As discussed above, this product is properly classified in heading 6210, HTSUS, and its outer shell fabric is properly classified under heading 5903. Therefore, the requirements of GN 12(t)/62.32C, HTSUS, are satisfied, because the component which determines the tariff classification of the good (the outer shell fabric) shifts from heading 5903, HTSUS, to heading 6210, HTSUS. *See also* GN 12(t)/62, Chapter Rule 3, HTSUS.

The Style MSD577vSR product satisfies the requirements of GN 12(t), HTSUS. As such, it also satisfies the requirements of GN 12(b)(ii)(A), HTSUS, and is deemed to be NAFTA originating.

B. Country of Origin Marking

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. §1304), requires that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will

permit in such manner as to indicate to the ultimate purchaser the English name of the country of origin of the article. The regulations implementing the requirements and exceptions to 19 U.S.C. §1304 are set forth in Part 134, CBP Regulations (19 C.F.R. §134).

Section 134.1(b), CBP Regulations (19 C.F.R. §134.1(b)), defines “country of origin” as:

[T]he country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the “country of origin” within the meaning of [the marking requirements] ...

Title 19, Section 3592, of the United States Code (19 U.S.C. §3592) was promulgated to implement the Uruguay Round Agreements Act provisions concerning the classification of textiles. CBP published 19 C.F.R. §102.21 in response. See 60 FR 46188. In *Pac Fung Feather Co. Ltd. v. United States*, 911 F.Supp. 529 (Ct. Int’l. Trade 1995), *aff’d* 111 F.3d 114 (Fed. Cir. 1997), the Court of International Trade held that CBP’s promulgation of its final regulations concerning the rules of origin for textile and apparel products to be in accordance with the law.

19 C.F.R. §102.21 states, in pertinent part:

- (a) [T]he provisions of this section will control the determination of the country of origin of imported textile and apparel products for purposes of the Customs laws and the administration of quantitative restrictions.

* * *

- (c) General rules ... the country of origin of a textile or apparel product will be determined by sequential application of paragraphs (c)(1) through (5) of this section ...

- (1) The country of origin of a textile or apparel product is the single country, territory, or insular possession in which the good was wholly obtained or produced.
- (2) Where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1) of this section, the country of origin of the good is the single country, territory, or insular possession in which each foreign material incorporated in that good underwent an applicable change in tariff classification, and/or met any other requirement, specified for the good in paragraph (e) of this section.

* * *

- (e) Specific rules by tariff classification.

- (1) The following rules will apply for purposes of determining the country of origin of a textile or apparel product under paragraph (c)(2) of this section:

HTSUS Tariff shift and/or other requirements

* * *

6210–6212 (1) If the good consists of two or more component parts, a change to an assembled good of heading 6210 through 6212 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.

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To determine the country of origin of the instant merchandise, CBP must consider 19 C.F.R. §102.21(c)(1) through (5) in order. The instant product is made from: a laminated nylon/ePTFE/polyester fabric manufactured in the United States, a neoprene/nylon fabric manufactured in the United States, a nylon/spandex knit fabric manufactured in the United States, a nylon/Kevlar/PET/PU fabric manufactured in Taiwan, and foam padding manufactured in Taiwan. Because these components were made in two different countries, 19 C.F.R. §102.21(c)(1) does not apply. Next, we apply 19 C.F.R. §102.21(c)(2), which directs us to consider 19 C.F.R. §102.21(e). The Style MSD577vSR product consists of five (5) component parts, which are assembled into a good of heading 6210, HTSUS. All of the fabric is cut, sewn, and assembled into a finished garment in Canada. Therefore, Special Rule (1) for headings 6210–6212 of 19 C.F.R. §102.21(e)(1) apply, and the country of origin of the instant product is Canada, by application of 19 C.F.R. §102.21(c)(2).

C. Conclusion

Because the Style MSD577vSR product has been deemed to be NAFTA originating under the provisions of GN 12(b), HTSUS, and because it may be marked as a product of Canada in accordance with 19 C.F.R. §102, it is eligible for the “Special” “CA” rate of duty.

HOLDING:

The Style MSD577vSR product is properly classified under heading 6210, HTSUS, specifically under subheading 6210.50.50, HTSUS, which provides for “Garments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907: Other women’s or girls’ garments: Of man-made fibers: Other”. The general, column one rate of duty is 7.1% *ad valorem*.

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

The Style MSD577vSR product is an originating good under NAFTA pursuant to the tariff shift rules set forth in GN 12(b) and (t)/62.32C, HTSUS. Pursuant to 19 CFR §102.21(c)(2) and (e)(1), the country of origin for marking purposes is Canada, provided a certificate of origin is completed and signed for the good.

A copy of this ruling letter should be attached to the entry documents filed at the time the goods are entered. If the documents have been filed without a copy, this ruling should be brought to the attention of the CBP officer handling the transaction.

EFFECT ON OTHER RULINGS:

New York Ruling Letter N068477, dated August 6, 2009, is hereby MODIFIED in accordance with the above analysis. In accordance with 19 U.S.C. §1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division