

Bureau of Customs and Border Protection

General Notices

COPYRIGHT, TRADEMARK, AND TRADE NAME RECORDATIONS

(No. 5 2005)

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

SUMMARY: Presented herein are the copyrights, trademarks, and trade names recorded with U.S. Customs and Border Protection during the month of May 2005. The last notice was published in the CUSTOMS BULLETIN on June 1, 2005.

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

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

Dated: June 13, 2005

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

U.S. CUSTOMS SERVICE
IPR RECORDATIONS ADDED IN MAY 2005

06/01/2005
07:31:26

PAGE 1
DETAIL

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TMM OR MSK	OWNER NAME	RES
COP0500062	20050510	20250510	STALASKY	CULP INC.	N
COP0500063	20050510	20250510	ROBOTS - STYLE GUIDE	TWENTIETH CENTURY FOX FILM CORP.	N
COP0500064	20050510	20250510	BVLGARI CATALOG CEREMONIES	BULGARI S.P.A.	N
COP0500065	20050512	20250511	BLACK WIDOW	ORANGE COUNTY CHOPPERS INC.	N
COP0500066	20050516	20250516	CC BEAR II	CIELO CREATIONS, INC.	N
COP0500067	20050516	20250516	RAINBOW BEAR	CIELO CREATIONS, INC.	N
COP0500068	20050516	20250516	RAINBOW BEAR II	CIELO CREATIONS, INC.	N
COP0500069	20050516	20250516	EMBROSS CC BEAR	CIELO CREATIONS, INC.	N
COP0500070	20050516	20250516	BEAR JACQUARD	CIELO CREATIONS, INC.	N
COP0500071	20050516	20250516	CC BEAR	CIELO CREATIONS, INC.	N
COP0500072	20050523	20250523	INTRUDER ALERT	ITEM FINDERS & PRO-MOTIONS	N
COP0500073	20050531	20250531	"JANE DEDECKER" CATALOG	DEDECKER SCULPTURE INC.	N
COP0500074	20050531	20250531	NEW WORKS BY JANE DEDECKER	DEDECKER SCULPTURE INC.	N
COP0500075	20050531	20250531	DEDECKER IN THE STUDIO	DEDECKER SCULPTURE INC.	N
COP0500076	20050531	20250531	SAILING BOAT BRAND CHAD CHING RICE STICK	DEDECKER SCULPTURE INC.	N
COP0500077	20050531	20250531	BEAR JACQUARD WHT	GUANGDONG CEREALS & OILS	N
COP0500078	20050531	20250531	BEAR JACQUARD BLK	CIELO CREATIONS INC.	N
COP0500079	20050531	20250531	RAINBOW G CHECKER	CIELO CREATIONS INC.	N
COP0500080	20050531	20250531	21ST CENTURY IS A LONG TIME (DRAGON TIME)	CIELO CREATIONS INC.	N
COP0500081	20050531	20250531	CHECKER BLK/TAN DESIGN	FUVILLAGE INDUSTRY CO., LTD.	N
SUBTOTAL RECORDATION TYPE 20					
TMK0500428	20050502	20130601	TIFFANY & CO.	TIFFANY (NJ) INC.	N
TMK0500429	20050502	20111110	CANTREAD	CAMRO MANUFACTURING COMPANY	N
TMK0500430	20050502	20110530	BUGABOOTOO	COLUMBIA SPORTSWEAR NORTH AMERIC	N
TMK0500431	20050502	20110403	DESIGN	COLUMBIA SPORTSWEAR NORTH AMERIC	N
TMK0500432	20050502	20110821	DESIGN	COLUMBIA SPORTSWEAR NORTH AMERIC	N
TMK0500433	20050502	20070325	COLUMBIA	COLUMBIA SPORTSWEAR NORTH AMERIC	N
TMK0500434	20050502	20060528	COLUMBIA SPORTSWEAR COMPANY	COLUMBIA SPORTSWEAR NORTH AMERIC	N
TMK0500435	20050502	20051003	CONVERT	COLUMBIA SPORTSWEAR NORTH AMERIC	N
TMK0500436	20050502	20101230	DESIGN	COLUMBIA SPORTSWEAR NORTH AMERIC	N
TMK0500437	20050502	20100104	GRT	COLUMBIA SPORTSWEAR NORTH AMERIC	N
TMK0500438	20050502	20080317	SILENT RAIN	COLUMBIA SPORTSWEAR NORTH AMERIC	N
TMK0500439	20050503	20130823	H AND DESIGN	COLUMBIA SPORTSWEAR NORTH AMERIC	N
TMK0500440	20050503	20091017	DESIGN ONLY	COLUMBIA SPORTSWEAR NORTH AMERIC	N
TMK0500441	20050503	20101023	MARINERS (STYLIZED)	THE BASEBALL CLUB OF SEATTLE LP	N
TMK0500442	20050503	20091017	MARINERS AND DESIGN	THE BASEBALL CLUB OF SEATTLE LP	N
TMK0500443	20050503	20071028	SEATTLE MARINERS AND DESIGN	THE BASEBALL CLUB OF SEATTLE LP	N
TMK0500444	20050503	20050801	MARLINS (STYLIZED)	THE BASEBALL CLUB OF SEATTLE LP	N
TMK0500445	20050503	20100116	MARLINS (STYLIZED)	THE BASEBALL CLUB OF SEATTLE LP	N
TMK0500446	20050503	20131104	MLB	FLORIDA MARLINS, L.P.	N
TMK0500447	20050503	20130128	SUBWAY SERIES	MAJOR LEAGUE BASEBALL PROPERTIES	N
TMK0500448	20050503	20100130	SOBWAY/MLB COLLECTION	MAJOR LEAGUE BASEBALL PROPERTIES	N
TMK0500449	20050503	20100130	MLB IDENTIC COLLECTION	MAJOR LEAGUE BASEBALL PROPERTIES	N
TMK0500450	20050503	20130128	IDENTIC COLLECTION AND DESIGN	MAJOR LEAGUE BASEBALL PROPERTIES	N
TMK0500451	20050503	20091122	OAKLAND (STYLIZED)	ATHLETICS INVESTMENT GROUP, LLC	N
TMK0500452	20050503	20051032	DESIGN ONLY (ELEPHANT HEAD AND BASEBALL BATS)	ATHLETICS INVESTMENT GROUP, LLC	N
TMK0500453	20050503	20090321	ATHLETICS (STYLIZED)	ATHLETICS INVESTMENT GROUP, LLC	N
TMK0500454	20050503	20091024	DESIGN ONLY (CARDINAL WITH BAT)	OAKLAND ATHLETICS BASEBALL CO.	N

BUREAU OF CUSTOMS AND BORDER PROTECTION

REC NUMBER	EFF DT	EXP DT	NAME OF COP, THK, TMM OR MSK	OWNER NAME	RES
THK0500454	20050503	20091024	BROOKLYN DODGERS	LOS ANGELES DODGERS LLC	N
THK0500455	20050503	20110507	B (STYLIZED)	LOS ANGELES DODGERS LLC	N
THK0500456	20050503	20080301	DESIGN ONLY	EMERSON ELECTRIC CO.	N
THK0500457	20050503	20150110	WINDOWS	MICROSOFT CORPORATION	N
THK0500458	20050503	20140518	DESIGN ONLY	ORANGE COUNTY CHOPPERS, INC.	N
THK0500459	20050503	20140921	APPLE BOTTOMS AND DESIGN	SOUND UNSEEN, LTD.	N
THK0500460	20050503	20140921	APPLE BOTTOMS	SOUND UNSEEN, LTD.	N
THK0500461	20050503	20080804	VITAL FUERTE	FARMAMEDICA, S.A.	N
THK0500462	20050503	20060528	CASABELLA	KAMINSTEIN IMPORTS, INC.	N
THK0500463	20050503	20121119	CASABELLA	KAMINSTEIN IMPORTS, INC.	N
THK0500464	20050504	20150208	MAMBO	L.C. LICENSING INC.	N
THK0500465	20050504	20140210	FULL METAL JACKET	Y.Z.Y., INC.	N
THK0500466	20050510	20111221	CROSS	A.I.X. INTERNATIONAL INC.	N
THK0500467	20050510	20071129	SILVER FRUSTON CONICAL TOP	A.I.X. INTERNATIONAL INC.	N
THK0500468	20050510	20071129	CROSS	A.I.X. INTERNATIONAL INC.	N
THK0500469	20050510	20060709	SHARP	SHARP KABUSHIKI KAISHA	N
THK0500470	20050510	20140225	SHARP	SHARP KABUSHIKI KAISHA	N
THK0500471	20050511	20150207	AEO	RETAIL ROYALTY COMPANY	N
THK0500472	20050511	20150509	AMERICAN EAGLE OUTFITTERS	RETAIL ROYALTY COMPANY	N
THK0500473	20050512	20101016	MOOLRICH	JOHN RICH & SONS INVESTMENTS	N
THK0500474	20050512	20050830	MOORICH	JOHN RICH & SONS INVESTMENTS	N
THK0500475	20050512	20050830	MORE	GMB, INC.	N
THK0500476	20050512	20140910	NHL & SHIELD DESIGN	NATIONAL HOCKEY LEAGUE	N
THK0500477	20050512	20100630	EXCEDRIN P. H.	BRISTOL-MYERS SQUIBB COMPANY	N
THK0500478	20050512	20150115	CC MONOGRAM	CHANEL INC.	N
THK0500479	20050512	20141106	MARIO BROS.	NINTENDO OF AMERICA INC.	N
THK0500480	20050512	20061105	LANCOME	LANCOME PARFUMS ET BEAUTE & CIE	N
THK0500481	20050512	20150308	LUCKY DREAMS	LUCKY BRAND DUNGAREES, INC.	N
THK0500482	20050512	20141228	CHARGERS	CHARGERS FOOTBALL COMPANY LLC.	N
THK0500483	20050512	20141122	CLEVELAND BROWNS	CLEVELAND BROWNS FOOTBALL CO.	N
THK0500484	20050513	20110529	BRONCOS	PDB SPORTS LTD.	N
THK0500485	20050513	20150620	MISCELLANEOUS DESIGN	CHUNG INC.	N
THK0500486	20050513	20150409	SCHMITT SOHNE	SCHMITT SOEHNE GMBH WEINKELLEREI	N
THK0500487	20050513	20140510	BIOSILK	FAROUK SYSTEMS INC.	N
THK0500488	20050513	20150801	CONFIGURATION OF A LOCKNUT	LRG FASTENER CORPORATION	N
THK0500489	20050513	20141102	CONVERTECH AND DESIGN	CONVERTECH INC.	N
THK0500490	20050513	20100112	MARKS-A-LOT	AVERY DENNISON CORPORATION	N
THK0500491	20050513	20140811	H-LITER	AVERY DENNISON CORPORATION	N
THK0500492	20050518	20141115	NAUTICA	NAUTICA APPAREL, INC.	N
THK0500493	20050523	20140302	VICTORIA'S SECRET PINK	V SECRET CATALOGUE, INC.	N
THK0500494	20050523	20140315	ME	MISS ELAINE, INC.	N
THK0500495	20050523	20080804	AMNY & DESIGN	DANONE ASIA PTE LTD.	N
THK0500496	20050523	20100804	GREENIES	S & M NUTEC, LLC	N
THK0500497	20050523	20141005	MSIGN ONLY	AT-ROK PAINTBALL LTD.	N
THK0500498	20050523	20090825	DESIGN ONLY	FARMAMEDICA, S.A.	N
THK0500499	20050523	20120826	BAC-A-LARM	FARMAMEDICA, S.A.	N
THK0500500	20050526	20130826	PREVIEW	PRECOR ELECTRONICS, INC.	N
THK0500501	20050526	20130826	PREVIEW	PRECOR ELECTRONICS, INC.	N
THK0500502	20050526	20150315	LIZBUIY.COM (SERVICE MARK)	L.C. LICENSING, INC.	N

U.S. CUSTOMS SERVICE
IPR RECORDATIONS ADDED IN MAY 2005

06/01/2005
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REC NUMBER	EFF DT	EXP DT	NAME OF COP., TMK, TMM OR MSK	OWNER NAME	RES
THK0500503	20050526	20150329	LUCKY BRAND DUNGAREES	LUCKY BRAND DUNGAREES, INC.	N
THK0500504	20050526	20141113	KINX	KIN HIP METAL & PLASTIC FTY LTD	N
THK0500505	20050526	20110918	HUCK DOLL	NORTH SHORE MILITIA RESOURCES	N
THK0500506	20050526	20150214	SEATTLE MARINERS AND DESIGN	THE BASEBALL CLUB OF SEATTLE, LP	N
THK0500507	20050527	20141023	ABSOLUT	V&S VIN & SPRIT AKTIEBOLAG	N
THK0500508	20050527	20071110	PR	PUIG USA	N
THK0500509	20050531	20110102	PILOT AND DESIGN	KABUSHIKI KAISHA PILOT CORP.	N
THK0500510	20050531	20120930	GREENIES	S&M NUTEC, L.L.C.	N
THK0500511	20050531	20110101	CIRCUIT BREAKER (CONFIGURATION)	SQUARE D. COMPANY	N
THK0500512	20050531	20101225	CIRCUIT BREAKER (CONFIGURATION)	SQUARE D. COMPANY	N
THK0500513	20050531	20060729	PRECISE	DANIELLA PAULA CLARKE	N
THK0500514	20050531	20121231	FRANKIE B.	FRANKIE B. COMPANY	N
THK0500515	20050531	20110917	DESIGN OF HANGING CAR	PACER TECHNOLOGY	N
THK0500516	20050531	20130713	COCOA BLASTS	MALT-O-COMPANY	N
THK0500517	20050531	20080726	KRISHNA OCEAN ADVENTURE	MALT-O-COMPANY	N
THK0500518	20050531	20080726	KRISHNA OCEAN ADVENTURE	MALT-O-COMPANY	N
THK0500519	20050531	20070709	MRS. SMALL	MALT-O-COMPANY	N
THK0500520	20050531	20110215	WOOLRICH	JOHN RICH & SONS INVESTMENT	N
THK0500521	20050531	20070624	MILKA	JOHN RICH & SONS INVESTMENT	N
THK0500522	20050531	20130120	MILKA	KRAFT FOODS SCHWEIZ HOLDING AG	N
THK0500523	20050531	20070701	DESIGN OF COW	KRAFT FOODS SCHWEIZ HOLDING AG	N
THK0500524	20050531	20091109	DESIGN OF COW WITH THE WORD MILKA	KRAFT FOODS SCHWEIZ HOLDING AG	N
THK0500525	20050531	20070624	MILKA	KRAFT FOODS SCHWEIZ HOLDING AG	N
THK0500526	20050531	20150118	TYPECULTURE	KRAFT FOODS SCHWEIZ HOLDING AG	N
THK0500527	20050531	20140622	CONFIGURATION OF A CLOSURE PLUG	MARK S. JAMRA	N
THK0500528	20050531	20130114	RED STAR BRAND RED STAR ER GUO TON JIU	RIEKE CORPORATION	N
THK0500529	20050531	20140915	VITARROZ AND DESIGN	BEIJING RED STAR STOCK CO., LTD	N
THK0500530	20050531	20070308	PANADOL	INTERNATIONAL FOOD CONCEPTS INC.	N
THK0500531	20050531	20130916	ARMOTECH	SMITHKLINE BEECHAM PLC	N
THK0500532	20050531	20150423	NATIONAL SPINNING	AL-MOK PAINTBALL LTD.	N
THK0500533	20050531	20150423	NATIONAL SPINNING	NATIONAL SPINNING CO., INC.	N
SUBTOTAL RECORDATION TYPE			105		
THM0500002	20050523	99999999	JOY ENTERPRISES	SHELL STORES CORPORATION	N
SUBTOTAL RECORDATION TYPE			1		
TOTAL RECORDATIONS ADDED THIS MONTH			126		

**AGENCY INFORMATION COLLECTION ACTIVITIES:
Alien Crewman Landing Permit**

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Alien Crewman Landing Permit. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (69 FR 51317) on August 18, 2004, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 18, 2005.

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

SUPPLEMENTARY INFORMATION:

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, in-

cluding the validity of the methodology and assumptions used;

- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Alien Crewman Landing Permit

OMB Number: 1651-0114

Form Number: Form CBP-95A and 95B

Abstract: This collection of information is used by CBP to document conditions and limitations imposed upon an alien crewman applying for benefits under Section 251 of the Immigration and Nationality Act.

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

Type of Review: Extension (without change)

Affected Public: Individuals

Estimated Number of Respondents: 433,000

Estimated Time Per Respondent: 5 minutes

Estimated Total Annual Burden Hours: 35,939

Estimated Total Annualized Cost on the Public: N/A

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

Dated: June 14, 2005

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

[Published in the Federal Register, June 17, 2005 (70 FR 35281)]

AGENCY INFORMATION COLLECTION ACTIVITIES: Certificate of Origin

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the follow-

ing information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Certificate of Origin. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (70 FR 19496) on April 13, 2005, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 18, 2005.

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

SUPPLEMENTARY INFORMATION:

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Certificate of Origin

OMB Number: 1651-0016

Form Number: Customs Form-3229

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

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

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 10

Estimated Time Per Respondent: 20 minutes

Estimated Total Annual Burden Hours: 113

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

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

Dated: June 14, 2005

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

[Published in the Federal Register, June 17, 2005 (70 FR 35284)]

AGENCY INFORMATION COLLECTION ACTIVITIES: LINE RELEASE REGULATIONS

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Line Release Regulations. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (70 FR 19496-19497) on April 13, 2005, allowing for a 60-day comment period. This notice allows for an additional 30

days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 18, 2005.

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

SUPPLEMENTARY INFORMATION:

CBP encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Line Release Regulations

OMB Number: 1651-0060

Form Number: N/A

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

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

Type of Review: Extension (without change)
Affected Public: Business or other for-profit institutions
Estimated Number of Respondents: 25,700
Estimated Time Per Respondent: 15 minutes
Estimated Total Annual Burden Hours: 6,425
Estimated Total Annualized Cost on the Public: N/A

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

Dated: June 14, 2005

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

[Published in the Federal Register, June 17, 2005 (70 FR 35280)]

**AGENCY INFORMATION COLLECTION ACTIVITIES:
PERMIT TO TRANSFER CONTAINERS TO A CONTAINER
STATION**

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Permit to Transfer Containers to a Container Station. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (70 FR 19495-19496) on April 13, 2005, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 18, 2005.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Af-

fairs, Attention: Department of Homeland Security Desk Officer, Washington, D.C. 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395-6974.

SUPPLEMENTARY INFORMATION:

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Permit to Transfer Containers to a Container Station

OMB Number: 1651-0049

Form Number: N/A

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

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

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 1,200

Estimated Time Per Respondent: 20 minutes

Estimated Total Annual Burden Hours: 400

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

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

Dated: June 14, 2005

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

[Published in the Federal Register, June 17, 2005 (70 FR 35283)]

**AGENCY INFORMATION COLLECTION ACTIVITIES:
Report of Diversion**

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Report of Diversion. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (70 FR 19497) on April 13, 2005, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 18, 2005.

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

SUPPLEMENTARY INFORMATION:

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Report of Diversion

OMB Number: 1651-0025

Form Number: Form CBP-26

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

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

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 2800

Estimated Time Per Respondent: 5 minutes

Estimated Total Annual Burden Hours: 233

Estimated Total Annualized Cost on the Public: \$3383

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

Dated: June 14, 2005

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

[Published in the Federal Register, June 17, 2005 (70 FR 35282)]

**PROPOSED COLLECTION; COMMENT REQUEST
AUTOMOTIVE PRODUCTS TRADE ACT OF 1965**

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

ACTION: Notice and request for comments.

SUMMARY: The Department of Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Automotive Products Trade Act of 1965. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

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

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

SUPPLEMENTARY INFORMATION:

CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of

information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Automotive Products Trade Act of 1965

OMB Number: 1651-0059

Form Number: N/A

Abstract: Under APTA, Canadian articles may enter the U.S. so long as they are intended for use as original motor vehicle equipment in the U.S. If diverted to other purposes, they are subject to duties. This information collection is issued to track these diverted articles and to collect the proper duties on them.

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

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 75

Estimated Time Per Respondent: 5.6 hours

Estimated Total Annual Burden Hours: 425

Estimated Total Annualized Cost on the Public: N/A

Dated: June 10, 2005

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

[Published in the Federal Register, June 17, 2005 (70 FR 35279)]

PROPOSED COLLECTION; COMMENT REQUEST CREW EFFECTS DECLARATION

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

ACTION: Notice and request for comments.

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

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

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

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

SUPPLEMENTARY INFORMATION:

CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Crews Effects Declaration

OMB Number: 1651-0020

Form Number: CBP Form-1304

Abstract: CBP Form-1304 contains a list of crews effects that are accompanying them on the trip, which are required to be manifested, and also the statement of the master of the vessel attesting to the truthfulness of the merchandise being carried on board the vessel as crews effects.

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

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 206,100

Estimated Time Per Respondent: 5 minutes

Estimated Total Annual Burden Hours: 17,326

Estimated Total Annualized Cost on the Public: N/A

Dated: June 9, 2005

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

[Published in the Federal Register, June 17, 2005 (70 FR 35285)]

**PROPOSED COLLECTION; COMMENT REQUEST
ENTRY AND IMMEDIATE DELIVERY APPLICATION**

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

ACTION: Notice and request for comments.

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

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

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

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

SUPPLEMENTARY INFORMATION:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the in-

formation collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Entry and Immediate Delivery Application

OMB Number: 1651-0024

Form Number: CBP Form-3461 and Form-3461 Alternate

Abstract: CBP Form CBP-3461 and Form-3461 Alternate are used by importers to provide CBP with the necessary information in order to examine and release imported cargo.

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

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 6,543,405

Estimated Time Per Respondent: 30 minutes

Estimated Total Annual Burden Hours: 838,158

Estimated Annualized Cost to the Public: N/A

Dated: June 9, 2005

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

[Published in the Federal Register, June 17, 2005 (70 FR 35282)]

**PROPOSED COLLECTION; COMMENT REQUEST
ENTRY AND MANIFEST OF MERCHANDISE
FREE OF DUTY**

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

ACTION: Notice and request for comments.

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

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

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

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

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

Title: Entry and Manifest of Merchandise Free of Duty

OMB Number: 1651-0013

Form Number: CBP Form-7523

Abstract: CBP Form-7523 is used by carriers and importers as a manifest for the entry of merchandise free of duty under certain condition and by CBP to authorize the entry of such merchandise. It is also used by carriers to show that the articles being imported are to be released to the importer or consignee.

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

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 4,950

Estimated Time Per Respondent: 1 hour and 40 minutes

Estimated Total Annual Burden Hours: 8,247

Estimated Total Annualized Cost on the Public: N/A

Dated: June 9, 2005

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

[Published in the Federal Register, June 17, 2005 (70 FR 35284)]

**PROPOSED COLLECTION; COMMENT REQUEST
ENTRY SUMMARY AND CONTINUATION SHEET**

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

ACTION: Notice and request for comments.

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

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

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

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

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

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

Title: Entry Summary and Continuation Sheet

OMB Number: 1651-0022

Form Number: Customs Form-7501, 7501A

Abstract: Form CBP-7501 is used by CBP as a record of the impact transaction, to collect proper duty, taxes, exactions, certifications and enforcement endorsements, and to provide copies to Census for statistical purposes.

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

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 38,500

Estimated Time Per Respondent: 20 minutes

Estimated Total Annual Burden Hours: 6,627,678

Estimated Annualized Cost to the Public: N/A

Dated: June 10, 2005

TRACEY DENNING,
Agency Clearance Officer,
Information Services Branch.

[Published in the Federal Register, June 17, 2005 (70 FR 35281)]

**PROPOSED COLLECTION; COMMENT REQUEST
FOREIGN TRADE ZONE ANNUAL RECONCILIATION
CERTIFICATION AND RECORD KEEPING REQUIREMENT**

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

ACTION: Notice and request for comments.

SUMMARY: The Department of Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Foreign Trade Zone Annual Reconciliation Certification and Record Keeping Re-

quirement. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

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

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

SUPPLEMENTARY INFORMATION:

CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Foreign Trade Zone Annual Reconciliation Certification and Record Keeping Requirement

OMB Number: 1651-0051

Form Number: N/A

Abstract: Each Foreign Trade Zone Operator will be responsible for maintaining its inventory control in compliance with statute and regulations. The operator will furnish CBP an annual certification of their compliance.

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

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 260

Estimated Time Per Respondent: 45 minutes

Estimated Total Annual Burden Hours: 195
Estimated Total Annualized Cost on the Public: \$1,025.50

Dated: June 10, 2005

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

[Published in the Federal Register, June 17, 2005 (70 FR 35279)]

**PROPOSED COLLECTION; COMMENT REQUEST
PRIOR DISCLOSURE REGULATIONS**

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

ACTION: Notice and request for comments.

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

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

SUPPLEMENTARY INFORMATION:

CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the in-

formation collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Prior Disclosure Regulations

OMB Number: 1651-0074

Form Number: N/A

Abstract: This collection of information is required to implement a provision of the Customs Modernization portion of the North American Free Trade Implementation Act (Mod Act) concerning prior disclosure by a person of a violation of law committed by that person involving the entry or introduction or attempted entry or introduction of merchandise into the United States by fraud, gross negligence or negligence, pursuant to 19 U.S.C. 1592(c)(4), as amended.

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

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 3,500

Estimated Time Per Respondent: 60 minutes

Estimated Total Annual Burden Hours: 3,500

Estimated Annualized Cost to the Public: N/A

Dated: June 9, 2005

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

[Published in the Federal Register, June 17, 2005 (70 FR 35280)]

PROPOSED COLLECTION; COMMENT REQUEST VESSEL ENTRANCE OR CLEARANCE STATEMENT FORM

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

ACTION: Notice and request for comments.

SUMMARY: The Department of Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning Vessel Entrance of Clearance Statement. This request for comment is being made pur-

suant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before August 16, 2005, to be assured of consideration.

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

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

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

Title: Vessel Entrance or Clearance Statement Form

OMB Number: 1651–0019

Form Number: CBP Form 1300

Abstract: This form is used by a master of a vessel to attest to the truthfulness of all other forms associated with the manifest.

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

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 12,000

Estimated Time Per Respondent: 5 minutes

Estimated Total Annual Burden Hours: 21,991
Estimated Total Annualized Cost on the Public: N/A

Dated: June 9, 2005

TRACEY DENNING,
Agency Clearance Officer;
Information Services Branch.

[Published in the Federal Register, June 17, 2005 (70 FR 35285)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS.

Washington, DC, June 15, 2005,

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

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

19 CFR PART 177

**PROPOSED REVOCATION OF RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO TARIFF
CLASSIFICATION OF STEEL STEP CANS**

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

ACTION: Notice of proposed revocation of ruling letter and treatment relating to tariff classification of steel step cans.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection ("CBP") intends to revoke a ruling letter pertaining to the tariff classification of step cans under the Harmonized Tariff Schedule of the United States ("HTSUS"). CBP also intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments are invited on the correctness of the proposed action.

DATE: Comments must be received on or before July 29, 2005.

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

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

FOR FURTHER INFORMATION CONTACT: Ieva O'Rourke, General Classification Branch, (202) 572-8803.

SUPPLEMENTARY INFORMATION:

Background

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

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), this notice advises interested parties that CBP intends to revoke a ruling letter pertaining to the classification of steel step cans. Although in this notice CBP is specifically referring to one ruling, PD D81838, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

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

on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action.

In PD D81838, dated September 11, 1998, set forth as Attachment A to this document, CBP classified steel step cans in subheading 9403.20.00, HTSUS, as: "Other furniture and parts thereof: Other metal furniture." It is now CBP's position that steel step cans are classified under heading 7323, HTSUS, as "[t]able, kitchen or other household articles and parts thereof, of iron or steel; iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like, of iron or steel," with the specific subheading depending upon the exterior surface of the article. Proposed HQ 967680 revoking PD D81838 is set forth as Attachment B. Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke PD D81838 and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed HQ 967680. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment it previously accorded to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

DATED: June 10, 2005

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

Attachments

[Attachment A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
PD D81838
September 11, 1998
CLA-2-94:CL:PD:CO:TEB:F01
CATEGORY: Classification
TARIFF NO.: 9403.20.0010

SAMUEL ZEKSER
PRESIDENT
SOBEL SHIPPING CO., INC.
*170 Broadway Suite 1501
New York, NY 10038-4148*

RE: The tariff classification of Pedal Bins from Holland.

DEAR MR. ZEKSER:

In your letter dated August 24, 1998, on behalf of IHW, Inc. and Creative Technologies Corporation, 170-53rd Street, Brooklyn, New York, you requested a tariff classification ruling.

In the descriptive literature submitted with you letter, the furniture items are referred to as Pedal Bins or Step Cans. The item is cylindrical in shape and comes in a variety of sizes. Each bin includes and is designed to hold or conceal a plastic or steel inner bucket. The Pedal Bins are made of either stainless steel, chrome plated steel or enameled steel and feature a foot pedal for opening and closing the lid. These items are floor standing.

The applicable subheading for the Pedal Bin or Step Can will be 9403.20.0010, Harmonized Tariff Schedule of the United States (HTSUS), which provides for other metal furniture; household. The duty rate will be 0.8 percent ad valorem.

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

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have already been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JOHN M. REGAN,
*Service Port Director,
Cleveland, Ohio.*

[Attachment B]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 967680
CLA-2 RR:CR:GC 967680
CATEGORY: Classification
TARIFF NO.: 7323.93.0080; 7323.94.0080; 7323.99.9060

SAMUEL ZESKER
PRESIDENT
SOBEL SHIPPING CO., INC.
170 Broadway
Suite 1501
New York, NY 10038-4148

RE: Steel step cans; PD D81838 revoked

DEAR MR. ZESKER:

In PD D81838, which the Port Director, Cleveland, Ohio, Customs and Border Protection (CBP), issued to you on September 11, 1998, on behalf of IHW, Inc. and Creative Technologies Corporation, steel pedal bins, or step cans, were found to be classifiable as other metal furniture, household, in subheading 9403.20.0010, Harmonized Tariff Schedule of the United States (HTSUS). PD D81838 is incorrect and no longer represents the position of CBP on the classification of this merchandise.

FACTS:

In PD D81838, the facts were stated as follows:

In the descriptive literature submitted with you [sic] letter, the furniture items are referred to as Pedal Bins, or Step Cans. The item is cylindrical in shape and comes in a variety of sizes. Each bin includes and is designed to hold or conceal a plastic or steel inner bucket. The Pedal Bins are made of either stainless steel, chrome plated steel or enameled steel and feature a foot pedal for opening and closing the lid. These items are floor standing.

ISSUE:

What is the classification of the steel step cans under the HTSUS.

LAW AND ANALYSIS:

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the HTSUS is such that most goods are classified by application of GRI 1, that is, 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 subheadings under consideration are as follows:

- 7323 Table, kitchen or other household articles and parts thereof, of iron or steel; iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like, of iron or steel:
- Other:
- 7323.93.00 Of stainless steel.....

7323.94.00	Of iron (other than cast iron) or steel, enameled. . . .
7323.99	Other:
	Not coated or plated with precious metal:
	Other:
7323.99.90	Other
9403	Other furniture and parts thereof:
9403.20.00	Other metal furniture

Section XV, note 1(k), which is applicable to Chapter 73, of the HTSUS, provides that Section XV does not cover articles of Chapter 94. In HQ 964352, dated September 11, 2000, there was set forth an analysis of whether floor standing steel combination ashtray/waste receptacles are articles of Chapter 94. It was concluded that floor standing steel waste receptacles are specifically excluded from heading 9403, HTSUS, and are not otherwise covered in Chapter 94, HTSUS. The analysis in HQ 964352 is incorporated herein.

The steel step cans are described in heading 7323, HTSUS, as household articles of steel. In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes (ENs), although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The ENs to heading 73.23, which covers table, kitchen or household articles and parts thereof, states that it “comprises a wide range of iron or steel articles . . . , used for table, kitchen or other household purposes; it includes the same goods for use in hotels, restaurants, boarding-houses, hospitals, canteens, barracks, etc.” Goods specifically included in this heading are dustbins. According to the Random House Dictionary of the English Language (1973), the term “dustbin” is chiefly a British term for an ash can or garbage can. In HQ 950644, issued December 27, 1991, CBP stated, “[r]ecognizing that the English used in the EN’s is British English, we believe the term dustbin therein is synonymous with the American terms trash can, refuse can, garbage can, and cart, as herein applicable.” Based on the foregoing we conclude that steel waste receptacles are included within the scope of heading 7323, HTSUS. In HQ 964352, *supra*, and HQ 964053, dated July 27, 2000, it was held that steel combination ashtray/waste receptacles intended to be used to collect trash, litter and waste in public areas of buildings are also classified in heading 7323, HTSUS, as their use as such is an extension of a housekeeping function. Therefore, the step cans at issue are classified in heading 7323, HTSUS, whether used in a household, public or business environment.

The step cans are specifically classified in subheading 7323.93.00, HTSUS, if they are of stainless steel, 7323.94.00, HTSUS, if they are enameled steel, and 7323.99.90, if they are chrome plated steel. The steel and plastic liners, imported with the step cans will be classified with the step cans.

HOLDING:

By application of GRI 1, the steel step cans are classified in heading 7323, HTSUS, as “[t]able, kitchen or other household articles and parts thereof, of iron or steel; iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like, of iron or steel,” and the subheading depends upon the exterior surface of the article. Specifically, the step cans of stainless steel are classified in subheading 7323.93.0080, HTSUSA, as “[t]able, kitchen or other household articles and parts thereof, of iron or steel; iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like, of iron or steel: Other: Of stainless steel . . . Other,” with a column one, general duty rate of 2% ad valorem. The step cans of enameled steel are classified in subheading 7323.94.0080, HTSUSA, as “[t]able, kitchen or other household articles and parts thereof, of iron or steel; iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like, of iron or steel: Other: Of iron (other than cast iron) or steel, enameled . . . Other,” with a column one, general duty rate of 2.7% ad valorem. The step cans of chrome plated steel are classified in subheading 7323.99.9060, HTSUSA, as “[t]able, kitchen or other household articles and parts thereof, of iron or steel; iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like, of iron or steel: Other: Other: Not coated or plated with precious metal: Other: Other . . . Other,” with a column one, general duty rate of 3.4% ad valorem.

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

EFFECT ON OTHER RULINGS:

PD D81838, dated September 11, 1998, is revoked.

MYLES B. HARMON,
Director,
Commercial Rulings Division.

**PROPOSAL TO LIMIT THE DECISIONS OF THE COURT OF
INTERNATIONAL TRADE AND THE COURT OF APPEALS
FOR THE FEDERAL CIRCUIT IN *PARK B. SMITH* v.
*UNITED STATES***

**25 C.I.T. 506 (2001),
affirmed in part, vacated in part, and remanded,
347 F. 3d 922 (Fed. Cir. 2003)**

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

ACTION: Notice of Customs and Border Protection’s proposal to limit the application of the decisions of the Court of Appeals for the Federal Circuit and the Court of International Trade in the case of *Park B. Smith, Ltd. v. United States*, 25 Ct. Int’l Trade 506 (2001), *affirmed in part, vacated in part, and remanded*, 347 F. 3d 922 (Fed.

Cir. 2003), *reh'g denied* (Fed. Cir. March 16, 2004), to the entries before the courts in that litigation.

SUMMARY: Pursuant to section 625(d), Tariff Act of 1930, as amended (19 U.S.C. 1625(d)), and § 177.10(d) of the Customs Regulations (19 C.F.R. 177.10(d)), this notice advises interested parties that Customs and Border Protection (CBP) proposes to limit the application of the decisions of the Court of International Trade and the Court of Appeals for the Federal Circuit in *Park B. Smith, Ltd. v. United States* to the specific entries before the Court in that litigation. Comments are invited on this proposed action.

DATE: Comments must be received on or before July 29, 2005.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to Customs and Border Protection, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by contacting Mr. Joseph Clark at 202-572-8768.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese, Textiles Branch, at 202-572-8812.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to § 625(d), Tariff Act of 1930, as amended (19 U.S.C. 1625(d)), and § 177.10(d), Customs Regulations (19 C.F.R. 177.10(d)), this notice advises interested parties that Customs and Border Protection (CBP) proposes to limit the application of the decisions in *Park B. Smith, Ltd. v. United States* to the specific entries before the courts in that litigation.

CBP has waited for *Park B. Smith, Ltd. v. United States* to become final after remand of the case from the Court of Appeals for the Federal Circuit to the Court of International Trade before taking this action. This case has taken nearly four years to reach a conclusion, with issuance of the initial decision by the Court of International Trade on May 29, 2001, issuance of the appellate decision by the Court of Appeals for the Federal Circuit on October 21, 2003, affirming in part and vacating in part the lower court's decision and remanding the case to the lower court, and the Stipulated Judgment Order issued on April 6, 2005, reflecting agreement between the parties as to the classification of the merchandise in the entries at issue in the litigation. Issuance of a notice of intent to limit the application

of the decisions of the courts prior to reaching finality in this case would have been premature and disruptive of the judicial process.

Park B. Smith, Ltd. v. United States involved the classification of certain cotton woven table linens (placemats, napkins and table runners) and cotton woven dhurrie rugs. Many of these articles were decorated with festive symbols, including Santa Claus or ghosts; some were decorated with color designs and some were solid colors. The articles were sold during various holiday seasons. The Customs Service (now Customs and Border Protection (CBP)) classified these articles as table linens of heading 6302, Harmonized Tariff Schedule of the United States (HTSUS), and woven textile floor coverings of heading 5702, HTSUS, respectively. The importer, Park B. Smith, challenged Customs classification of the merchandise in the Court of International Trade claiming the articles were classifiable as festive articles of heading 9505, HTSUS. With the exception of four articles¹, the Court ruled that the table linens and rugs were classified as festive articles.

Customs had argued at trial, among other things, that the table linens and rugs “[were] not *prima facie* classifiable as festive articles because the general scope [of the heading as derived from its terms] and Explanatory Notes of Heading 9505 indicated that ‘Congress did not intend to extend the scope of this provision to include all manner of possibly festive articles, *i.e.*, rugs, placemats, napkins, and table runners.’” *Park B. Smith, Ltd. v. United States*, 25 Ct. Int’l Trade 506 (2001), at 4, citing the Def’s Pretrial Mem. of Law. The trial court did not address this argument in its opinion, that is, it did not discuss the effect of the Explanatory Notes on the terms of heading 9505, HTSUS. Instead, the Court looked strictly at the language of heading 9505, HTSUS, citing several cases regarding the interpretation of tariff language and the role of the Court in interpreting tariff terms according to their common meaning.

The court looked to the decision of the Court of Appeals for the Federal Circuit in *Midwest of Cannon Falls, Inc. v. United States*, 20 Ct. Int’l Trade 123 (1996), *aff’d in part, rev’d in part*, 122 F.3d 1423 (Fed. Cir. 1997). Citing *Midwest* (122 F. 3d at 1429), the court stated the requirements enunciated by the Court of Appeals in that case for classification of articles as festive articles was: “(1) such articles must be ‘closely associated’ with a festive occasion and (2) such articles must be displayed and used by the consumer only during the festive occasion.” Again citing to *Midwest*, the court went on to state:

¹The Court of International Trade found that three styles, Savannah, Serendipity and Squaredance, were not festive articles. The Savannah and Serendipity styles consisted of a solid color design and Squaredance consisted of a green, red and blue plaid. The court held these styles were not closely associated with a holiday. With regard to a fourth style, Harvest Time, as no evidence was presented at trial with regard to this style, the court affirmed Customs’ classification.

“If the physical appearance of an article is so intrinsically linked to a festive occasion that its use during other time periods would be aberrant, it is ‘closely associated’ to the festive occasion.” *Midwest*, 122 F. 3d at 1429.

The Court of International Trade used the *Midwest* test to determine that the merchandise before it, with the exception of four articles previously noted, was *prima facie* classifiable as festive articles of heading 9505, HTSUS. Having done so, the court then applied Note 1(t), Section XI, HTSUS, which provides that section XI does not cover “Articles of chapter 95 (for example, toys, games, sports requisites and nets),” and found that the note excluded the articles at issue from classification within section XI as they were *prima facie* classifiable in heading 9505, HTSUS.

Both parties appealed the decision. The Court of Appeals for the Federal Circuit affirmed the trial court’s ruling on the applicable law and the use of the *Midwest* test in determining whether articles are classifiable as festive articles. However, the Court of Appeals remanded the case for reapplication of the *Midwest* test to some of the articles at issue. The lower court had grouped the articles at issue into three groupings: (1) articles bearing “festive symbols,” (2) articles in “festive color schemes” and (3) articles in solid colors and a green, red and blue plaid.

The Court of Appeals held that the lower court had correctly ruled that the articles in the third group were not classifiable as festive articles. However, while the court stated that the lower court correctly ruled on articles with symbolic content associated with a particular recognized holiday, such as Christmas trees or Easter bunnies, the court remanded the case to the lower court for reconsideration of the articles bearing festive symbols (grouping 1) and articles in festive color schemes (grouping 2). The court stated that the lower court “did not divide the goods before it with sufficient precision” and noted in its decision that the “Explanatory Notes to Heading 9505 state that the heading includes decorations that ‘are traditionally associated with a particular festival.’ ” The case was remanded and the lower court directed to segregate the articles based on whether the articles, by their design and symbols, were directed to a specific festive holiday and whether their use at times other than that holiday would be aberrant. Those articles found to be directed to a specific festive holiday and for which their use at times other than that holiday would be aberrant would be classifiable as festive articles of heading 9505, HTSUS. On April 6, 2005, a Stipulated Judgment Order was signed whereby the parties reached agreement as to the classification of the merchandise in the entries at issue in the litigation.

Although the courts have recognized that the Explanatory Notes are not legally binding on the United States, the courts have acknowledged the importance of the Explanatory Notes in determining

the intended scope of a tariff heading. See *Sabritas, S.A. de C.V. and Frito-Lay v. United States*, 22 Ct. Int'l Trade 59, 998 F. Supp. 1123 (1998) wherein the Court of International Trade, at 62, stated:

In its determination of the definition of tariff terms, the Court may also utilize the Explanatory Notes. Explanatory Notes, which are published by the World Customs Organization (formerly known as the Customs Co-operation Council), provide guidance in interpreting the language of the HTSUS. See *Bausch & Lomb, Inc. v. United States*, 21 C.I.T. , , 957 F. Supp. 281, 288 (1997). Although not legally binding on the United States, the Explanatory Notes generally indicate the "proper interpretation" of provisions within the HTSUS. *Lynteq*, 976 F. 2d at 699 (citing H.R. Conf. Rep. No. 100-576, 100th Cong., 2d Sess. 549 (1988), reprinted in 1988 U.S.C.-C.A.N. 1547, 1582); see also *Marubeni Am. Corp. v. United States*, 35 F.3d 530, 535 n.3 (Fed. Cir. 1994) (stating Explanatory Notes, while not dispositive or binding, are instructive). Additionally, in determining whether an item is properly classified under a particular heading in the HTSUS, the Explanatory Notes are persuasive authority for the Court when they specifically include or exclude an item from a tariff heading. See, e.g., *Bausch & Lomb*, 21 C.I.T. at , 957 F. Supp. at 288.

Further, in *Bausch & Lomb*, 957 F. Supp. at 288, the Court stated:

"It is well settled that tariff acts must be construed to carry out the intent of the legislature." [citations omitted.] The intent of the legislature is manifested in Congress's endorsement of the Customs Cooperation Council's ("CCC") Explanatory Notes, and the Explanatory Notes under Subheading 8509 included the precise merchandise at issue: "(B)(7) Electric tooth brushes". . . . The Court finds that the Explanatory Notes are persuasive because they expressly include electric toothbrushes under Heading 8509. . . .

As noted above, the Court of International Trade did not address the government's argument as to the intent of Congress regarding the scope of heading 9505 as reflected in the Explanatory Notes to that heading. The Court of Appeals did look to the Explanatory Notes in discussing the articles which fell within the scope of heading 9505 when the court noted the Explanatory Notes' language, "traditionally associated with a particular festival."

During the course of the litigation in *Park B. Smith*, the Explanatory Notes for heading 9505 were amended. The amendments became effective August 2003 during the time period the parties to *Park B. Smith* were awaiting the decision of the Court of Appeals. Although brought to the Court of Appeals attention in a footnote in the Government's response to the plaintiff's request for a rehearing,

the courts have not addressed fully the impact of the amendment to the Explanatory Notes. Of specific concern with regard to *Park B. Smith* is the following language which was added to the Explanatory Notes for heading 9505:

The heading also **excludes** articles that contain a festive design, decoration, emblem or motif and have a utilitarian function, e.g., tableware, kitchenware, toilet articles, carpets and other textile floor coverings, apparel, bed linen, table linen, toilet linen, kitchen linen.²

The purpose of the amendments to the Explanatory Notes was to clarify, not change, the scope of heading 9505. Initially, the Harmonized System Committee sought to align the texts of the English and French versions of the Explanatory Notes to heading 9505. This work began at the 30th Session of the Harmonized System Committee in the fall of 2002. The language quoted above was discussed at the 31st Session of the Harmonized System Committee as part of the consideration of the text of the Explanatory Notes to heading 9505. In the working document reflecting the proposed amendment, along with other amendments to the Explanatory Notes to heading 9505, the Harmonized System Secretariat commented that:

The Secretariat wishes to draw the Committee's attention to the fact that, . . . , the amendments under consideration are not intended to result in a change of scope. An examination of the comments reproduced above reveals that the purpose of the proposal is to further clarify the legal text of heading 95.05. Thus, the proposed texts . . . — to be inserted as exclusions — serve to supplement the existing Explanatory Notes.

Therefore, the Secretariat considers that these new indications will make it possible to avoid any risk of misclassification in this heading of articles (other than toys) which fall to be classified elsewhere in the Nomenclature.

See 31st Session, Harmonized System Committee, Working Documents, NC0716E1 (HSC/31/April 2003).

²CBP notes that the amendment to the Explanatory Notes for heading 9505 comports with language from the Court of International Trade's decision in *Midwest of Cannon Falls v. United States*, 20 Ct. Int'l Trade 123, 133 (1996), in addressing the classification of mugs and pitchers with depictions of jack-o-lanterns: "The subject imports are functional and, according to the Explanatory Notes, heading 6912 applies to tableware that is functional. See Explanatory Notes, 69.12. . . . Although the motif of the mug and plate (sic) associate them with Halloween, heading 9505 nevertheless appears ill-suited to these particular items. The examples of items coming under heading 9505 as described by the Explanatory Notes are all non-functional items: false ears, cardboard trumpets, artificial snow, etc. Explanatory Noted, 95.05(A)(1).

The amendment was accepted by consensus and implemented by the over 160 contracting parties to the Harmonized System. See Working Documents, NC0730E2 (HSC/31/May 2003).

As in *Bausch & Lomb*, the cited language of the amended Explanatory Notes is specific to the inclusion or exclusion of certain articles and therefore is persuasive authority for the courts regarding the intended scope of the tariff heading. Classification within Section XI was precluded in *Park B. Smith* by a determination that the merchandise at issue was *prima facie* classifiable in heading 9505, HTSUS. However, the Court of International Trade and the Court of Appeals for the Federal Circuit did not have an opportunity to consider the amended, or clarified, Explanatory Notes for heading 9505 in deciding whether the merchandise at issue in *Park B. Smith* fell within the intended scope of heading 9505 and therefore was classifiable therein.

In *Jewelpak Corporation v. United States*, 20 Ct. Int'l Trade 1402, 950 F. Supp. 343 (1996), in determining that Customs had properly consulted amended Explanatory Notes in classifying presentation boxes, the Court of International Trade cited the *Report of the Joint Comm. On The Omnibus Trade and Competitiveness Act*, P.L. 100-418, H. Conf. Rep. No. 100-576, 100th Cong., 2nd Sess., at 549, wherein Congress stated, in relevant part:

The Explanatory Notes were drafted subsequent to the preparation of the Harmonized System nomenclature itself, and will be modified from time to time by the CCC's [Customs Cooperation Council] Harmonized System Committee. Although generally indicative of proper interpretation of the various provisions of the Convention, the Explanatory Notes, like other similar publications of the Council, are not legally binding on the contracting parties to the Convention. Thus, while they should be consulted for guidance, the Explanatory Notes should not be treated as dispositive.

Jewelpak, 20 Ct. Int'l Trade at 1410.

The court specifically noted that "Congress recognized that the Explanatory Notes would be occasionally modified, and could still be 'consulted for guidance.'" *Id.*, at 1411.

Further, as noted by the Court of Appeals for the Federal Circuit in *Jewelpak Corporation v. United States*, 297 F.3d 1326, 1336 (Fed. Cir. 2002), in addressing consideration of an amended Explanatory Note:

. . . the law is clear that it was wholly appropriate to reference the Amended Explanatory Note (which, in this case, contained the "long-term use" limitation) to help define the proper scope of the tariff term. *See, e.g., Mita Copystar Am. V. United States*, 21 F.3d 1079, 1082 (Fed. Cir. 1994) ("[T]he Explanatory Notes

of a tariff subheading . . . do not constitute controlling legislative history but nonetheless are intended to clarify the scope of HTSUS subheadings and to offer guidance in interpreting subheadings.”) [citations omitted].

In *Jewelpak, supra*, the court held, *inter alia*, that an amendment to an Explanatory Note, made subsequent to enactment of tariff terms should be considered in determining the scope of a heading. These are the circumstances we face in interpreting heading 9505.

CBP seeks to limit the decision in *Park B. Smith* so that the Court will have the opportunity to examine the scope of heading 9505 in concert with the amended Explanatory Note. It is clear that failure to limit the decision in this case and seek relitigation of the scope of heading 9505 will present CBP with extraordinary administrative difficulties and place the United States out of step with our trading partners who utilize the Harmonized System. Importers and CBP will be forced to examine prints, designs or motifs on a multitude of articles which are utilitarian and are not in and of themselves festive (*e.g.*, cups, sweaters, watches) to determine if trees are merely trees or Christmas trees; whether snowmen alone are directed to Christmas or when in combination with items such as holly and bells are sufficient to be indicative of the holiday of Christmas. Importers and CBP will have to decide when bunnies merely represent Spring or when they may be directed to the holiday of Easter. Further, importers and CBP will have to determine whether it would be aberrant to use articles, whose design and symbols are directed to a specific festive holiday, at times other than that holiday.

U.S. industries competing with importers enjoying a “festive” classification denied to U.S. exporters of the same merchandise by our trading partners will find themselves disadvantaged. A review of decisions by members of the European Union, prior to and after the amendment to the Explanatory Notes for heading 9505, illustrates the understanding of our trading partners as to the scope of heading 9505 and the inequity of treatment that U.S. industries will face.³

³A review of the European Binding Tariff Information database revealed the following decisions, which are merely a sampling of the decisions found:

BTI Reference DEF/3805/04-1 (issued 9/13/04): A decision by Germany to classify a mug with a red exterior with gold stars and representation of Santa Claus and an angel as tableware and kitchenware of ceramic, other than of porcelain or china, in heading 6912, HTS.

BTI Reference DEF/3681/04-1 (issued 9/3/04): A decision by Germany to classify a cup with saucer and a matching plate featuring a Christmas motif on all three and the words “Merry Christmas” on the cup as tableware and kitchenware of porcelain or china in subheading 6911.10, HTS.

BTI Reference IE05NT-14-39 (issued 2/15/05): A decision by Ireland to classify a container for sweets made from felt material and shaped as a Santa hat with a zipper opening in the middle for access as an other made up textile article in subheading 6307.90, HTS.

The authority of Customs (now CBP) to limit the application of court decisions involving the classification of imported merchandise has been recognized by the United States Supreme Court and by the U.S. Congress. In *United States v. Stone & Downer*, 274 U.S. 225, 71 L. Ed. 1013, 47 S. Ct. 616 (1927), the Supreme Court recognized that the principle of *res judicata* does not apply to judicial decisions involving customs classification of merchandise. The Court, at 235, stated, in relevant part:

The effect of adjudicated controversies arising over classification of importations may well be distinguished from the irrevocable effect of ordinary tax litigation tried in the regular courts. There of course should be an end of litigation as well in customs matters as in other tax cases; but circumstances justify limiting the finality of the conclusion in customs controversies to the identical importation. . . . The evidence which may be presented in one case may be much varied in the next. The importance of a classification and its far-reaching effect may not have been fully understood or clearly known when the first litigation was carried through.

The Court of Appeals for the Federal Circuit in *Schott Optical Glass, Inc. v. United States*, 750 F.2d 62, 64 (1984), citing *Stone & Downer*, acknowledged “that in customs classification cases a determination of fact or law with respect to one importation is not *res*

BTI Reference GB106670288 (issued 6/21/01): A decision by Great Britain to classify a stoneware mug with a design depicting Santa and his reindeer and which played “Jingle Bells” when picked up and flashing red lights as tableware and kitchenware of ceramic, other than of porcelain or china, in heading 6912, HTS. See also, BTI Reference GB108968731 (issued 4/30/02) classifying a stoneware tea/coffee mug with Santa Claus design in heading 6912, HTS.

BTI Reference GB113139706 (issued 6/23/04) and BTI Reference GB113139412 (issued 6/23/04): Decisions by Great Britain to classify narrow woven decorative ribbons as narrow woven fabrics of man-made fibers in subheading 5806.32, HTS. Each ribbon measured 6 centimeters in width. One featured a decorative pattern in the form of Santa and the other in the shape of holly. Each featured gold glitter applied to one side and gold selvages with strands of metal running through the selvages.

BTI Reference GB112962876 (issued 4/29/04): A decision by Great Britain to classify a babies' sleep suit (a one-piece garment with a round neck, long sleeves rib knit cuffs, long pants with enclosed feet, a full front opening extending down the inner leg seams) with a printed reindeer design as a babies' garment of cotton in subheading 6111.20, HTS. The garment was packed with a Christmas stocking and rattle which were separately classified.

BTI Reference GB113448288 (issued 10/26/04): A decision by Great Britain to classify plastic see-through “Father Christmas” and snowflake design place mat and coaster sets as tableware of plastics in subheading 3924.10, HTS.

BTI Reference GB103778179 (issued 6/21/99): A decision by Great Britain to classify Royal Copenhagen Christmas plates in heading 9705, HTS, which provides for [c]ollections and collectors' pieces of . . . historical, archeological paleontological, ethnographic or numismatic interest.”

judicata as to another importation of the same merchandise by the same parties. The opportunity to relitigate applies to questions of construction of the classifying statute as well as to questions of fact as to the merchandise.”

Customs has a long history of limiting the application of certain judicial decisions adverse to the government when it was decided that the same issues should be relitigated. Congress specifically recognized Customs authority by enacting 19 U.S.C. 1625(d), which states:

(d) Publication of customs decisions that limit court decisions

A decision that proposes to limit the application of a court decision shall be published in the Customs Bulletin together with notice of opportunity for public comment thereon prior to a final decision.

In addition, the Customs Regulations provide at 19 C.F.R. 177.10(d):

Limiting rulings. A published ruling may limit the application of a court decision to the specific article under litigation, or to an article of a specific class or kind of such merchandise, or to the particular circumstances or entries which were the subject of the litigation.

For the reasons stated above, Customs and Border Protection proposes to limit the application of the decisions of the Court of International Trade and the Court of Appeals for the Federal Circuit in the case of *Park B. Smith, Ltd. v. United States* to the entries before the courts in that litigation. Before making this decision final, consideration will be given to any written comments timely received on this matter.

Dated: June 15, 2005

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