

# U.S. Customs and Border Protection



## 19 CFR PART 177

### **REVOCAION OF ONE RULING LETTER AND REVOCAION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF CANNED COD LIVER (IN OWN OIL)**

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

**ACTION:** Notice of revocation of one ruling letter and of revocation of treatment relating to the tariff classification of canned cod liver (in own oil).

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking one ruling letter concerning tariff classification of canned cod liver (in own oil) under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 54, No. 22, on June 10, 2020. No comments regarding the proposed revocation were received in response to that notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after September 27, 2020.

**FOR FURTHER INFORMATION CONTACT:** John Rhea, Food, Textiles & Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0035.

#### **SUPPLEMENTARY INFORMATION:**

##### **BACKGROUND**

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obli-

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

Pursuant to 19 U.S.C. §1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 54, No. 22, on June 10, 2020, proposing to revoke one ruling letter pertaining to the tariff classification of canned cod liver (in own oil). Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In New York Ruling Letter ("NY") N290443, dated October 13, 2017, CBP classified canned cod liver (in own oil) in heading 1604, HTSUS, specifically in subheading 1604.19.32, HTSUS, which provides for "Prepared or preserved fish; caviar and caviar substitutes, Fish, whole or in pieces, but not minced: Other (including yellowtail): In airtight containers: In oil: Other." CBP has reviewed NY N290443 and has determined the ruling letter to be in error. It is now CBP's position that canned cod liver (in own oil) is properly classified, in heading 1604, HTSUS, specifically in subheading 1604.20.60, HTSUS, which provides for "Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Other prepared or preserved fish: Other: Other, Other."

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N290443 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H293862, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C.

§1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

*For*

CRAIG T. CLARK,

*Director*

*Commercial and Trade Facilitation Division*

*Attachment*

HQ H293862

July 13, 2020

OT:RR:CTF:FTM H293862 JER

CATEGORY: Classification

TARIFF NO.: 1604.20.60

Ms. INNA BUKACH

ALEX'S MEAT DISTRIBUTORS CORPORATION

5600 FIRST AVENUE, BLDG. A-35

BROOKLYN, NY 11220

RE: Proposed Revocation of NY N290443; tariff classification of canned cod liver (in own oil)

DEAR Ms. BUKACH:

On October 13, 2017, U.S. Customs and Border Protection ("CBP") issued New York Ruling Letter ("NY") N290443 to Ms. Inna Bukach, of Alex's Meat Distributors Corporation ("Alex's Meats"), pertaining to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated ("HTSUSA") of canned cod liver in its own oil imported from Latvia. Upon further review of additional information provided, CBP has since found NY N290443 to be incorrect. Accordingly, NY N290443 is hereby revoked.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. No. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed action was published on June 10, 2020, in Volume 54, Number 22, of the *Customs Bulletin*. No comments were received in response to this notice.

**FACTS:**

In NY N290443, the canned cod liver was described as follows:

The subject merchandise is Canned Cod Liver (in own oil) composed of cod liver, oil and salt. The product will be packed 36 cans per carton with a total net weight of 300 grams (10.6 ounces) per each can. Canned Cod Liver (in own oil) will be sold to Russian ethnic markets in the United States.

On February 27, 2018, Ms. Bukach, of Alex's Meats, filed a request for reconsideration of NY N290443. According to February 2018 submission, the product is composed of 76.6% cod liver, 23% oil and 0.5% salt. The oil is said to be derived naturally (from the liver) during the sterilization process. In the submission, it is stated that once the can is sealed, the sterilization process starts. As the heat rises, the oil from the liver naturally comes out, filling out the can. The higher the temperature, the more oil is created and exudes from the liver.

In NY N290443, CBP classified the subject canned cod liver under subheading 1604.19.3200, HTSUSA, which provides for "Prepared or preserved fish; caviar and caviar substitutes, Fish, whole or in pieces, but not minced: Other (including yellowtail): In airtight containers: In oil: Other." It is now CBP's position that the canned cod liver in question is classified under subheading 1604.20.6090, HTSUSA, which provides for: "Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Other prepared or preserved fish: Other: Other, Other."

**ISSUE:**

Whether the subject canned cod liver is classified under subheading 1604.19, HTSUS, as other fish, whole or in pieces, or under subheading 1604.20, HTSUS, as other prepared or preserved fish parts.

**LAW AND ANALYSIS:**

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

Because the instant classification question occurs beyond the four-digit heading level, GRI 6 is implicated. GRI 6 states:

For legal purposes, the classification of goods in the subheading of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to the above rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this rule, the relative section, chapter and subchapter notes also apply, unless the context otherwise requires.

The 2020 HTSUS provisions under consideration are as follows:

<b>1604</b>	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs:
	Fish, whole or in pieces, but not minced:
1604.19	Other (including yellowtail):
	In airtight containers:
	In oil:
	* * *
1604.19.32.00	Other..
	* * *
1604.20	Other prepared or preserved fish:
	Other:
1604.20.10	Pastes..
	Balls, cakes and puddings:
	* * *
1604.20.60	Other..

Note 2 to Chapter 16, HTSUS, states, in relevant part, as follows:

Food preparations fall in this chapter provided that they contain more than 20 percent by weight of sausage, meat, meat offal, blood, fish or crustaceans, mollusks or other aquatic invertebrates, or any combination thereof.

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and

are generally indicative of the proper interpretation of these headings. See T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The EN for heading 1604, HTSUS, states, in pertinent part:

(3) Fish, and **their parts**, prepared or preserved by other processes not provided for in headings 03.02 to 03.02, e.g., fish fillets merely covered with batter or bread crumbs, prepared milt and **livers**, finely homogenised fish (see the General Explanatory Note to this Chapter, Item (4)) and pasteurised or sterilized fish. Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example corn flakes). [Emphasis added].

\* \* \*

In your request, you opine that the subject canned cod liver should be classified under subheading 1604.20, HTSUS, as “pudding” rather than subheading 1604.19.32, HTSUS. You assert that the cod liver is a liver mush and is often called “liver pudding” in certain cultures. You further argue that the cod liver is not a piece of a whole fish but is rather an organ. As such, you conclude that the cod liver cannot be properly classified under subheading 1604.19, HTSUS.

Based on its description, composition and by definition, the subject canned cod liver is a fish liver and is thus an organ of the cod fish. Fish liver like other viscera and refuse of fish are fish offal. *Law Insider*, available at, <https://www.lawinsider.com/dictionary/fish-offal> (last visited on February 18, 2020). Offal is simply the entrails, waste and organs of an animal or fish which often includes the tails, fins, ears and other refuse parts of an animal or fish. *Cambridge Dictionary*, Cambridge University Press (2020). <https://dictionary.cambridge.org/us/dictionary/english/offal> (last visited, February 18, 2020). Although, offal are often discarded after the animal or fish has been butchered, some offal are considered to be culinary delicacies in certain cultures. For tariff classification purposes, and to determine which of the two competing subheadings most accurately describes the subject canned cod liver, we must first examine the difference between pieces of fish and fish parts; and the distinction between fish meat and fish offal.

The HTSUS makes a clear distinction between whole fish or pieces of fish and edible fish offal and other waste parts of a fish. For example, Chapter 3 of the HTSUS, sets aside subheadings specifically for edible offal; while the other headings of Chapter 3 provide for whole fish or pieces of fish in various forms such as fileted, sliced, fresh, or frozen. In particular, subheadings 0302.91 to 0302.99, HTSUS, provide specifically for edible fish offal such as: fish livers, fish roe, milt, fins, heads, tails, and maws. Similarly, Chapter 16 of the HTSUS makes a distinction between prepared or preserved offal and prepared or preserved animal meat or fish meat. For example, Note 2 to Chapter 16, HTSUS, states, in part, that “Food preparations fall in this Chapter provided that they contain 20% by weight of sausage, meat, meat offal, blood, fish or crustaceans, mollusks, or other aquatic invertebrates, or any combination thereof.” This distinction is further exemplified in heading 1602, HTSUS, which provides for “Other prepared or preserved meat, meat offal or blood.” Likewise, subheading 1602.20, HTSUS, provides for “liver of any animal.” In sum, the distinction referenced in Chapter 3 and Chapter 16, HTSUS, establishes that the Harmonized Tariff Schedule classifies fish (meat) and edible offal separately.

Heading 1604, HTSUS, is no different. Heading 1604, HTSUS, distinguishes between fish in whole form or in pieces from fish offal and fish roe. In particular, heading 1604, HTSUS, provides, for “Prepared or preserved fish; caviar and caviar substitutes from fish eggs” and thus separates fish meat from fish eggs (or fish roe). Moreover, heading 1604, HTSUS, is organized into three primary classes or categories of fish products at the six-digit level, which by their very structure separates fish meat products from fish offal and fish roe. These three primary classes or categories include: (1) “Fish, whole or in pieces, but not minced;” (2) “Other prepared or preserved fish;” and lastly, (3) “Caviar and caviar substitutes.” Of these primary categories, only the first category of heading 1604, HTSUS, includes whole fish and pieces of fish. For example, subheadings 1604.11, HTSUS, thru 1604.19, HTSUS, which fall under the category of “Fish, whole or in pieces, but not minced,” each lists a name or type of fish, e.g., Salmon (1604.11), Herring (1604.12), Tuna (1604.14), and so on. This category of subheadings does not include fish offal such as fish liver or fish roe. Instead, classification under subheadings 1604.11, HTSUS, thru 1604.19, HTSUS, requires, at a minimum, that the fish product be whole fish or pieces of fish (meat).

Furthermore, the ENs to heading 1604, HTSUS, demonstrate that parts of a fish, are distinct from fish (meat) in whole form or in pieces. In particular, EN 16.04 (3), provides, in relevant part, that the heading covers: “Fish and their parts, prepared or preserved...e.g., milt or livers....” Milt (which is the semen of a male fish) and liver (which is an internal organ of a fish), are parts of a fish rather than pieces of a fish.

Because the cod liver is an organ or edible offal of the cod fish, it is not classifiable as a whole fish or as a piece of a fish. Moreover, contrary to the decision in NY N290443, it is not classifiable under subheading 1604.19, HTSUS. Subheading 1604.19, HTSUS, is a basket provision for other types of “fish, whole or in pieces, but not minced” which are not enumerated *eo nomine* in the preceding subheadings of the first primary category of the 1604 subheadings. The subject canned cod liver is not a piece of fish meat and is not a whole fish but is rather a part of a fish (i.e., it is an organ). Accordingly, the subject canned cod liver cannot be classified under subheading 1604.19, HTSUS, as other fish in whole or in pieces.

We find that the subject canned cod liver falls into the second six-digit category of heading 1604, HTSUS, which provides for, “Other prepared or preserved fish.” However, the subject canned cod liver is not a liver pudding or paste as you contend in your request for reconsideration. According to the description provided, the subject canned cod liver consists of the liver organ of a cod fish which has been preserved and canned in oil with salt and no other additional ingredients or preservatives. You argue that the cod liver is “liver pudding,” noting that pudding is defined as: “Any of various dishes, sweet or savory, prepared by boiling or steaming, or from batter.” Webster’s New World Dictionary. However, unlike the fish balls, fish pudding or pastes of subheading 1604.20, HTSUS, the subject cod liver is not boiled, steamed, baked or prepared into a batter or paste. Likewise it is not mixed or combined with any other ingredients or other fish products; distinguishing it from other prepared fish products of subheading 1604.20, HTSUS. Accordingly, because of the absence of additional preparation, cooking, baking, or mixing with other ingredients, the subject canned cod liver cannot be classified under subheading 1604.20, HTSUS, as liver pudding or paste as you assert in your request. Instead, since the subject cod liver is preserved in oil and canned for

consumption in a fresh state, it meets the description set out in EN 16.04 (3) as a preserved fish liver. More importantly, it satisfies the terms of subheading 1604.20.60, HTSUS, as “Other prepared or preserved fish.”

**HOLDING:**

By application of GRI 1 and 6, we find that the canned cod liver is provided for in subheading 1604.20.6090, HTSUSA, which provides for: “Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Other prepared or preserved fish: Other: Other, Other.” The 2020 column one, general rate of duty is free.

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

**EFFECT ON OTHER RULINGS:**

NY N290443, dated October 13, 2017, is REVOKED.

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

*Sincerely,*

*For*

CRAIG T. CLARK,

*Director*

*Commercial and Trade Facilitation Division*



## 19 CFR PART 177

### REVOCATION OF ONE RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF A MOBILE TELEPHONE ACCESSORY WITH INTEGRATED IMAGE DISPLAY SCREEN

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

**ACTION:** Notice of revocation of one ruling letter and revocation of treatment relating to the tariff classification of a mobile telephone accessory with integrated image display screen.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking one ruling letter concerning the tariff classification of a mobile telephone accessory with integrated image display screen under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 54, No. 22, on June 10, 2020. No comments were received in response to that notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after September 27, 2020.

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

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

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

importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 54, No. 22, on June 10, 2020, proposing to revoke one ruling letter pertaining to the tariff classification of a mobile telephone accessory with integrated image display screen. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In Headquarters Ruling Letter ("HQ") H275685, CBP classified a mobile telephone accessory with integrated image display screen in heading 8543, HTSUS, specifically in subheading 8543.70.99, HTSUS, which provides for "[E]lectrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other." CBP has reviewed HQ H275685 and has determined the ruling letter to be in error. It is now CBP's position that a mobile telephone accessory with integrated image display screen is properly classified in heading 8543, HTSUS, specifically in subheading 8543.70.60, HTSUS, which provides for "[E]lectrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; Other machines and apparatus: Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks... ."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking HQ H275685 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H299498, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

In accordance with 19 U.S.C. § 1625(c), this ruling will become

effective 60 days after publication in the *Customs Bulletin*.

GREGORY CONNOR  
*for*

CRAIG T. CLARK,  
*Director*

*Commercial and Trade Facilitation Division*

Attachment

HQ H299498

July 14, 2020

OT:RR:CTF:EMAIN H299498 SKK

CATEGORY: Classification

TARIFF NO.: 8543.70.60

JORGE A. GARCIA, CENTER DIRECTOR  
ELECTRONICS CENTER OF EXCELLENCE AND EXPERTISE  
U.S. CUSTOMS AND BORDER PROTECTION  
301 E. OCEAN BLVD.  
SUITE 1400  
LONG BEACH, CA 90802

RE: Revocation of HQ H275685; Tariff Classification of a mobile telephone case/image display device

DEAR DIRECTOR:

This ruling is in reference to Headquarters Ruling Letter (HQ) H275685, dated August 3, 2017, in which this office issued an Internal Advice (IA) to U.S. Customs and Border Protection's (CBP) Electronics Center of Excellence and Expertise (CEE) regarding the classification of an electronic device identified as "popSLATE." The subject article is a mobile telephone accessory featuring an integrated image display screen. In H278685, CBP classified the popSLATE under heading 8543, Harmonized Tariff Schedule of the United States (HTSUS), specifically subheading 8543.70.99, HTSUS, which provides for "[E]lectrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other."

Upon reconsideration we have determined that the tariff classification of the subject merchandise at issue in HQ H275685 is incorrect. Pursuant to the analysis set forth below, CBP is revoking HQ H275685.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice proposing to revoke HQ H275685 was published on June 10, 2020, in Volume 54, Number 22 of the Customs Bulletin. No comments were received in response to the proposed action.

**FACTS:**

The merchandise at issue in HQ H275685 is identified as the "popSLATE" mobile telephone protective case with integrated image display screen. The popSLATE is designed for use with iPhone 6 mobile smart phones. The back of the case features a 4-inch viewing screen that displays "black and white photographs and illustrations" as well as "calendars, mobile boarding passes, digital movie tickets, maps, etc" that are transmitted from an iPhone to the popSLATE's screen via Bluetooth wireless transmission protocol. The image display screen does not transmit data to other devices. The popSLATE has its own battery (240mAh) and can be activated independently. The popSLATE's external components are made of Acrylonitrile (ABS) or ABS plus polycarbonate. The popSLATE display is a proprietary "E Ink" "type of electronic paper." It is packaged for retail sale with a USB/micro USB charging cable and a "Quick Start Guide." The popSLATE works in conjunction with the "Pop App," an iPhone application available for download from Apple, Inc.'s App Store. The Pop App allows the user to "select which image to display on the E Ink screen."

**LAW AND ANALYSIS:**

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

The following provisions of the HTSUS are under consideration:

8543	Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof:
8543.70	Other machines and apparatus:
8543.70.60	Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks... Other: Other:
8543.70.99	Other...

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

The ENs to heading 8543, HTSUS, state, in pertinent part:

This heading covers all electrical appliances and apparatus, not falling in any other heading of this Chapter, nor covered more specifically by a heading of any other Chapter of the Nomenclature, nor excluded by the operation of a Legal Note to Section XVI or to this Chapter. The principal electrical goods covered more specifically by other Chapters are electrical machinery of Chapter 84 and certain instruments and apparatus of Chapter 90. The electrical appliances and apparatus of this heading must have individual functions. The introductory provisions of Explanatory Note to heading 84.79 concerning machines and mechanical appliances having individual functions apply, *mutatis mutandis*, to the appliances and apparatus of this heading.

In HQ 275685, CBP classified the popSLATE under subheading 8543.70.99, HTSUS, which provides for “[E]lectrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other.” In that ruling, pursuant to GRI 3(b), CBP determined that the instant merchandise was a composite good and that its essential character was imparted by the image display screen component, with the other components (e.g. the Bluetooth transceiver and the plastic shell) were ancillary. The popSLATE was therefore properly classified under heading 8543, HTSUS, as an electrical machine or apparatus, having an individual function, not elsewhere specified or included.

The subject article was also properly classified under subheading 8543.70, HTSUS, as it is an electrical apparatus that is neither covered by any other heading in Chapter 85, nor elsewhere in the Nomenclature, nor described by the preceding 8543, HTSUS, subheadings. However, we find that CBP erred in classifying the subject article under subheading 8543.70.99, HTSUS, which was tantamount to finding that it was not covered by subheading 8543.70.60, HTSUS. As the popSLATE is an electrical apparatus designed for connection to telephonic apparatus (i.e. a smartphone), it is specifically provided for under subheading 8543.70.60, HTSUS, pursuant to GRI 6. This conclusion is consistent with NY N024935, dated April 7, 2008, in which CBP classified a substantially similar device that functioned as an accessory to select models of Windows Mobile Smart Phones under subheading 8543.70.60, HTSUS.

**HOLDING:**

By application of GRIs 1 and 6, the popSLATE is classified under heading 8543, HTSUS, specifically under subheading 8543.70.60, HTSUS, which provides for “[E]lectrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; Other machines and apparatus: Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks....” The 2020 applicable rate of duty is free.

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

**EFFECT ON OTHER RULINGS:**

HQ H275685, dated August 3, 2017, is hereby REVOKED.

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

*Sincerely,*

CRAIG T. CLARK,

*Director*

*Commercial and Trade Facilitation Division*

## 19 CFR PART 177

### REVOCATION OF THREE RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF MULTIFUNCTION WIRELESS SPEAKERS

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

**ACTION:** Notice of revocation of three ruling letters, and of revocation of treatment relating to the tariff classification of multifunction wireless speakers.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking three ruling letters concerning tariff classification of multifunction wireless speakers under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 54, No. 19, on May 20, 2020. One comment was received in response to that notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after **September 27, 2020**

**FOR FURTHER INFORMATION CONTACT:** Dwayne Rawlings, Branch, Electronics, Machinery, Automotive and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325-0092.

#### **SUPPLEMENTARY INFORMATION:**

##### **BACKGROUND**

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

enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 54, No. 19, on May 20, 2020, proposing to revoke three ruling letters pertaining to the tariff classification of multifunction wireless speakers. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In New York Ruling Letters ("NY") N194496 (December 28, 2011), NY N083076 (November 19, 2009) and NY N234397 (November 15, 2012), CBP classified multifunction wireless speakers in heading 8517, HTSUS, specifically in subheading 8517.62.00, HTSUS, which provides for "Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network): Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other." CBP has reviewed NY N194496, NY N083076 and NY N234397, and has determined the ruling letters to be in error. It is now CBP's position that the multifunction wireless speakers are properly classified in heading 8518, HTSUS, specifically in subheading 8518.22.00, HTSUS, which provides for "... loudspeakers, whether or not mounted in their enclosures; ...: ... Loudspeakers, whether or not mounted in their enclosures: ... Multiple loudspeakers, mounted in the same enclosure."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N194496, NY N083076 and NY N234397, and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H310177, set forth as an attach-



ment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

GREGORY CONNOR  
*for*

CRAIG T. CLARK,  
*Director*

*Commercial and Trade Facilitation Division*

*Attachment*

HQ H310177

July 16, 2020

CLA-2 OT:RR:CTF:EMAIN H310177 DSR

CATEGORY: Classification

TARIFF NO.: 8518.22.00

MR. JOHN M. PETERSON  
NEVILLE PETERSON LLP  
COUNSELLORS AT LAW  
17 STATE STREET, 19TH FLOOR  
NEW YORK, NY 10004

RE: Revocation of NY N194496, NY N083076 and NY N234397; tariff classification of various multifunction wireless speakers

DEAR MR. PETERSON:

In New York Ruling Letters (NY) N194496 (December 28, 2011), NY N083076 (November 19, 2009) and NY N234397 (November 15, 2012), U.S. Customs and Border Protection (CBP) classified devices identified as the “Sonos Play:3,” the “Sonos ZonePlayer S5 Router” and the “SUB,” respectively, in subheading 8517.62.0050, Harmonized Tariff Schedule of the United States (HTSUS). That subheading provides for “Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network): Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other.” Since the rulings were issued, CBP has reviewed the rulings and determined that the classifications provided for the subject devices are incorrect and, therefore, NY N194496, NY N083076 and NY N234397 must be revoked for the reasons set forth in this ruling.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed revocations of NY N194496, NY N083076 and NY N234397 was published on May 20, 2020, in the *Customs Bulletin*, Volume 54, No. 19. CBP received one comment in response to the notice.

**FACTS:**

The device that is the subject of NY N194496 is the Sonos Play:3. It allows the user to wirelessly stream data, including digital music files and related metadata in multiple locations. The Sonos Play:3 does not have any independent capability of recording, storing or playing back digital sound files. However, it allows files to be played from storage on a personal computer or network storage facilities, and allows the user to play songs from select music services without ripping, downloading or personal computer interaction required. Regarding sound output, the device contains three digital amplifiers and three drivers (one tweeter and two 3-inch midrange drivers), as well as one bass radiator.

The device that is the subject of NY N083076 is the ZonePlayer S5 Router (“ZonePlayer S5”). It is one of the components of the Sonos digital media network system. The ZonePlayer S5 is similar in construction and function to the ZP 100 ZonePlayer ruled on in New York Ruling N021357 and the ZP 80 ZonePlayer ruled on in New York Ruling N021358. With the use of a Sonos ZonePlayer installed in various rooms, a system user can play the same

digital sound files in different rooms or play different digital sound files in different rooms. As many as thirty-two (32) ZonePlayers may be deployed across the network, which is a mesh wireless network. All the ZonePlayers may be operated and manipulated with the use of a single handheld controller, which is not imported with the ZonePlayer and not the subject of the ruling. The user can purchase the controller separately.

The principal components of the ZonePlayer S5 are a power source and wireless network card. In addition, it incorporates a digital to analog converter, which allows digital files to be converted to analog signals and played through the owner's existing sound equipment radios, home theatres, and the like. The ZonePlayer S5 also incorporates 5 Class-D amplifiers and five driver speaker system; 2 tweeters, 2 3" mid-range drivers, and a 3.5" woofer.

A single ZonePlayer S5 establishes what is referred to as a Sonos system or network via initial connection to a broadband router, which is typically connected to a high-speed Internet service and controlled by a personal computer (neither of which are at issue in this ruling). Computer software must also be installed (after importation) for this connection to work. Connecting this initial ZonePlayer to a router as described above creates a network to which 32 additional ZonePlayers may be added. Each ZonePlayer may be connected by wire to additional loudspeakers or play audio through its own incorporated speakers. This enables the user to wirelessly stream data, namely digital music files and related metadata, to be played in multiple rooms. The source of the data played by the ZonePlayers can be a personal computer, network storage facilities, and select online music services.

Through the wireless controller, which is imported separately, a user can call up digital music files from a number of sources. The Sonos system also allows a user to source sound files from up to 16 PCs or Mac computers connected to the network. The controller also contains pre-set programming, which allows the user to access streaming audio files from approximately 25,000 radio stations Internet web streams. The stream audio files are not actual satellite radio transmission or radio broadcasting.

The device that is the subject of NY N234397 is described as the SUB, a subwoofer intended for use with the Sonos digital home music system. It contains two digital amplifiers and two force-canceling speakers positioned face-to-face. The SUB intercepts and decodes the low-end frequencies of the audio file that had previously come out of a ZonePlayer, a type of which is described above (the ZonePlayer S5). As data on the system streams, the controller processes the non-audio files (metadata), the ZonePlayers decode the audio files and converts them to sound, and the SUB subwoofer receives and decodes the base register notes of the audio file. The SUB has a power source and wireless network card that can be utilized after first wiring either a ZonePlayer or Bridge to the home network using the Ethernet cable.

The Sonos SUB subwoofer cannot operate without a connection to a network to which the Sonos software has been loaded. It cannot receive or convert files unless the SonosNet network is active. Once connected, digital audio files from a variety of sources can be accessed and played. The SUB receives specific parts of the digital music file and converts them into sound. As a device within the mesh network SonosNet, the SUB also participates in the transmission of related data and metadata.

**ISSUE:**

Whether the subject devices are classified under heading 8517, HTSUS, which provides for, in pertinent part, apparatus for the reception, conversion and transmission or regeneration of voice, images or other data, or under heading 8518, HTSUS, which provides for, in pertinent part, loudspeakers, whether or not mounted in their enclosures.

**LAW AND ANALYSIS:**

Classification under the HTSUS is determined in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely based on GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order. In addition, in interpreting the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. *See* T.D. 89-80, 54 Fed. Reg. 35127 (August 23, 1989). The HTSUS provisions under consideration in this ruling are as follows:

**8517** Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 8443, 8525, 8527 or 8528; parts thereof:

...

Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network):

...

**8517.62.00** Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus

\* \* \*

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

...

Loudspeakers, whether or not mounted in their enclosures:

. . .

**8518.21.00** Single loudspeakers, mounted in their enclosures

**8518.22.00** Multiple loudspeakers, mounted in the same enclosure

\* \* \*

The EN to heading 85.17 provides, in pertinent part, the following:

This heading covers apparatus for the transmission or reception of speech or other sounds, images or other data between two points by variation of an electric current or optical wave flowing in a wired network or by electromagnetic waves in a wireless network. The signal may be analogue or digital. The networks, which may be interconnected, include telephony, telegraphy, radio-telephony, radio-telegraphy, local and wide area networks.

...

(II) OTHER APPARATUS FOR TRANSMISSION OR RECEPTION OF VOICE, IMAGES OR OTHER DATA, INCLUDING APPARATUS FOR COMMUNICATION IN A WIRED OR WIRELESS NETWORK (SUCH AS A LOCAL OR WIDE AREA NETWORK)

...

(F) Transmitting and receiving apparatus for radio-telephony and radio-telegraphy.

This group includes:

(1) Fixed apparatus for radio-telephony and radio-telegraphy (transmitters, receivers and transmitter-receivers). . . .

. . .

The EN to heading 85.18 provides, in pertinent part, the following:

This heading covers microphones, loudspeakers, headphones, earphones and audio-frequency electric amplifiers of all kinds presented separately, regardless of the particular purpose for which such apparatus may be designed (e.g., telephone microphones, headphones and earphones, and radio receiver loudspeakers).

The heading also covers electric sound amplifier sets.

. . .

(B) LOUSPEAKERS, WHETHER OR NOT MOUNTED IN THEIR ENCLOSURES

The function of loudspeakers is the converse of that of microphones: they reproduce sound by converting electrical variations or oscillations from an amplifier into mechanical vibrations which are communicated to the air.

. . .

Matching transformers and amplifiers are sometimes mounted together with loudspeakers. Generally the electrical input signal received by loudspeakers is in analogue form, however in some cases the input signal is in digital format. Such loudspeakers incorporate digital to analogue converters and amplifiers from which the mechanical vibrations are communicated to the air.

Loudspeakers may be mounted on frames, chassis or in cabinets of different types (often acoustically designed), or even in articles of furniture. They remain classified in this heading provided the main function of the whole is to act as a loudspeaker. Separately presented frames, chassis, cabinets, etc., also fall in this heading provided they are identifiable as being mainly designed for mounting loudspeakers; articles of furniture of Chapter 94 designed to receive loudspeakers in addition to their normal function remain classified in Chapter 94.

The heading includes loudspeakers designed for connection to an automatic data processing machine, when presented separately.

...

The commenter argues that the Sonos speakers primarily function as a connected system using significantly more complex protocols that cannot be reasonably compared to devices that employ stereo wire and that would be classified in heading 8518, HTSUS, as loudspeakers. The commenter bases that assertion on the ability of the Sonos devices to transmit non-audio data (such as information about the music being played) along with audio data, and concludes that it is not equivalent to a stereo wire, in which only audio signals are transmitted or to Bluetooth speakers in which the transmission, reception and conversion was done to facilitate the connectivity. Further, the commenter argues that the Sonos devices are analogous to the Bluetooth phone earpiece device considered in NY N233055 (September 24, 2012) and classified in subheading 8517.62.00, HTSUS, as a machine for the reception, conversion and transmission or regeneration of voice, images or other data. Finally, the commentator stresses that because the Sonos speakers create a separate peer-to-peer wireless network in order to transmit data, that functionality must determine the devices' principle function.

However, we continue to hold that the critical point of analysis is that the transmission and reception functions employed by the subject Sonos devices are undertaken to accomplish the principal, and ultimate, function of playing sound through the loudspeaker components of the devices. Furthermore, the scope of the relevant portion of heading 8518, HTSUS, is not limited only to loudspeakers that use stereo wire to function as loudspeakers. As explained in detail below, the wireless connections created by the subject devices essentially act as a stereo wire, except they permit those connections to be wireless.

With regard to NY N234397, the SUB is a composite machine. To clarify, the SUB consists of reception, conversion and transmission apparatus of heading 8517 and an amplifier and loudspeaker of heading 8518. Note 3 to Section XVI, states the following:

Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or

alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.

However, we no longer hold that that the principal function of the SUB is to transmit and receive sounds or data. Specifically, we now note that in NY N234397, CBP incorrectly concluded that the principal function of the SUB is to receive convert and transmit voice, audio files or other data in a wireless network because “[t]he SUB can only function when the SonosNet network, which is a wireless network, is active. As a result, the SUB functions within a wireless network.” That conclusion did not take into consideration the loudspeaker capabilities of the SUB.

As we observed in H281100 (June 27, 2018), where the principal function of a device such as a loudspeaker is not to connect to the source of a signal, but rather to convert such signal into sound, such a device functions as a loudspeaker of heading 8518, HTSUS. Here, the SUB is a wireless digital data receptor, converter and transmitter, which operates using a mesh network for wireless transmission of digital sound files and file streams. It receives digital data, specifically the data that forms the lower register of the audio file, and converts it into sound. Because it is connected to SonosNet’s peer-to-peer network, it also transmits said data. Once connected, digital audio files from a variety of sources can be accessed and played. The transmission and reception functions are undertaken to accomplish the task of playing sound. Notwithstanding the commenter’s argument, the wireless network does essentially act as a stereo wire as it relates to the function of the subject wireless speakers, i.e. it permits the connection to the speakers to be wireless. In other words, regardless of whether loudspeakers such as the SUB are connected to the source of the audio signals by way of a stereo wire, or wirelessly via proprietary or other transmission/reception functions, the principal function of such loudspeakers is not to connect to the source of the signal, but rather to convert such signal into sound – that is, to function as a loudspeaker. *See also* HQ H167270 (July 11, 2011) (Bluetooth-compliant wireless speakers that connected to laptops, smart phones, tablets, and mp3 players through a 3.5mm stereo wire or wireless Bluetooth technology classified as a loudspeaker of heading 8518). Therefore, we find that the SUB of NY N234397 is classified as a loudspeaker of heading 8518, HTSUS.

The Sonos Play:3 (NY N194496) allows the user to wirelessly stream data, including digital music files and related metadata in multiple locations. It allows such files to be played from storage on a personal computer or network storage facilities, and allows the user to play songs from select music services without ripping, downloading or personal computer interaction required.

Regarding sound output, the Sonos Play:3 contains three digital amplifiers and three drivers (one tweeter and two 3-inch midrange drivers), as well as one bass radiator. As with the SUB discussed *supra*, what is key is that the transmission and reception functions of the Sonos Play:3 are undertaken to accomplish the task of playing sound. The wireless network that is utilizes essentially acts as a stereo wire, except it permits the connection to be wireless. Because of this, the principal function of the Sonos Play:3 is not to connect to the source of the data that it receives, but rather to convert such data into sound – that is, to function as a loudspeaker. Therefore, we find that the Sonos Play:3 is classified as a loudspeaker of heading 8518, HTSUS.

Finally, regarding NY N083076, and the subject device the ZonePlayer S5 Router, the principal components of the ZonePlayer are a power source;

wireless network card; a digital to analog converter (which allows digital files to be converted to analog signals and played through the owner's existing sound equipment radios, home theatres, and the like); 5 amplifiers and five driver speaker system; 2 tweeters; 2 3" mid-range drivers; and a 3.5" woofer.

The ZonePlayer S5 must be directly connected to a broadband router (as the initial node in a subsequently created proprietary mesh wireless Internet network), or as subsequent node within such a wireless network that has already been established. The ZonePlayer S5 may play audio directly through its internal speakers from digital music files that it receives, or connect by wire to external loudspeakers that then produce sound. As with the SUB and Sonos Player:3 analyzed above, the principal function of the ZonePlayer S5 is not to connect to the source of the data that it receives, but rather to convert such data into sound – that is, to function as a loudspeaker. Therefore, we find that the ZonePlayer S5 is also classified as a loudspeaker of heading 8518, HTSUS.

### **HOLDING:**

By application of GRI 1 (Note 3 to Section XVI), the SUB, the Sonos Play:3 and the ZonePlayer S5 Router are classified in heading 8518, HTSUS, specifically in subheading 8518.22.00, HTSUS, which provides in pertinent part for: "... loudspeakers, whether or not mounted in their enclosures; ...: ...Loudspeakers, whether or not mounted in their enclosures: ... Single loudspeakers, mounted in their enclosures." The column one, general rate of duty is free.

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

Pursuant to U.S. Note 20 to Subchapter III, Chapter 99, HTSUS, products of China classified under subheading 8518.22.00, HTSUS, unless specifically excluded, are subject to an additional 7.5 percent *ad valorem* rate of duty. At the time of importation, you must report the Chapter 99 subheading, *i.e.*, 9903.88.15, in addition to subheading 8518.22.00, HTSUS, listed above.

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

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

NY N194496 (December 28, 2011), NY N083076 (November 19, 2009) and NY N234397 (November 15, 2012), are revoked in accordance with this decision.

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

*Sincerely,*

CRAIG T. CLARK,

*Director*

*Commercial and Trade Facilitation Division*



## AGENCY INFORMATION COLLECTION ACTIVITIES:

### Automated Clearinghouse

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

**ACTION:** 60-Day Notice and request for comments; Extension of an existing collection of information.

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

**DATES:** Comments are encouraged and must be submitted no later than September 14, 2020 to be assured of consideration.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0078 in the subject line and the agency name. To avoid duplicate submissions, please use only one of the following methods to submit comments:

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

(2) *Mail.* Submit written comments to: CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229-1177.

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

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions

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

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

**Title:** Automated Clearinghouse.

**OMB Number:** 1651-0078.

**Form Number:** CBP Form 400.

**Current Actions:** Extension.

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

**Affected Public:** Companies enrolled in the Automated Broker Interface (ABI).

**Abstract:** The Automated Clearinghouse (ACH) allows participants in the Automated Broker Interface (ABI) to transmit daily statements, deferred tax, and bill payments electronically through a financial institution directly to a CBP account. ACH debit allows the payer to exercise more control over the payment process. In order to participate in ACH debit, filers must complete CBP Form 400, *ACH Application*. Participants also use this form to notify CBP of changes to bank information or contact information. The ACH procedure is authorized by 19 U.S.C. 58a-58c and 19 U.S.C. 66, and set forth in 19 CFR 24.25. CBP Form 400 is accessible at <https://www.cbp.gov/newsroom/publications/forms>, and is not being updated at this time.

**Estimated Number of Respondents:** 1,443.

**Estimated Number of Annual Responses per Respondent:** 2.

**Estimated Number of Total Annual Responses:** 2,886.

**Estimated Time per Response:** 5 minutes (0.083 hours).

**Estimated Total Annual Burden Hours:** 240.

Dated: July 8, 2020.

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

[Published in the Federal Register, July 14, 2020 (85 FR 42419)]