

U.S. Customs and Border Protection



19 CFR PART 177

REVOCATION OF TWO RULING LETTERS AND PROPOSED REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF BATTERY-OPERATED FOOD MILLS

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

ACTION: Notice of revocation of two ruling letters and revocation of treatment relating to the tariff classification of battery-operated food mills.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking two ruling letters concerning the tariff classification of battery-operated food mills under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 54, No. 23, on June 17, 2020. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after October 4, 2020.

FOR FURTHER INFORMATION CONTACT: Suzanne Kingsbury, Electronics, Machinery, Automotive and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0113 or via email at suzanne.kingsbury@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:**BACKGROUND**

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

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 54, No. 23, on June 17, 2020, proposing to revoke two ruling letters concerning the tariff classification of battery-operated food mills. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In NY N254846 and NY N254844, CBP classified two styles of battery-operated salt and pepper mills (grinders) in heading 8210, HTSUS, specifically in subheading 8210.00.00, HTSUS, which provides for "[H]and-operated mechanical appliances, weighting 10 kg or less, used in the preparation, conditioning or serving of food or drink, and base metal parts thereof." CBP has reviewed NY N254846 and NY N254844 and has determined the ruling letters to be in error. It is now CBP's position that battery-operated food mills are properly classified in heading 8509, HTSUS, specifically in subheading 8509.40.00, HTSUS, which provides for "[E]lectromechanical domestic appliances, with self-contained electric motor, other than vacuum

cleaners of heading 8508; parts thereof: Food grinders, processors and mixers; fruit or vegetable juice extractors.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N254846 and NY N254844 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H257788, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

GREGORY CONNOR
for

CRAIG T. CLARK,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H257788

July 20, 2020

CLA-2 OT:RR:CTF:EMAIN H257788 SKK

CATEGORY: Classification

TARIFF NO.: 8509.40.00

Ms. MARTA PORTILLO

HSN

1 HSN DRIVE

ST. PETERSBURG, FL 33729

RE: Revocation of NY N254846 and NY N254844; battery-operated food mill; electric salt and pepper grinder.

Ms. PORTILLO:

This letter is in reference to New York Ruling Letter (NY) N254846, dated July 9, 2014, and NY N254844, dated July 22, 2014, issued to HSN and concerning the classification of battery-operated condiment mills in heading 8210 of the Harmonized Tariff Schedule of the United States (HTSUS), specifically subheading 8210.00.00, HTSUS, which provides for “[H]and-operated mechanical appliances, weighting 10 kg or less, used in the preparation, conditioning or serving of food or drink, and base metal parts thereof.”

Upon reconsideration we have determined that the tariff classification of the subject merchandise at issue in NY N254846 and NY N254844 is incorrect. Pursuant to the analysis set forth below, CBP is revoking both rulings.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice proposing to revoke NY N254846 and NY N254844 was published on June 17, 2020, in Volume 54, Number 23 of the Customs Bulletin. No comments were received in response to the proposed action.

FACTS:

The merchandise at issue in NY N254846, identified as Item Number 277326, is described as the “Wolfgang Puck Stainless Steel Battery Operated Mill.” The article is comprised of electric salt and pepper grinders packaged together as a set for retail sale. The items have a tubular-shaped housing made of brushed stainless steel and contain a stainless steel grinder. The articles measure approximately 2 inches in diameter and 9 inches in height. The top of the shakers have a push-button to activate grinding.

The merchandise at issue in NY N254844, identified as Item Number I-MTSPGMILL-B, is described as the “Wolfgang Puck Stainless Steel Battery Powered Mill.” The article measures approximately 7 inches tall, 2.25 inches in diameter at the top, and 3 inches in diameter at the bottom. The housing has a clear plastic section for holding salt and pepper. The top of the housing has two push-buttons for dispensing salt or pepper. The buttons are marked with the letters “S” for salt, and “P” for pepper. The mill is operated by six “AAA” batteries, which are included. The item features a ceramic blade for grinding. The mill contains Himalayan salt and 5 blends of peppercorns.

LAW AND ANALYSIS:

Classification under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods will be determined according to the terms of the headings of the tariff schedule and

any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 will then be applied in order.

The following provisions of the HTSUS are under consideration:

8210 Hand-operated mechanical appliances, weighting 10 kg or less, used in the preparation, conditioning or serving of food or drink, and base metal parts thereof.

8509 Electromechanical domestic appliances, with self-contained electric motor, other than vacuum cleaners of heading 8508; parts thereof:

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

The ENs to heading 8210, HTSUS, state, in pertinent part:

This heading covers **non-electric** mechanical appliances, generally hand-operated, not exceeding 10 kg in weight, used in the preparation, serving or conditioning of food or drink.

* * * * *

The ENs to heading 8509, HTSUS, state, in pertinent part:

This heading covers a number of domestic appliances in which an electric motor is **incorporated**. The term “domestic appliances” in this heading means appliances normally used in the household. These appliances are identifiable, according to type, by one or more characteristic features such as overall dimensions, design, capacity, volume. The yardstick for judging these characteristics is that the appliances in question must not operate at a level in excess of household requirements.

* * * * *

The appliances of this heading are of two groups (see Chapter Note 4):

(A) **A limited class of articles are classified here irrespective of their weight.**

This group consists of the following only:

* * * * *

(2) **Food grinders and mixers**, e.g., grinders for meat, fish, vegetables or fruit; multi-purpose grinders (for coffee, rice, barley, split peas, etc.); milk shakers; ice cream mixers; sorbet mixers; dough kneaders; mayonnaise beaters; other similar grinders and mixers (including those which, by means of interchangeable parts, can also be used for cutting or other manipulations).

* * * * *

In NY N254846 and NY N254844, CBP classified two styles of battery-operated salt and pepper mills (grinders) under subheading 8210.00.00, HTSUS, which provides for “[H]and-operated mechanical appliances, weighting 10 kg or less, used in the preparation, conditioning or serving of food or drink, and base metal parts thereof.” However, the text of heading 8210, HTSUS,

requires that merchandise covered by the provision be “hand-operated” and “mechanical”. Furthermore, EN 82.10 clarifies that the legal text covers only “non-electric” mechanical appliances. Accordingly, the subject battery-operated mills are precluded from classification in this heading.

The subject battery-operated mills in NY N254846 and NY N254844 are household electromechanical appliances and covered by heading 8509, HTSUS. Specifically, the subject articles are classified in subheading 8509.40.00, HTSUS, which provides for [E]lectromechanical domestic appliances, with self-contained electric motor, other than vacuum cleaners of heading 8508; parts thereof: Food grinders, processors and mixers; fruit or vegetable juice extractors.”

HOLDING:

By application of GRIs 1 and 6, the subject battery-operated mills at issue in NY N254846 and NY N254844 are classified under heading 8509, HTSUS, specifically under subheading 8509.40.00, HTSUS, which provides for “[E]lectromechanical domestic appliances, with self-contained electric motor, other than vacuum cleaners of heading 8508; parts thereof: Food grinders, processors and mixers; fruit or vegetable juice extractors.” The 2020 applicable rate of duty is 4.2 percent *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY N254846, dated July 9, 2014, and NY N254844, dated July 22, 2014, are hereby REVOKED.

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

Sincerely,

CRAIG T. CLARK,

Director

Commercial and Trade Facilitation Division

**PROPOSED REVOCATION OF SEVEN RULING LETTERS
AND PROPOSED REVOCATION OF TREATMENT
RELATING TO THE TARIFF CLASSIFICATION OF HAND
SANITIZER**

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

ACTION: Notice of proposed revocation of seven ruling letters, and proposed revocation of treatment relating to the tariff classification of hand sanitizer.

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 seven ruling letters concerning tariff classification of hand sanitizer under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before September 4, 2020.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Cammy Canedo, Regulations and Disclosure Law Division, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Ms. Cammy Canedo at (202) 325–0439.

FOR FURTHER INFORMATION CONTACT: William Wittwer, Chemicals, Petroleum, Metals and Miscellaneous Articles Branch, Regulations and Rulings, Office of Trade, at (202) 325–0357.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section

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

Pursuant to 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to revoke seven ruling letters pertaining to the tariff classification of hand sanitizer. Although in this notice, CBP is specifically referring to New York Ruling Letters (“NY”) N311037, dated April 7, 2020 (Attachment A), N304365, dated May 21, 2019 (Attachment B), N303248 dated March 16, 2019 (Attachment C), N242763 dated July 3, 2013 (Attachment D), N233860 dated November 6, 2012 (Attachment E), N032988 dated August, 8, 2008 (Attachment F), and L89057 dated January 2, 2006 (Attachment G), this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the seven identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

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

In N311037, N304365, N303248, N242763, N233860, N032988, and L89057, CBP classified hand sanitizer in heading 3824, HTSUS, specifically in subheading 3824.99.92, HTSUS, which provides for “Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: Other: Other: Other: Other: Other: Other.” CBP has reviewed N311037, N304365, N303248, N242763, N233860, N032988, and L89057 and has determined the ruling letters to be in error. It is now CBP’s position that hand sanitizer is properly classified, in heading 3808, HTSUS, specifically in subheading 3808.94.50, HTSUS,

which provides for ““Insecticides, rodenticides, fungicides, herbicides, antisprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or packing for retail sale or as preparations or articles (for example, sulfur-treated bands, wicks and candles, and flypapers): Other: Disinfectants: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke N311037, N304365, N303248, N242763, N233860, N032988, and L89057 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H310592, set forth as Attachment H to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: July 2, 2020

CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division

Attachments

HQ H310592
CLA-2 OT:RR:CTF:TCM H310592 WMW
CATEGORY: Classification
TARIFF NO: 3808.94.50

MR. ROBERT B. BACK
FOCUS BEVERAGES B.V.
INDUSTRIESTRAAT 9
'S HEERENBERG, 7041 GD
NETHERLANDS

RE: Revocation of N311037, N304365, N303248, N242763, N233860, N302988 and L89057; classification of hand sanitizer

DEAR MR. BACK:

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered rulings New York Ruling Letter (“NY”) N311037, dated April 7, 2020 (Attachment A), NY N304365, dated May 21, 2019 (Attachment B), NY N303248 dated March 16, 2019 (Attachment C), NY N242763 dated July 3, 2013 (Attachment D), NY N233860 dated November 6, 2012 (Attachment E), NY N032988 dated August, 8, 2008 (Attachment F), and NY L89057 dated January 2, 2006 (Attachment G) regarding the classification of hand sanitizer under the Harmonized Tariff Schedule of the United States (HTSUS).

In those rulings, we classified hand sanitizer in heading 3824, HTSUS, which provides for “Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified.” We have reviewed N311037, N304365, N303248, N242763, N233860, N302988, and L89057 and found them to be incorrect with respect to the classification of hand sanitizer. For the reasons set forth below, we are revoking these rulings.

FACTS:

The subject merchandise was described as follows in the relevant rulings; all are individually packaged for retail sale:

N311037: The hand sanitizer will be made of Alcohol from Rum Distilled 70% v/v. It is to be used in antimicrobial applications such as hand sanitizing. It will also contain distilled water, hydrogen peroxide, and glycerin and isopropyl myristate.

N304365: ethyl alcohol (CAS number 64–17–5) which is 62% of the total product. The remainder of the hand sanitizer is comprised of water, isopropyl alcohol, glycerin, fragrance, propylene glycol, and aloe barbadensis leaf juice.

N303248: ethyl alcohol (CAS number 64–17–5) which is 62% of the total product. The remainder of this hand sanitizer is comprised of water, isopropyl alcohol, glycerin, fragrance, propylene glycol, acrylates, aminomethyl propanol, isopropyl myristate, tocopheryl acetate, and caprylyl glycol. (Aromatic ingredient but not an aromatic disinfectant.)

N242763: ethanol and biphenyl-2-ol. It is to be used for hygienic hand disinfection. (Aromatic preservative and antifungal.) Data sheet in file

shows the product is geared toward bacterial, antiviral and antifungal. It is unclear if the biphenyl-2-ol is present as a disinfectant or as a preservative and shelf extender. However, due to the low levels present it is assumed to function as a preservative in the final solution. It is unclear what other ingredients are present. Documents show 100 gram solution contains 78.2 grams ethanol and 0.1 grams biphenyl- 2-ol. Balance of ingredients are not known at this time and are assumed to be water or other inactive ingredients. We note that product literature indicates it is geared toward elimination of Norovirus.

N233860: alcohol, water, and minimal amounts of carbomer, PEG-12 dimethicone, triethanolamine, tocopheryl acetate, acid blue 9, acid yellow 23, and a fragrance.

N032988: 62% ethyl alcohol, 35.6% deionized water, and minimal amounts of glycerin, propylene glycol, aloe barbadensis gel, carbomer, Vitamin E, triethanolamine and a fragrance.

L89057: ethyl alcohol, water, glycerin, isopropyl myristate, propylene glycol, tocopheryl acetate (less than 2%), aminomethyl propanol, and carbomer.

ISSUE:

Whether the subject merchandise is classified in heading 3824, HTSUS, as a chemical preparation not elsewhere specified or included; or in heading 3808, HTSUS, as disinfectants and similar products.

LAW AND ANALYSIS:

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

The HTSUS headings at issue are as follows:

3808: Insecticides, rodenticides, fungicides, herbicides, antisprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or packing for retail sale or as preparations or articles (for example, sulfur-treated bands, wicks and candles, and flypapers):

3824: Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included:

* * * * *

Section VI note 2 provides that:

Subject to note 1 above, goods classifiable in heading 3004, 3005, 3006, 3212, 3303, 3304, 3305, 3306, 3307, 3506, 3707 or 3808 by reason of being put up in measured doses or for retail sale are to be classified in those headings and in no other heading of the tariff schedule.

* * * * *

The Harmonized Commodity Description and Coding System (HS) Explanatory Notes (“ENs”) constitute the official interpretation of the HS. While not legally binding or dispositive, the ENs provide a commentary on the scope of each heading of the HS at the international level, and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127 (August 23, 1989).

EN 38.08 provides, in pertinent part, as follows:

(IV) Disinfectants

Disinfectants are agents which destroy or irreversibly inactivate undesirable bacteria, viruses or other micro-organisms, generally on inanimate objects.

Disinfectants are used, for example, in hospitals for cleaning walls, etc., or sterilizing instruments. They are also used in agriculture for disinfecting seeds and in the manufacture of animal feeds to control undesirable micro-organisms.

The group includes sanitisers, bacteriostats and sterilisers.

* * * * *

Heading 3824 specifically notes that it only describes articles that are not elsewhere specified or included. Therefore, if the above described articles are classified in heading 3808, HTSUS, they cannot be classified in heading 3824, HTSUS.

Heading 3808 specifically provides for the instant products as a disinfectant. Alcohol in sufficient concentration destroys or irreversibly inactivates undesirable bacteria, viruses or other micro-organisms. All of the hand sanitizers contain significant amounts of alcohol, usually ethyl alcohol. Additionally, in accordance with Section VI note 2, disinfectants put up for retail sale are to only be classified in heading 3808 and in no other heading of the tariff schedule. The ENs do not persuade us otherwise. While the EN notes disinfectants are used “generally for” disinfecting hard surfaces such as table tops or operating tables, this guidance does not exclude disinfectants formulated for use on the hands. This EN also includes “sanitisers.”

Pursuant to the above analysis, the subject hand sanitizer is classifiable in heading 3808, HTSUS, as a disinfectant or similar product put up in forms or packing for retail sale.

HOLDING:

By application of GRI 1, the subject hand sanitizer is classified in heading 3808, HTSUS, specifically subheading 3808.94.50, HTSUS, which provides for “Insecticides, rodenticides, fungicides, herbicides, antisprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or packing for retail sale or as preparations or articles (for example, sulfur-treated bands, wicks and candles, and flypapers): Other: Disinfectants: Other.” The 2020 column one, general rate of duty is 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 N311037, dated April 7, 2020, NY N304365, dated May 21, 2019, NY N303248, dated March 16, 2019, NY N242763, dated July 3, 2013, NY N233860, dated November 6, 2012, NY N032988, dated August 8, 2008, and NY L89057, dated January 2, 2006, are hereby revoked.

Sincerely,

CRAIG T. CLARK,

Director

Commercial and Trade Facilitation Division

Cc:	Jake Carnahan Casad Company, Inc. 450 S 2nd St Coldwater, OH 45822	Marcy Amberg Laufer Group International 1446 Taney Street N. Kansas City, MO 64116
	Patti Cordo OIA Global 2345 Vauxhall Rd. Union, NJ 07083	Robert Pfreinder Allied International Development 3 Steuben Drive Jericho, NY 11753
	Karma Ellen Ruiz President World Wise Consulting, Inc. 1867 NW 97th Avenue Suite 101 Doral, FL 33172	
	Ted Conlon Fourstar Group USA, Inc. 189 Main St., Suite 31 Milford, MA 01757	

N311037

April 7, 2020

CLA-2-38:OT:RR:NC:N3:140

CATEGORY: Classification

TARIFF NO.: 3824.99.9297

MR. ROBERT B. BACK
FOCUS BEVERAGES B.V.
INDUSTRIESTRAAT 9
'S HEERENBERG, 7041 GD
NETHERLANDS

RE: The tariff classification of Hand Sanitizer from Netherlands

DEAR MR. BACK:

In your letter dated April 02, 2020, you requested a tariff classification ruling.

The subject product is Hand Sanitizer. It will be packed in either 50 ml containers, 750 ml bottles, 1-liter bottles or 1.75-liter Bottles.

The hand sanitizer will be made of Alcohol from Rum Distillated 70 % v/v. It is to be used in antimicrobial applications such as hand sanitizing. It will also contain distilled water, hydrogen peroxide, glycerin and isopropyl myristate.

The applicable subheading for the Hand Sanitizer in 50 ml, 750 ml, 1-liter and 1.75 liter containers will be 3824.99.9297, Harmonized Tariff Schedule of the United States (HTSUS), which provides for: "Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: Other: Other: Other: Other: Other: Other." The rate of duty will be 5%

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

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 Paul Hodgkiss at Paul.Hodgkiss@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK

Director

National Commodity Specialist Division

N304365

May 21, 2019

CLA-2-38:OT:RR:NC:N3:139

CATEGORY: Classification

TARIFF NO.: 3824.99.9297; 9903.88.03

JAKE CARNAHAN
CASAD COMPANY, INC.
450 S 2ND ST
COLDWATER OH 45822

RE: The Tariff Classification of Hand Sanitizers from China

DEAR MR. CARNAHAN:

In your letter dated May 15, 2019, you requested a tariff classification ruling. We have received and reviewed the samples of each product. The samples will not be returned to you.

The first product is identified as an Instant Hand Sanitizer Spray for retail sale. It comes in a clear pen-like plastic tube with a sprayer on top which is covered by an elongated plastic cap with a clip. The liquid sanitizer is comprised of the active ingredient, ethyl alcohol (CAS number 64-17-5) which is 62% of the total product. The remainder of the hand sanitizer is comprised of water, isopropyl alcohol, glycerin, fragrance, propylene glycol, and aloe barbadensis leaf juice.

The second product is a hand sanitizer in a 2 ounce plastic bottle with flip lid for retail sale. This hand sanitizer is comprised of the active ingredient, ethyl alcohol (CAS number 64-17-5) which is 62% of the total product. The remainder of this hand sanitizer is comprised of water, isopropyl alcohol, glycerin, fragrance, propylene glycol, triethanolamine, and aloe barbadensis leaf juice.

The applicable subheading for the Instant Hand Sanitizer Spray and the Hand Sanitizer in the 2 ounce plastic bottle with flip lid will be 3824.99.9297, HTSUS, which provides for: Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: Other: Other: Other: Other: Other: Other. The rate of duty will be 5%.

Effective July 6, 2018, the Office of the United States Trade Representative (USTR) imposed an additional tariff on certain products of China classified in the subheadings enumerated in Section XXII, Chapter 99, Subchapter III U.S. Note 20(b), HTSUS. The USTR imposed additional tariffs, effective August 23, 2018, on products classified under the subheadings enumerated in Section XXII, Chapter 99, Subchapter III U.S. Note 20(d), HTSUS. Subsequently, the USTR imposed further tariffs, effective September 24, 2018, on products classified under the subheadings enumerated in Section XXII, Chapter 99, Subchapter III U.S. Note 20(f) and U.S. Note 20(g), HTSUS. For additional information, please see the relevant Federal Register notices dated June 20, 2018 (83 F.R. 28710), August 16, 2018 (83 F.R. 40823), and September 21, 2018 (83 F.R. 47974). Products of China that are provided for in subheading 9903.88.01, 9903.88.02, 9903.88.03, or 9903.88.04 and classified in one of the subheadings enumerated in U.S. Note 20(b), U.S. Note 20(d), U.S. Note 20(f) or U.S. Note 20(g) to subchapter III shall continue to be

subject to antidumping, countervailing, or other duties, fees and charges that apply to such products, as well as to those imposed by the aforementioned Chapter 99 subheadings.

Products of China classified under subheading, HTSUS, unless specifically excluded, are subject to the additional 10 percent ad valorem rate of duty. At the time of importation, you must report the Chapter 99 subheading, i.e., 9903.88.03, in addition to subheading 3824.99.9297, HTSUS, listed above.

The tariff is subject to periodic amendment so you should exercise reasonable care in monitoring the status of goods covered by the Notice cited above and the applicable Chapter 99 subheading.

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

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 Patrick Day at patrick.day@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK

Director

National Commodity Specialist Division

N303248

March 6, 2019

CLA-2-38:OT:RR:NC:N3:139

CATEGORY: Classification

TARIFF NO.: 3824.99.9297

PATTI CORDO
OIA GLOBAL
2345 VAUXHALL RD
UNION NJ 07083

RE: The tariff classification of hand sanitizer from Turkey

DEAR MS. CORDO:

In your letter dated March 1, 2019, you requested a tariff classification ruling on behalf of your client, Delta Brands Inc.

The product identified is a hand sanitizer for retail sale. This hand sanitizer, Lucky Super Soft brand, is comprised of the active ingredient, ethyl alcohol (CAS number 64-17-5) which is 62% of the total product. The remainder of this hand sanitizer is comprised of water, isopropyl alcohol, glycerin, fragrance, propylene glycol, acrylates, aminomethyl propanol, isopropyl myristate, tocopheryl acetate, and caprylyl glycol.

The applicable subheading for the Lucky Super Soft hand sanitizer will be 3824.99.9297, HTSUS, which provides for: Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: Other: Other: Other: Other: Other: Other. The rate of duty will be 5%.

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

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 Patrick Day at patrick.day@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK

Director

National Commodity Specialist Division

N242763

July 3, 2013

CLA-2-38:OT:RR:NC:2:239

CATEGORY: Classification

TARIFF NO.: 3824.90.9290

KARMA ELLEN RUIZ
PRESIDENT
WORLD WISE CONSULTING, INC.
1867 NW 97TH AVENUE
SUITE 101
DORAL, FL 33172

RE: The tariff classification of arcana® des liquid hand sanitizer from Denmark

DEAR MS. RUIZ:

In your letter dated June 5, 2013, you requested a tariff classification ruling on behalf of your client Blue Waters Shipping.

arcana® des is a liquid hand sanitizer. The hand sanitizer, imported in a 500 milliliter bottle with a pump dispenser, is a formulated product containing ethanol and biphenyl-2-ol. It is to be used for hygienic hand disinfection.

The applicable subheading for the arcana® des hand sanitizer will be 3824.90.9290, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: Other: Other: Other: Other: Other: Other. The rate of duty will be 5 percent ad valorem.

Perfumery, cosmetic, and toiletry products are subject to the requirements of the Food, Drug and Cosmetic Act, and the Fair Packaging and Labeling Act (FPLA), which are administered by the U.S. Food and Drug Administration. Questions regarding FDA requirements may be addressed to the U.S. Food and Drug Administration, Office of Cosmetics and Colors, 5100 Paint Branch Parkway, College Park, MD 20740-3835, telephone number 888-463-6332, or by visiting their website at: www.fda.gov.

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 Laureen Tsang at (646) 733-3032.

Sincerely,

THOMAS J. RUSSO

Director

National Commodity Specialist Division

N233860

November 6, 2012

CLA-2-38:OT:RR:NC:2:239

CATEGORY: Classification

TARIFF NO.: 3824.90.9290; 3926.90.9980

MR. TED CONLON
FOURSTAR GROUP USA, INC.
189 MAIN ST, SUITE 31
MILFORD, MA 01757

RE: The tariff classification of a hand sanitizer with silicone holder from China

DEAR MR. CONLON:

In your letter dated October 1, 2012, you requested a tariff classification ruling for a hand sanitizer and silicone holder.

The hand sanitizer, imported in a one ounce bottle, is a formulated product containing ethyl alcohol, water, and minimal amounts of carbomer, PEG-12 dimethicone, triethanolamine, tocopheryl acetate, acid blue 9, acid yellow 23, and a fragrance. The silicone holder is designed to fit a portable sanitizer bottle. The holder fits like a frame around the bottle, leaving each of the panels exposed. The flexible nature of the molded silicone holder allows it to be manipulated to fit onto the bottle. The holder incorporates a ring or strap on the top to allow it to be attached to another article, such as a belt loop, a purse strap or a backpack. The holder is available in various styles, from plain designs to character designs.

The applicable subheading for the hand sanitizer, if imported separately, will be 3824.90.9290, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: Other: Other: Other: Other: Other. The rate of duty will be 5 percent ad valorem.

The applicable subheading for the silicone holder, if imported separately, will be 3926.90.9980, HTSUS, which provides for other articles of plastics, other. The rate of duty will be 5.3 percent ad valorem.

Imported together, the hand sanitizer and silicone holder are considered a set for tariff classification purposes. Classification will be in accordance with GRI 3(c), HTSUS, which requires, in part, that the item be classified in the heading which occurs last in numerical order among those that merit equal consideration. Therefore, the applicable subheading will be 3926.90.9980, HTSUS, which provides for other articles of plastics, other. The rate of duty will be 5.3 per cent ad valorem.

Perfumery, cosmetic, and toiletry products are subject to the requirements of the Food, Drug and Cosmetic Act, and the Fair Packaging and Labeling Act (FPLA), which are administered by the U.S. Food and Drug Administration. Questions regarding FDA requirements may be addressed to the U.S. Food and Drug Administration, Office of Cosmetics and Colors, 5100 Paint Branch Parkway, College Park, MD 20740-3835, telephone number 888-463-6332, or by visiting their website at: www.fda.gov.

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 chapter 38, contact National Import Specialist Richard Dunkel at (646) 733-3032. Questions regarding chapter 39 should be directed to National Import Specialist Joan Mazzola at (646) 733-3023.

Sincerely,

THOMAS J. RUSSO

Director

National Commodity Specialist Division

N032988

August 8, 2008

CLA-2-38:OT:RR:E:NC:2:239

CATEGORY: Classification

ARIFF NO.: 3824.90.9290

Ms. MARCY AMBERG
LAUFER GROUP INTERNATIONAL
1446 TANEY STREET
N. KANSAS CITY, MO 64116

RE: The tariff classification of SPA Originals® “Instant Hand Sanitizer” from China

DEAR Ms. AMBERG:

In your letter dated July 9, 2008, you requested a tariff classification ruling for an instant hand sanitizer on behalf of your client Custom Solutions Inc.

The SPA Originals® “Instant Hand Sanitizer” is a formulated product containing 62% ethyl alcohol, 35.6% deionized water, and minimal amounts of glycerin, propylene glycol, aloe barbadensis gel, carbomer, Vitamin E, triethanolamine and a fragrance. According to the submitted label, the hand sanitizer is indicated for use to help reduce bacteria on the skin that could cause disease. The presence of Vitamin E and aloe aids in moisturizing the skin. The product will be packaged for retail sale in 8 fluid ounce bottles.

The applicable subheading for the SPA Originals® “Instant Hand Sanitizer” will be 3824.90.9290, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: Other. The rate of duty will be 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 Richard Dunkel at 646-733-3032.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

NY L89057

January 3, 2006

CLA-2-38:RR:NC:2:239 L89057

CATEGORY: Classification

TARIFF NO.: 3824.90.9190

MR. ROBERT PFRIENDER
ALLIED INTERNATIONAL DEVELOPMENT
3 STEUBEN DRIVE
JERICHO, NY 11753

RE: The tariff classification of an "Instant Hand Sanitizer" from China.

DEAR MR. PFRIENDER:

In your letter dated November 25, 2005, you requested a tariff classification ruling for an "Instant Hand Sanitizer" which you have stated has a chemical composition of ethyl alcohol, water, glycerin, isopropyl myristate, propylene glycol, tocopheryl acetate (less than 2%), aminomethyl propanol, and carbomer. The sanitizer will be packaged in plastic bottles and will be used for cleansing and protection against bacteria.

The applicable subheading will be 3824.90.9190, Harmonized Tariff Schedule of the United States (HTS), which provides for foundry molds or cores: chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: other. The rate of duty will be 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 Andrew Stone at 646-733-3032.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

**PROPOSED REVOCATION OF TWO RULING LETTERS
AND PROPOSED REVOCATION OF TREATMENT
RELATING TO THE TARIFF CLASSIFICATION OF
DISPOSABLE BIBS, CHANGING PADS, AND POTTY
TOPPERS**

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

ACTION: Notice of proposed revocation of two ruling letters, and proposed revocation of treatment relating to the tariff classification of disposable bibs, changing pads and potty toppers.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke two ruling letters concerning tariff classification of disposable bibs, changing pads, and potty toppers under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before September 4, 2020.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Ms. Cammy Canedo Clark at (202) 325–0439.

FOR FURTHER INFORMATION CONTACT: Andrew Levey, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325–3298.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the

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

Pursuant to 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to revoke two ruling letters pertaining to the tariff classification of disposable bibs, changing pads, and potty toppers. Although in this notice, CBP is specifically referring to New York Ruling Letter ("NY") N243080, dated December 19, 2013 (Attachment A) and NY N256859, dated September 26, 2014 (Attachment B), this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the two identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

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

In NY N243080 and NY N256859, CBP classified disposable bibs, changing pads and potty toppers in heading 9619, HTSUS, specifically in subheading 9619.00.11, HTSUS, which provides for "sanitary towels (pads) and tampons, diapers and diaper liners for babies and similar articles, of any material: Of paper pulp." CBP has reviewed NY N243080 and NY N256859 and has determined the ruling letters to be in error. It is now CBP's position that disposable bibs, changing pads and potty toppers are properly classified, in heading 4818, HTSUS, specifically in subheading 4818.50.00, HTSUS, which provides for "as articles of apparel and clothing accessories of paper pulp,

paper, cellulous wading or webs of cellulose fibers..” and 4818.90.00, HTSUS, “as other articles of paper pulp, paper, cellulous wading or webs of cellulose fibers.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N243080 and NY N256859 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H291001, set forth as Attachment C to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division

Attachments

N243080

December 19, 2013

CLA-2-96:OT:RR:NC:2 234

CATEGORY: Classification

TARIFF NO.: 9619.00.1100

MS. LYNN MARSHALL
HAMCO
P.O. Box 1028
GONZALES, LA 70707

RE: The tariff classification of disposable bibs, disposable potty toppers and disposable changing pads from China

DEAR MS. MARSHALL:

In your letter received July 12, 2013, you requested a tariff classification ruling. We apologize for the delay as we were awaiting lab analysis.

The samples submitted are as follows:

1. The first sample consists of a combination pack of 6 disposable bibs and 12 wet wipes. The front of the combination bag has two separate compartments. The top compartment holds the dry disposable bibs and the bottom compartment holds the wet wipes. The combination pack is folded in half at a seam and inserted into a separate paperboard packing sleeve. Each of the combination packs compartments has a re-sealable flap closure. The items are packaged and sold for retail sale as a set.
2. The second sample consists of a combination pack of 6 disposable potty toppers and 12 wet wipes. The front of the combination bag has two separate compartments. The top compartment holds the dry disposable potty toppers and the bottom compartment holds the wet wipes. The combination pack is folded in half at a seam and inserted into a separate paperboard packing sleeve. Each of the combination packs compartments has a re-sealable flap closure. The items are packaged and sold for retail sale as a set.
3. The third sample consists of a combination pack of 6 disposable changing pads and 12 wet wipes. The front of the combination bag has two separate compartments. The top compartment holds the dry disposable changing pads and the bottom compartment holds the wet wipes. The combination pack is folded in half at a seam and inserted into a separate paperboard packing sleeve. Each of the combination packs compartments has a re-sealable flap closure. The items are packaged and sold for retail sale as a set.

Based upon the nature of the components and their use, it is the opinion of this office that no single item imparts the essential character. Therefore classification will be in accordance with GRI 3c, Harmonized Tariff Schedule of the United States (HTSUS), which requires, in part, that the item be classified in the heading which occurs last in numerical order among those

which merit equal consideration. In this case the absorbent paper pulp found in the disposable bibs, disposable potty toppers and disposable changing pads appear last in the tariff.

The applicable subheading for the disposable bibs, disposable potty toppers and disposable changing pads will be 9619.00.1100, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Sanitary towels (pads) and tampons, diapers and diaper liners for babies and similar articles, of any material: Of paper pulp. The rate of duty will be Free.

This merchandise may be subject to the requirements of the Toxic Substances Control Act (TSCA), which are administered by the U.S. Environmental Protection Agency. Information on the TSCA can be obtained by contacting the EPA at 1200 Pennsylvania Avenue, N.W., Mail Code 70480, Washington, D.C., by telephone at (202) 554-1404, or by visiting their website at www.epa.gov.

Perfumery, cosmetic, and toiletry products are subject to the requirements of the Food, Drug and Cosmetic Act, and the Fair Packaging and Labeling Act (FPLA), which are administered by the U.S. Food and Drug Administration. Questions regarding FDA requirements may be addressed to the U.S. Food and Drug Administration, Office of Cosmetics and Colors, 5100 Paint Branch Parkway, College Park, MD 20740-3835, telephone number (301) 436-1130.

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 Albert Gamble at (646) 733-3037.

Sincerely,

GWENN KLEIN KIRSCHNER

Acting Director

National Commodity Specialist Division

N256859

September 26, 2014

CLA-2-96:OT:RR:NC:N4:234

CATEGORY: Classification

TARIFF NO.: 9619.00.1100

Ms. LYNN MARSHALL
HAMCO INC.
P.O. Box 1028
GONZALES, LA 70707

RE: The tariff classification of Adult Disposable Special Needs Bib from China

DEAR Ms. MARSHALL:

In your letter dated August 25, 2014, you requested a tariff classification ruling.

You submitted a sample identified as an Adult Disposable Special Needs Bib. You state that the adult bib is constructed of 22% nonwoven polypropylene, 27% polyethylene film and 51% paper. The bib measures approximately 29 inches in width by 15 inches in length. It is designed to cover the torso and is secured around the neck with a piece of tape. You stated in your letter that the bib is designed for one-time use. These bibs will be sold to hospitals and home care facilities.

The applicable subheading for the Adult Disposable Special Needs Bib will be 9619.00.1100, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Sanitary towels (pads) and tampons, diapers and diaper liners for babies and similar articles, of any material: Of paper pulp. The rate of duty will be Free.

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

This merchandise may be subject to the requirements of the Toxic Substances Control Act (TSCA), which are administered by the U.S. Environmental Protection Agency. Information on the TSCA can be obtained by contacting the EPA at 1200 Pennsylvania Avenue, N.W., Mail Code 70480, Washington, D.C., by telephone at (202) 554-1404, or by visiting their website at www.epa.gov.

Perfumery, cosmetic, and toiletry products are subject to the requirements of the Food, Drug and Cosmetic Act, and the Fair Packaging and Labeling Act (FPLA), which are administered by the U.S. Food and Drug Administration. Questions regarding FDA requirements may be addressed to the U.S. Food and Drug Administration, Office of Cosmetics and Colors, 5100 Paint Branch Parkway, College Park, MD 20740-3835, telephone number (301) 436-1130.

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 Albert Gamble at albert.gamble@cbp.dhs.gov.

Sincerely,

GWENN KLEIN KIRSCHNER

Director

National Commodity Specialist Division

HQ H291001
OT:RR:CTF:CPMM H291001 ABL
CATEGORY: Classification
TARIFF NO.: 4818.50.00, 4818.90.00

LYNN MARSHAL
HAMCO, INC.
P.O. BOX 1028
GONZALES, LA 70707

RE: Revocation of NY N243080 and NY N256859; Classification of disposable bibs, changing pads, and potty toppers.

DEAR Ms. MARSHAL,

This is in reference to the New York Ruling Letter (NY) N243080, issued to you by U.S. Customs and Border Protection (CBP) on December 19, 2013, concerning the classification of sets containing disposable bibs, disposable potty toppers, and disposable changing pads under the Harmonized Tariff Schedule of the United States (HTSUS). We have also reviewed NY N256859, dated September 26, 2014, also issued to you, concerning the classification of adult disposable bibs. We have reviewed these rulings, and determined that they are incorrect. For the reasons set forth below, we are revoking them.

FACTS:

The merchandise described in NY N243080 consists of three combination packs of disposable items packaged for retail sale. The packaging contains two separate compartments. The combination pack is folded in half at a seam and inserted into a separate paperboard packing sleeve. Each of the combination pack's compartments has a resealable flap closure. Each of the three packs contains twelve wet wipes in the bottom compartment. The top compartment of each pack contains either six disposable bibs, six disposable potty toppers or six disposable changing pads of similar construction.

CBP's Laboratories and Scientific Services Division ("LSSD") analyzed the samples described in NY N243080 in report numbers NY20131372, NY20131373, and NY20131374, all dated July 10, 2013. LSSD found that the bibs, potty toppers and changing pads were similarly constructed of a top layer of 24 grams per square meter ("gsm") of polypropylene, a middle layer of 27 gsm of paper, and an outer plastic layer of 25 gsm polyethylene.

ISSUE:

Whether the subject merchandise consisting of sets containing disposable bibs, disposable potty toppers, and disposable changing pads should remain classified in heading 9619, as "sanitary towels (pads)...napkin and napkin liners for babies and similar articles of any material," or in heading 4818, as articles used for "household or sanitary purposes... bed sheets and similar household, sanitary or hospital articles, articles of apparel and clothing accessories, of paper pulp, paper, cellulose wadding or webs of cellulose fibers."

LAW AND ANALYSIS:

Classification of goods under the HTSUS is governed by the General Rules of Interpretation (GRI). GRI 1 provides that classification shall be determined according to the terms of the headings of the tariff schedule and any

relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied. Goods that are *prima facie* classifiable under two or more headings are classifiable in accordance with GRI 3. GRI 3(b) provides, in relevant part, that such sets are classified by the component that imparts the essential character of the set. If the essential character cannot be determined, GRI 3(c) provides that the set will be classified in the heading that occurs last in numerical order among those which equally merit consideration. GRI 3(c) applies only where GRI 3(a) and GRI 3(b) fail. *See* EN to GRI 3.

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

The 2018 HTSUS provisions under consideration are as follows:

* * * * *

9619 Sanitary towels (pads) and tampons, diapers and diaper liners for babies and similar articles, of any material:

* * * * *

4818 Toilet paper and similar paper, cellulose wadding or webs of cellulose fibers, of a kind used for household or sanitary purposes, in rolls of a width not exceeding 36 cm, or cut to size or shape; handkerchiefs, cleansing tissues, towels, tablecloths, table napkins, bed sheets and similar household, sanitary or hospital articles, articles of apparel and clothing accessories, of paper.

4818.50.00 Articles of apparel and clothing accessories.

4818.90.00 Other.

* * * * *

The EN for Chapter 96 states:

This heading covers sanitary towels (pads) and tampons, napkins (diapers) and napkin liners for babies and similar articles, including absorbent hygienic nursing pads, napkins (diapers) for adults with incontinence and panty-liners, of any material.

In general, the articles of this heading are disposable. Many of these articles are composed of (a) an inner layer (e.g., of nonwovens) designed to wick fluid from the wearer’s skin and thereby prevent chafing; (b) an absorbent core for collecting and storing fluid until the product can be disposed of; and (c) an outer layer (e.g., of plastics) to prevent leakage of fluid from the absorbent core. The articles of this heading are usually shaped so that they may fit snugly to the human body. This heading also includes similar traditional articles made up solely of textile materials, which are usually re-usable following laundering.

This heading **does not cover** products such as disposable surgical drapes and absorbent pads for hospital beds, operating tables and wheelchairs or non-absorbent nursing pads or other non-absorbent articles (in general, classified according to their constituent material).

In NY N243080, CBP determined that the combination packs were classified in accordance with GRI 3(c), as neither the wet wipes nor the disposable bibs, disposable potty toppers, or the disposable changing pads imparted the set with its essential character. We agree that classification of the combination packs proceeds under GRI 3(c).

Since the pre-moistened, infused baby wipes are classifiable in heading 3401, HTSUS, the subordination of the baby wipes remains true if the classification of the bibs, changing pads and potty toppers is in heading 4818 instead of in heading 9619, and therefore, the sets in NY N243080, as well as the disposable bibs in NY N256859, are not correctly classified in heading 3401, HTSUS.

Bibs have historically been classified under subheadings which describe apparel and clothing accessories. See HQ 063494, dated March 28, 1989 (finding bibs as “accessories” to garments). Furthermore, numerous rulings have classified paper bibs in heading 4818 HTSUS as paper articles of apparel and clothing accessories.¹ See also NY N153756, dated April 11, 2011 (finding the applicable subheading for the disposable bibs is 4818.50.00, HTSUS; NY 883701, dated March 29, 1993 (finding the applicable subheading for the geriatric and dental bibs, in all sizes, will be 4818.90.00, HTSUS); HQ 084024, dated June 30, 1989 (finding surgical drape made of Dexter Grade 9985Z is classified in subheading 4818.90.00, HTSUS).

However, Heading 9619 was introduced into the HTSUS in 2012, providing for “...diapers and diaper liners for babies *and similar articles*, of any material” (emphasis added). The term “and similar articles” appearing after a list of articles, invokes the rule of *ejusdem generis*, explained in *Sports Graphics, Inc., v. United States*, 24 F.3d 1390, 1392 (Fed. Cir. 1994) thus:

Under the rule of *ejusdem generis*, which means “of the same kind,” where an enumeration of specific things is followed by a general word or phrase, the general word or phrase is held to refer to things of the same kind as those specified. As applicable to classification cases, *ejusdem generis* requires that the imported merchandise possess the essential characteristics or purposes that unite the articles enumerated *eo nomine* [by name] in order to be classified under the general terms.

EN 96.19 explains that articles of the heading absorb bodily fluids and fit snugly to the human body. In HQ H293468, dated July 20, 2017, CBP found that absorbent nursing pads, which are designed to be placed in the brassiere of nursing mothers to absorb excess milk, are classified in heading 9619, HTSUS, as similar articles to those named, following the rule of *ejusdem generis* using the characteristics listed in EN 9619². Here, disposable bibs, potty toppers and changing pads lack the snug fit of the articles named in the heading. Furthermore, to the extent the disposable bibs absorb fluids at all, they are worn to protect clothing from food or drink, not body fluids. Similarly, potty toppers lay atop the toilet seat and changing pads lay on the changing table. Their main purpose is to keep the toilet seat or changing surface relatively clean, instead of absorbing copious amounts of bodily fluid.

¹ We note that the diapering accessory described in NY N257950, dated October 22, 2014, is distinguishable from the merchandise in the instant case. It is shaped and appropriately fitted to come in direct contact with the skin and absorb bodily fluids, similar to a diaper.

² See HQ H293468, Dated July 20, 2017 (finding nursing and breast pads are usually shaped so that they may fit snugly to the human body and thus classified in heading 9619, HTSUS); see also, NY N287629, Dated July 18, 2017; NY N24593, Dated October 17, 2013.

Like the flat, disposable surgical drapes and absorbent pads for hospital beds specifically precluded from classification in the heading under EN 96.19, bibs, potty toppers and changing pads are not *ejusdem generis* with the articles described in heading 9619, HTSUS.

Rather, the bibs, potty toppers and changing pads are composed of three different materials, and are thus composite goods. Paper comprises the highest percentage by weight and the absorption it provides contributes the most important role in relation to the use of the goods. Therefore, the goods at issue are classified in heading 4818, HTSUS, in accordance with GRI 3(b), and all three sets containing them are classified there in accordance with GRI 3(c). Furthermore, the disposable bib in NY N256859, which is also comprised of a middle layer of paper, is classified in heading 4818, HTSUS, under GRI 3(b). Therefore, the sets containing bibs in NY N243080 and the adult bibs in NY N256859 are classified in subheading 4818.50.00, HTSUS, as paper clothing accessories. The sets containing potty toppers and changing pads in NY N243080 are classified in 4818.90.00, HTSUS, as other similar paper articles.

HOLDING:

The sets containing disposable bibs and the adult disposable bibs are classified in 4818.50.00, HTSUS, as articles of apparel and clothing accessories of paper pulp, paper, cellulose wadding or webs of cellulose fibers. Additionally, the sets containing disposable potty toppers and changing pads are classified in 4818.90.00, HTSUS, as other articles of paper pulp, paper, cellulose wadding or webs of cellulose fibers. The general, column 1 rate of duty for subheadings 4818.50.00 and 4818.90.00, HTSUS, is free.

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

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

Pursuant to U.S. Note 20 to Subchapter III, Chapter 99, HTSUS, products of China classified under subheading 4818.50.00, HTSUS, unless specifically excluded, are subject to an additional 25 percent ad valorem rate of duty. At the time of importation, you must report the Chapter 99 subheading, i.e., 9903.88.01, in addition to subheading 4818.50.00, HTSUS, listed above.

Pursuant to U.S. Note 20 to Subchapter III, Chapter 99, HTSUS, products of China classified under subheading 4818.90.00, HTSUS, unless specifically excluded, are subject to an additional 15 percent ad valorem rate of duty. At the time of importation, you must report the Chapter 99 subheading, i.e., 9903.88.15, in addition to subheading 4818.90.00, HTSUS, listed above.

The HTSUS is subject to periodic amendment so you should exercise reasonable care in monitoring the status of goods covered by the Note cited above and the applicable Chapter 99 subheading. For background information regarding the trade remedy initiated pursuant to Section 301 of the Trade Act of 1974, you may refer to the relevant parts of the USTR and CBP websites, which are available at <https://ustr.gov/issue-areas/enforcement/section-301-investigations/tariff-actions> and <https://www.cbp.gov/trade/remedies/301-certain-products-china> respectively.

New York Ruling letter N243080, dated December 19, 2013 and N256859, dated September 26, 2014 are hereby REVOKED in accordance with the above analysis.

Sincerely,
CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division



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

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

ACTION: General notice.

SUMMARY: This notice advises the public that the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties will decrease from the previous quarter. For the calendar quarter beginning July 1, 2020, the interest rates for overpayments will be 2 percent for corporations and 3 percent for non-corporations, and the interest rate for underpayments will be 3 percent for both corporations and non-corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

DATES: The rates announced in this notice are applicable as of July 1, 2020.

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

SUPPLEMENTARY INFORMATION:

Background

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

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

In Revenue Ruling 2020–13, the IRS determined the rates of interest for the calendar quarter beginning July 1, 2020, and ending on September 30, 2020. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (0%) plus three percentage points (3%) for a total of three percent (3%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (0%) plus two percentage points (2%) for a total of two percent (2%). For overpayments made by non-corporations, the rate is the Federal short-term rate (0%) plus three percentage points (3%) for a total of three percent (3%). These interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties have decreased from the previous quarter. These interest rates are subject to change for the calendar quarter beginning October 1, 2020, and ending on December 31, 2020.

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

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (eff. 1-1-99) (percent)
070174	063075	6	6	.....
070175	013176	9	9	.....
020176	013178	7	7	.....
020178	013180	6	6	.....
020180	013182	12	12	.....
020182	123182	20	20	.....
010183	063083	16	16	.....
070183	123184	11	11	.....
010185	063085	13	13	.....

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpay-ments (eff. 1-1-99) (percent)
070185	123185	11	11	.....
010186	063086	10	10	.....
070186	123186	9	9	.....
010187	093087	9	8	.....
100187	123187	10	9	.....
010188	033188	11	10	.....
040188	093088	10	9	.....
100188	033189	11	10	.....
040189	093089	12	11	.....
100189	033191	11	10	.....
040191	123191	10	9	.....
010192	033192	9	8	.....
040192	093092	8	7	.....
100192	063094	7	6	.....
070194	093094	8	7	.....
100194	033195	9	8	.....
040195	063095	10	9	.....
070195	033196	9	8	.....
040196	063096	8	7	.....
070196	033198	9	8	.....
040198	123198	8	7	.....
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (eff. 1-1-99) (percent)
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	033116	3	3	2
040116	033118	4	4	3
040118	123118	5	5	4
010119	063019	6	6	5
070119	063020	5	5	4
070120	093020	3	3	2

Dated: July 14, 2020.

JEFFREY CAINE,
Chief Financial Officer,
U.S. Customs and Border Protection.

[Published in the Federal Register, July 17, 2020 (84 FR 43590)]

19 CFR Chapter I

NOTIFICATION OF TEMPORARY TRAVEL RESTRICTIONS APPLICABLE TO LAND PORTS OF ENTRY AND FERRIES SERVICE BETWEEN THE UNITED STATES AND MEXICO

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

ACTION: Notification of continuation of temporary travel restrictions.

SUMMARY: This document announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border. Such travel will be limited to “essential travel,” as further defined in this document.

DATES: These restrictions go into effect at 12 a.m. Eastern Daylight Time (EDT) on July 22, 2020 and will remain in effect until 11:59 p.m. EDT on August 20, 2020.

FOR FURTHER INFORMATION CONTACT: Alyce Modesto, Office of Field Operations, U.S. Customs and Border Protection (CBP) at 202-344-3788.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 2020, DHS published notice of the Secretary’s decision to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to “essential travel,” as further defined in that document.¹ The document described the developing circumstances regarding the COVID-19 pandemic and stated that, given the outbreak and continued transmission and spread of the virus associated with COVID-19 within the United States and globally, the Secretary had determined that the risk of continued transmission and spread of the virus associated with COVID-19 between the United States and Mexico posed a “specific threat to human life or national interests.”

¹ 85 FR 16547 (Mar. 24, 2020). That same day, DHS also published notice of the Secretary’s decision to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to “essential travel,” as further defined in that document. 85 FR 16548 (Mar. 24, 2020).

The Secretary later published a series of notifications continuing such limitations on travel until 11:59 p.m. EDT on July 21, 2020.²

The Secretary has continued to monitor and respond to the COVID–19 pandemic. As of July 16, there are over 13.3 million confirmed cases globally, with over 580,000 confirmed deaths.³ There are over 3.4 million confirmed and probable cases within the United States,⁴ over 311,000 confirmed cases in Mexico,⁵ and over 108,000 confirmed cases in Canada.⁶

Notice of Action

Given the outbreak and continued transmission and spread of COVID–19 within the United States and globally, the Secretary has determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Mexico poses an ongoing “specific threat to human life or national interests.”

U.S. and Mexican officials have mutually determined that non-essential travel between the United States and Mexico poses additional risk of transmission and spread of the virus associated with COVID–19 and places the populace of both nations at increased risk of contracting the virus associated with COVID–19. Moreover, given the sustained human-to-human transmission of the virus, returning to previous levels of travel between the two nations places the personnel staffing land ports of entry between the United States and Mexico, as well as the individuals traveling through these ports of entry, at increased risk of exposure to the virus associated with COVID–19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),⁷ I have determined that land ports

² See 85 FR 37745 (June 24, 2020); 85 FR 31057 (May 22, 2020); 85 FR 22353 (Apr. 22, 2020). DHS also published parallel notifications of the Secretary’s decisions to continue temporarily limiting the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to “essential travel.” See 85 FR 37744 (June 24, 2020); 85 FR 31050 (May 22, 2020); 85 FR 22352 (Apr. 22, 2020).

³ WHO, Coronavirus disease 2019 (COVID–19) Situation Report—178 (July 16, 2020), available at https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200716-covid-19-sitrep-178.pdf?sfvrsn=28ee165b_2.

⁴ CDC, Cases of COVID–19 in the U.S. (last updated July 16, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>.

⁵ WHO, Coronavirus disease 2019 (COVID–19) Situation Report—178 (July 16, 2020).

⁶ *Id.*

⁷ 19 U.S.C. 1318(b)(1)(C) provides that “[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,” is authorized to “[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.” On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland

of entry along the U.S.-Mexico border will continue to suspend normal operations and will only allow processing for entry into the United States of those travelers engaged in “essential travel,” as defined below. Given the definition of “essential travel” below, this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Mexico border shall be limited to “essential travel,” which includes, but is not limited to—

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (*e.g.*, to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (*e.g.*, individuals working in the farming or agriculture industry who must travel between the United States and Mexico in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (*e.g.*, government officials or emergency responders entering the United States to support federal, state, local, tribal, or territorial government efforts to respond to COVID-19 or other emergencies);
- Individuals engaged in lawful cross-border trade (*e.g.*, truck drivers supporting the movement of cargo between the United States and Mexico);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities “related to Customs revenue functions” were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep’t Order No. 100-16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that “[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.” Congress has vested in the Secretary of Homeland Security the “functions of all officers, employees, and organizational units of the Department,” including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

The following travel does not fall within the definition of “essential travel” for purposes of this Notification—

- Individuals traveling for tourism purposes (*e.g.*, sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Mexico, but does apply to passenger rail, passenger ferry travel, and pleasure boat travel between the United States and Mexico. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EDT on August 20, 2020. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the continued implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute “essential travel” under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in “essential travel.”

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, is delegating the authority to electronically sign this document to Chad R. Mizelle, who is the Senior Official Performing the Duties of the General Counsel for DHS, for purposes of publication in the **Federal Register**.

CHAD R. MIZELLE,
*Senior Official Performing the
Duties of the General Counsel,
U.S. Department of Homeland Security.*

[Published in the Federal Register, July 22, 2020 (85 FR 44183)]

19 CFR Chapter I

NOTIFICATION OF TEMPORARY TRAVEL RESTRICTIONS APPLICABLE TO LAND PORTS OF ENTRY AND FERRIES SERVICE BETWEEN THE UNITED STATES AND CANADA

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

ACTION: Notification of continuation of temporary travel restrictions.

SUMMARY: This document announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border. Such travel will be limited to “essential travel,” as further defined in this document.

DATES: These restrictions go into effect at 12 a.m. Eastern Daylight Time (EDT) on July 22, 2020 and will remain in effect until 11:59 p.m. EDT on August 20, 2020.

FOR FURTHER INFORMATION CONTACT: Alyce Modesto, Office of Field Operations, U.S. Customs and Border Protection (CBP) at 202-344-3788.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 2020, DHS published notice of the Secretary’s decision to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to “essential travel,” as further defined in that document.¹ The document described the developing circumstances regarding the COVID-19 pandemic and stated that, given the outbreak and continued transmission and spread of the virus associated with COVID-19 within the United States and globally, the Secretary had determined that the risk of continued transmission and spread of the virus associated with COVID-19 between the United States and Canada posed a “specific threat to human life or national interests.”

¹ 85 FR 16548 (Mar. 24, 2020). That same day, DHS also published notice of the Secretary’s decision to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to “essential travel,” as further defined in that document. 85 FR 16547 (Mar. 24, 2020).

The Secretary later published a series of notifications continuing such limitations on travel until 11:59 p.m. EDT on July 21, 2020.²

The Secretary has continued to monitor and respond to the COVID–19 pandemic. As of July 16, there are over 13.3 million confirmed cases globally, with over 580,000 confirmed deaths.³ There are over 3.4 million confirmed and probable cases within the United States,⁴ over 108,000 confirmed cases in Canada,⁵ and over 311,000 confirmed cases in Mexico.⁶

Notice of Action

Given the outbreak and continued transmission and spread of COVID–19 within the United States and globally, the Secretary has determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Canada poses an ongoing “specific threat to human life or national interests.”

U.S. and Canadian officials have mutually determined that non-essential travel between the United States and Canada poses additional risk of transmission and spread of the virus associated with COVID–19 and places the populace of both nations at increased risk of contracting the virus associated with COVID–19. Moreover, given the sustained human-to-human transmission of the virus, returning to previous levels of travel between the two nations places the personnel staffing land ports of entry between the United States and Canada, as well as the individuals traveling through these ports of entry, at increased risk of exposure to the virus associated with COVID–19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),⁷ I have determined that land ports

² See 85 FR 37744 (June 24, 2020); 85 FR 31050 (May 22, 2020); 85 FR 22352 (Apr. 22, 2020). DHS also published parallel notifications of the Secretary’s decisions to continue temporarily limiting the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to “essential travel.” See 85 FR 37745 (June 24, 2020); 85 FR 31057 (May 22, 2020); 85 FR 22353 (Apr. 22, 2020).

³ WHO, Coronavirus disease 2019 (COVID–19) Situation Report—178 (July 16, 2020), available at https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200716-covid-19-sitrep-178.pdf?sfvrsn=28ee165b_2.

⁴ CDC, Cases of COVID–19 in the U.S. (last updated July 16, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>.

⁵ WHO, Coronavirus disease 2019 (COVID–19) Situation Report—178 (July 16, 2020).

⁶ *Id.*

⁷ 19 U.S.C. 1318(b)(1)(C) provides that “[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,” is authorized to “[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.” On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland

of entry along the U.S.-Canada border will continue to suspend normal operations and will only allow processing for entry into the United States of those travelers engaged in “essential travel,” as defined below. Given the definition of “essential travel” below, this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Canada border shall be limited to “essential travel,” which includes, but is not limited to—

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (*e.g.*, to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (*e.g.*, individuals working in the farming or agriculture industry who must travel between the United States and Canada in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (*e.g.*, government officials or emergency responders entering the United States to support federal, state, local, tribal, or territorial government efforts to respond to COVID–19 or other emergencies);
- Individuals engaged in lawful cross-border trade (*e.g.*, truck drivers supporting the movement of cargo between the United States and Canada);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities “related to Customs revenue functions” were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep’t Order No. 100–16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that “[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.” Congress has vested in the Secretary of Homeland Security the “functions of all officers, employees, and organizational units of the Department,” including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

The following travel does not fall within the definition of “essential travel” for purposes of this Notification—

- Individuals traveling for tourism purposes (*e.g.*, sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Canada, but does apply to passenger rail, passenger ferry travel, and pleasure boat travel between the United States and Canada. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EDT on August 20, 2020. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the continued implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute “essential travel” under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in “essential travel.”

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, is delegating the authority to electronically sign this document to Chad R. Mizelle, who is the Senior Official Performing the Duties of the General Counsel for DHS, for purposes of publication in the **Federal Register**.

CHAD R. MIZELLE,
*Senior Official Performing the
Duties of the General Counsel,
U.S. Department of Homeland Security.*

[Published in the Federal Register, July 22, 2020 (85 FR 44185)]