

U.S. Customs and Border Protection



ACCREDITATION AND APPROVAL OF PRODUCT QUALITY MANAGEMENT, LLC (PASADENA, TX) AS A COMMERCIAL GAUGER AND LABORATORY

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

ACTION: Notice of accreditation and approval of Product Quality Management, LLC (Pasadena, TX), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, Product Quality Management, LLC (Pasadena, TX), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of April 9, 2019.

DATES: Product Quality Management, LLC (Pasadena, TX) was approved and accredited as a commercial gauger and laboratory as of April 9, 2019. The next triennial inspection date will be scheduled for April 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Justin Shey, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Product Quality Management, LLC, 1710 Preston Ave., Suite 160, Pasadena, TX 77503 has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Product Quality Management, LLC (Pasadena, TX) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

| API chapters | Title |
|--------------|----------------------------|
| 3 | Tank Gauging. |
| 7 | Temperature Determination. |
| 8 | Sampling. |
| 11 | Physical Properties Data. |
| 12 | Calculations. |
| 17 | Marine Measurement. |

Product Quality Management, LLC (Pasadena, TX) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

| CBPL No. | ASTM | Title |
|------------|--------|---|
| 27-03..... | D 4006 | Standard Test Method for Water in Crude Oil by Distillation. |
| 27-04..... | D 95 | Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation. |
| 27-06..... | D 473 | Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method. |
| 27-07..... | D 4807 | Standard Test Method for Sediment in Crude Oil by Membrane Filtration. |
| 27-08..... | D 86 | Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure. |
| 27-11..... | D 445 | Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity). |
| 27-13..... | D 4294 | Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry. |
| 27-48..... | D 4052 | Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter. |
| 27-50..... | D 93 | Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester. |
| 27-53..... | D 2709 | Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge. |
| 27-58..... | D 5191 | Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method). |
| N/A..... | D 1319 | Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption. |

| CBPL No. | ASTM | Title |
|----------|--------|---|
| N/A..... | D 4007 | Standard Test Method for Water and Sediment in Crude Oil by the Centrifuge Method (Laboratory Procedure). |

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. <http://www.cbp.gov/about/labsscific/commercial-gaugers-andlaboratories>.

Dated: September 27, 2019.

DAVE FLUTY,
Executive Director,
Laboratories and Scientific Services
Directorate.

[Published in the Federal Register, October 3, 2019 (84 FR 52892)]

**ACCREDITATION AND APPROVAL OF CHEMICAL AND
PETROCHEMICAL INSPECTIONS (GROVES, TX), AS A
COMMERCIAL GAUGER AND LABORATORY**

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

ACTION: Notice of accreditation and approval of Chemical and Petrochemical Inspections (Groves, TX), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Chemical and Petrochemical Inspections (Groves, TX), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of September 25, 2018.

DATES: Chemical and Petrochemical Inspections (Groves, TX) was approved and accredited, as a commercial gauger and laboratory as of September 25, 2018. The next triennial inspection date will be scheduled for September 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Justin Shey, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Chemical and Petrochemical Inspection, 5300 39th Street, Groves, TX 77619 has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Chemical and Petrochemical Inspections (Groves, TX) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

| API chapters | Title |
|--------------|----------------------------|
| 3 | Tank Gauging. |
| 7 | Temperature Determination. |
| 8 | Sampling. |
| 12 | Calculations. |
| 17 | Marine Measurement. |

Chemical and Petrochemical Inspections (Groves, TX) is accredited for the following laboratory analysis procedures and methods for

petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

| CBPL No. | ASTM | Title |
|------------|--------|--|
| 27-05..... | D 4928 | Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration. |
| 27-08..... | D 86 | Standard Test Method for Distillation of Petroleum Products. |
| 27-48..... | D 4052 | Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter. |

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. <http://www.cbp.gov/about/labsscintific/commercial-gaugers-andlaboratories>.

Dated: September 25, 2019.

DAVE FLUTY,
Executive Director,
Laboratories and Scientific Services
Directorate.

[Published in the Federal Register, October 3, 2019 (84 FR 52891)]

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

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

ACTION: General notice.

SUMMARY: This notice advises the public that the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties will remain the same from the previous quarter. For the calendar quarter beginning October 1, 2019, the interest rates for overpayments will be 4 percent for corporations and 5 percent for non-corporations, and the interest rate for underpayments will be 5 percent for both corporations and non-corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

DATES: The rates announced in this notice are applicable as of October 1, 2019.

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

SUPPLEMENTARY INFORMATION:

Background

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

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

In Revenue Ruling 2019-21, the IRS determined the rates of interest for the calendar quarter beginning October 1, 2019, and ending on December 31, 2019. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (2%) plus three per-

centage points (3%) for a total of five percent (5%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (2%) plus two percentage points (2%) for a total of four percent (4%). For overpayments made by non-corporations, the rate is the Federal short-term rate (2%) plus three percentage points (3%) for a total of five percent (5%). These interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties are remaining the same from the previous quarter. These interest rates are subject to change for the calendar quarter beginning January 1, 2020, and ending on March 31, 2020.

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

| Beginning date | Ending date | Under-payments (percent) | Over-payments (percent) | Corporate overpayments (eff. 1-1-99) (percent) |
|----------------|-------------|--------------------------|-------------------------|--|
| 070174..... | 063075 | 6 | 6 | ..... |
| 070175..... | 013176 | 9 | 9 | ..... |
| 020176..... | 013178 | 7 | 7 | ..... |
| 020178..... | 013180 | 6 | 6 | ..... |
| 020180..... | 013182 | 12 | 12 | ..... |
| 020182..... | 123182 | 20 | 20 | ..... |
| 010183..... | 063083 | 16 | 16 | ..... |
| 070183..... | 123184 | 11 | 11 | ..... |
| 010185..... | 063085 | 13 | 13 | ..... |
| 070185..... | 123185 | 11 | 11 | ..... |
| 010186..... | 063086 | 10 | 10 | ..... |
| 070186..... | 123186 | 9 | 9 | ..... |
| 010187..... | 093087 | 9 | 8 | ..... |
| 100187..... | 123187 | 10 | 9 | ..... |
| 010188..... | 033188 | 11 | 10 | ..... |
| 040188..... | 093088 | 10 | 9 | ..... |
| 100188..... | 033189 | 11 | 10 | ..... |
| 040189..... | 093089 | 12 | 11 | ..... |
| 100189..... | 033191 | 11 | 10 | ..... |
| 040191..... | 123191 | 10 | 9 | ..... |
| 010192..... | 033192 | 9 | 8 | ..... |
| 040192..... | 093092 | 8 | 7 | ..... |
| 100192..... | 063094 | 7 | 6 | ..... |

| Beginning date | Ending date | Under-payments (percent) | Over-payments (percent) | Corporate overpayments (eff. 1-1-99) (percent) |
|----------------|-------------|--------------------------|-------------------------|--|
| 070194 | 093094 | 8 | 7 | ..... |
| 100194 | 033195 | 9 | 8 | ..... |
| 040195 | 063095 | 10 | 9 | ..... |
| 070195 | 033196 | 9 | 8 | ..... |
| 040196 | 063096 | 8 | 7 | ..... |
| 070196 | 033198 | 9 | 8 | ..... |
| 040198 | 123198 | 8 | 7 | ..... |
| 010199 | 033199 | 7 | 7 | 6 |
| 040199 | 033100 | 8 | 8 | 7 |
| 040100 | 033101 | 9 | 9 | 8 |
| 040101 | 063001 | 8 | 8 | 7 |
| 070101 | 123101 | 7 | 7 | 6 |
| 010102 | 123102 | 6 | 6 | 5 |
| 010103 | 093003 | 5 | 5 | 4 |
| 100103 | 033104 | 4 | 4 | 3 |
| 040104 | 063004 | 5 | 5 | 4 |
| 070104 | 093004 | 4 | 4 | 3 |
| 100104 | 033105 | 5 | 5 | 4 |
| 040105 | 093005 | 6 | 6 | 5 |
| 100105 | 063006 | 7 | 7 | 6 |
| 070106 | 123107 | 8 | 8 | 7 |
| 010108 | 033108 | 7 | 7 | 6 |
| 040108 | 063008 | 6 | 6 | 5 |
| 070108 | 093008 | 5 | 5 | 4 |
| 100108 | 123108 | 6 | 6 | 5 |
| 010109 | 033109 | 5 | 5 | 4 |
| 040109 | 123110 | 4 | 4 | 3 |
| 010111 | 033111 | 3 | 3 | 2 |
| 040111 | 093011 | 4 | 4 | 3 |
| 100111 | 033116 | 3 | 3 | 2 |
| 040116 | 033118 | 4 | 4 | 3 |
| 040118 | 123118 | 5 | 5 | 4 |
| 010119 | 063019 | 6 | 6 | 5 |
| 070119 | 123119 | 5 | 5 | 4 |

Dated: September 23, 2019.

SAMUEL D. GRABLE,
Chief Financial Officer,
U.S. Customs and Border Protection.

19 CFR PART 177

REVOCAION OF FIVE RULING LETTERS AND REVOCAION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF VARIOUS HAIR TRIMMERS

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

ACTION: Notice of revocation of five ruling letters, and of revocation of treatment relating to the tariff classification of various hair trimmers.

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 five ruling letters concerning tariff classification of various hair trimmers 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. 53, No. 22, on July 3, 2019. One timely 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 December 16, 2019.

FOR FURTHER INFORMATION CONTACT: Dwayne Rawlings, 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. 53, No. 22, on July 3, 2019, proposing to revoke five ruling letters pertaining to the tariff classification of various hair trimmers. 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") NY N272219, NY N273910, NY N273911, NY N274044 and NY N274103, CBP classified various hair trimmers in heading 8510, HTSUS, specifically in subheading 8510.00.00, HTSUS, which provides for "Shavers, hair clippers and hair-removing appliances, with self-contained electric motor; parts thereof: Shavers." CBP has reviewed NY N272219, NY N273910, NY N273911, NY N274044 and NY N274103, and has determined the ruling letters to be in error. It is now CBP's position that the various hair trimmers are still properly classified, in heading 8510, HTSUS, but are specifically in subheading 8510.20.90, HTSUS, which provides for "Shavers, hair clippers and hair-removing appliances, with self-contained electric motor; parts thereof: Hair clippers: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N272219, NY N273910, NY N273911, NY N274044 and NY N274103, and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H286686, 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*.

Dated: September 23, 2019

GREG CONNOR
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H286686

September 23, 2019

CLA-2 OT:RR:CTF:EMAIN H286686 DSR

CATEGORY: Classification

TARIFF NO.: 8510.20.90

Ms. NINI WEY

PHILIPS ELECTRONICS NORTH AMERICAN CORPORATION

3000 MINUTEMAN ROAD

ANDOVER, MA 01810

RE: Revocation of NY N272219, NY N273910, NY N273911, NY N274044, NY N274103; tariff classification of various hair trimmers

DEAR Ms. WEY:

In New York Ruling Letters (“NY”) NY N272219 (January 28, 2016), NY N273910 (April 5, 2016), NY N273911 (April 5, 2016), NY N274044 (April 8, 2016) and NY N274103 (April 18, 2016), U.S. Customs and Border Protection (“CBP”) classified various hair trimmer sets in subheading 8510.10.00, Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for “Shavers, hair clippers and hair-removing appliances, with self-contained electric motor; parts thereof: Shavers.” CBP has reviewed the rulings and has determined that the classification provided for the hair trimmers is incorrect and, therefore, the rulings 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 (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 July 3, 2019, in Volume 53, Number 22, of the Customs Bulletin. One comment, which will be addressed below, was timely received in response to this notice.

FACTS:

The item of NY N272219 is described as follows:

The item is identified as the Philips Norelco OneBlade QP2520/90, a hybrid shaver that has a dual blade for trimming, edging, and shaving any length of hair. The shaver has a self-contained electric motor, which is operated by a NimH rechargeable battery. The shaver includes 1, 3 and 5mm trimming combs. An 8 hours of charge provides 45 minutes of use. The OneBlade is waterproof, which allows for dry or wet use.

The item of NY N273910 is described as follows:

The product under consideration is the Philips Norelco GoStyler FS9185/49. The product is a battery powered shaver with a self-contained electric motor. The unit is used for trimming, shaping and shaving facial hair. The shaver has a double-sharpened stainless steel blades with rounded tips to ensure a smooth glide on the skin. The unit includes three click-on beard combs ranging at 1, 3 and 5mm (1/32”, 1/8”, 3/16”). There is also a click-on 21mm (13/16”) detail shaver. The detail foil shaver is designed to fit into tight spaces with more precision than a blade. The shaver is fully portable and runs on AA batteries.

The item of NY N273911 is described as follows:

The item under consideration is the Philips Norelco Beard Trimmer 3500. The item is a beard and stubble trimmer with a self-contained electric motor. The item is powered by a rechargeable lithium ion batteries and can be used both corded and cordless. The beard trimmer features 20 lengths settings with a single comb. The shortest hair trimming setting ranges from 0.5mm up to 10mm. The Titanium blades and detachable heads allows for easy cleaning. The item features self-sharpening steel blades that are designed to effectively cut each hair perfectly and prevent a skin irritation.

The item of NY N274044 is described as follows:

The item under consideration is the Philips Norelco Nose Trimmer NT3355/49. The item is a battery operated cordless shaver having a self-contained electric motor, a sliding “on/off” switch and a protective cap. The item has stainless steel blades and it is designed to gently remove unwanted nose, ear and eyebrow hairs. It has a ProtecTube technology and the specially designed angle of the trimmer ensures an easy and comfortable trim without pulling. Both cutter and guard have ultra-precise and sharp cutting slots to ensure all hairs of nose, ear or eyebrow are quickly and effectively cut. The trimmer and the combs are water resistant and easy to clean under the faucet after each use. A Lithium AA battery is included.

The item of NY N274103 is described as follows:

The merchandise under consideration is the Philips Norelco Multigroom 5100, QG3364/49. This shaver is a battery powered all-in-one beard and hair trimmer with a self-contained motor. It includes 4 attachments such as, full size metal trimmer, detail trimmer, detail foil shaver and nose trimmer. It also includes 3 combs such as, 18-setting beard and stubble comb (18mm), 12-setting stubble comb (12mm) and 18-setting hairclipper comb (3–20mm). The combs and the attachments are designed to cut different lengths of hair. The blades are skin-friendly, self-sharpening steel blades. The unit is powered by a rechargeable lithium-ion battery and may be used corded or cordless. The unit is fully washable and can be used dry or wet. The full size metal trimmer is used without combs to complete the style and get clean edges on the beard. The stubble comb attachment can trim the stubble to the exact length by locking the setting that suits the desired length from 1mm to 12mm. The nose trimmer attachment will remove unwanted nose and ear hair. The precision trimmer attachment creates fine lines with contours and details to define the look. The detail foil shaver attachment will get rid of unwanted hairs in smaller areas on the cheek and chin for clean finishes.

ISSUE:

Are the items are classified under subheading 8510.10, HTSUS, as shavers or under subheading 8510.20, HTSUS, as hair clippers?

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 on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order. The HTSUS provisions under consideration in this ruling are as follows:

| | |
|------------|---|
| 8510 | Shavers, hair clippers and hair-removing appliances, with self-contained electric motor; parts thereof: |
| 8510.10.00 | Shavers. |
| * * * | |
| 8510.20 | Hair clippers: |
| * * * | |
| 8510.20.90 | Other. |
| * * * * | |

The Harmonized Commodity Description and Coding System (HS) Explanatory Notes (“ENs”) constitute the official interpretation of the HS. While not legally binding or dispositive, the ENs provide a commentary on the scope of each heading of the HS at the international level, and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127 (August 23, 1989). EN 85.10 states the following:

This heading covers electric shavers and hair clippers which have a built-in electric motor or vibrator, whether for use on human beings, or for shearing sheep or for grooming horses, clipping cattle, etc.

In electric shavers (dry shavers) rotating or reciprocating cutters or knife blades slide along the inside of a perforated or slotted plate, thus cutting those hairs which protrude through the perforations or slots. In the case of hair clippers, a comb-like cutter blade slides to and fro over a fixed metal comb thus cutting the hair or wool which is caught between the teeth of the combs. Hair clippers for barbers’ use operate on a similar principle to those for sheep shearers, groomers, etc., but differ in size.

This heading also covers electro-mechanical hair-removing appliances with self-contained electric motor; these appliances, which grip the hair and pluck it out at the root, may operate with either a micro-roller, or a metal spiral which rotates around its own axis, or a guard, a depilating head and a set of depilating wheels. [Emphasis added]

The items that are the subject of this ruling are sets consisting of motorized devices that trim hair and that are accompanied by a single trimming comb (NY N273911); several trimming combs of various sizes (NY N272219), trimming combs of various sizes and a click-on detail shaver (NY N273910), two eyebrow trimming combs (NY N274044); or, in the case of NY N274103, four trimmer attachments for different uses and three trimming combs of various sizes and uses. Given that the imported items are sets for retail sale, and applying GRI 3(b), we find that the trimmers, in whichever forms they take on once any of the various attachments or combs are employed, impart the essential character of the sets.

There is no dispute that the subject trimmers are classified in heading 8510, HTSUS, which provides, in relevant part, for shavers, hair clippers and hair-removing appliances, with self-contained electric motor. Rather, the issue is the proper classification at the subheading level within heading 8510,

HTSUS. GRI 6 provides that the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to GRIs 1 through 5 on the understanding that only subheadings at the same level are comparable.

In NY N274103, the device can accommodate four attachments that allow the device to be used as a full-size metal trimmer, detail trimmer, detail foil shaver or nose trimmer. When used with the full-size metal trimmer attachment, the device cuts beard stubble to varying lengths while employing any of the included combs and, when used without the combs, can define clean edges on the beard or goatee. The detail trimmer attachment is used to define even sharper edges around a user's beard or goatee. When used with the detail foil shaver attachment, the device shaves small areas on the user's cheeks and chin with precision. The nose trimmer attachment allows the device to be used to trim unwanted nose and ear hair. The full-size metal trimmer attachment and detail trimmer attachment cut hair by employing a reciprocating cutter blade that moves back and forth over a fixed metal comb. That cutting action squarely falls within the cutting action described in EN 85.10 as that belonging to a clipper of subheading 8510.20, HTSUS. The foil shaver attachment cuts hair by employing blades that move along the inside of a perforated foil plate and cuts hair that protrudes through the plate. That cutting action is akin to the cutting action described in EN 85.10 as that of a shaver of subheading 8510.10, HTSUS. The nose trimmer attachment cuts hair by employing a rotating cutter that spins within a small metal tube into which hairs enter. That cutting action is akin to the cutting action described in EN 85.10 as that of a shaver of subheading 8510.10.00, HTSUS. Given that the attachments allow the device of NY N274103 to possess cutting functions that are described in two subheadings of heading 8510, HTSUS, we must determine which of those functions is the device's principal function by application of GRI 6 and Note 3 to Section XVI, HTSUS. Note 3 states, in pertinent part, 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.

As stated, the full-size trimmer attachment is used to cut beard stubble (while employing any of the included combs) and, when used without combs, can complete the style and define clean edges to the beard. The detail trimmer attachment is used to define sharp lines around a user's beard or goatee. The foil shaver attachment is used to shave small areas on the user's cheeks and chin with precision. The nose trimmer attachment allows the trimmer to be used to trim unwanted nose and ear hair. Although each of the above trimmer and shaver attachments are used to cut hair, it is the full-size trimmer attachment that provides the device with the most utility because it can be effectively used to cut large swaths of hair from a beard covering a user's entire face and neck as necessary, and also to detail clean beard edges. The remaining attachments' intended uses are much narrower and focus upon more discrete portions of a user's visage. We find that the detail trimmer, foil shaver, and nose trimmer functions are subsidiary to the principal function of the trimmer, which is to act as a hair clipper of subheading

8510.20, HTSUS, and that the device is classified in subheading 8510.20.90, HTSUS. NY N274103 is therefore revoked.

The trimmer in NY N273911 features a reciprocating cutter blade that moves back and forth over a fixed metal comb. The device can cut hair to varying lengths via twenty adjustable length settings. The cutting action squarely falls within the cutting action described in EN 85.10 as that belonging to a clipper of subheading 8510.20, HTSUS. We find that the device is classified in subheading 8510.20.90, HTSUS, and NY N273911 is therefore revoked.

The trimmer in NY N273910 features a reciprocating cutter blade that moves back and forth over a fixed metal comb. The device can cut hair to varying lengths by attaching three click-on beard combs and a foil detail shaver. With the click-on beard combs, the device's cutting action squarely falls within the scope of the cutting action described in EN 85.10 as that belonging to a clipper of subheading 8510.20, HTSUS. However, the foil detail shaver attachment cuts hair by employing blades that move along the inside of a perforated foil cover. That cutting action is akin to the cutting action described in EN 85.10 as that of a shaver of subheading 8510.10, HTSUS. Given that the trimmer of NY N273910 possesses functions that are described in two subheadings of heading 8510, we must apply GRI 6 and Note 3 to Section XVI, HTSUS, to determine the device's principal function.

Here, the full-size trimmer attachment features a reciprocating cutting blade that allows a user to trim hair to varying lengths from large areas of the lower face. The foil detail shaver attachment is merely useful for defining precise lines, edges and contours. We therefore find that the principal function of the trimmer is to act as a hair clipper of subheading 8510.20.90, HTSUS, and the device is classified as such. NY N273910 is therefore revoked.

The trimmer of NY N272219 features shaving technology in which a double-sided reciprocating cutting blade moves back and forth within a fixed metal plate with comb-like edges, and shears hairs that are caught between the reciprocating cutting blade edges and the fixed plate edges. An image appears below:



That cutting action is akin to the cutting action described by EN 85.10 as belonging to a hair clipper of subheading 8510.20, HTSUS. We find that the device is classified in subheading 8510.20.90, HTSUS, and NY N272219 is therefore revoked.

The trimmer of NY N274044 features technology in which two separately moving cutting blades move back and forth to shear hairs that are caught between the trimmer's foil guard and cutting blades. The foil guard struc-

turally resembles a fixed comb that is characteristic of a clipper of subheading 8510.20, HTSUS, as does the cutting action. An image of the cutting mechanism appears below:



The above cutting action is most similar to the cutting action described in EN 85.10 as that of a hair clipper of subheading 8510.20, HTSUS. We find that the device is classified in subheading 8510.20.90, HTSUS, and NY N272219 is therefore revoked.

In the comment that we received, the commenter asserts that the common and commercial meanings of the terms “shavers” and “clippers” can be ascertained by certain dictionary definitions and that those dictionary definitions are in conflict with EN 85.10. To wit, the commenter surmises that “the motion of the cutter blades is irrelevant in determining whether a trimmer is a shaver or a hair clipper - this is because shavers can have ‘reciprocating’ blades which means ‘to move forward and backward alternately.’” *Citing* <https://www.merriam-webster.com/dictionary/reciprocating>. The commenter concludes that “This is synonymous with moving ‘to and fro’ which describes the motion of hair clippers. A blade that moves back and forth can therefore be part of a shaver or hair clipper... As such, if the hair protrudes through the plate and/or its slots before the blade makes contact in a trimmer, it should be classified as a shaver.”

Further, the commenter cites to *The American Heritage Dictionary* (2d. Ed.), which defines the term “shaver” as “A device used in shaving.” Similarly, it defines clipper as “An instrument or tool for cutting, clipping, or shearing.” The commenter then describes shaving and clipping as follows:

Shave

1. To remove the beard or other body hair from, as with a razor.
2. To cut (the beard, for example) at the surface of the skin with a razor.
3. To crop, trim, or mow closely.
4. To remove thin slices from.
5. To cut or scrape into thin slices; shred
6. To come close to or graze in passing.

Clip

1. To cut, cut off, or cut out with shears or scissors.
2. To make shorter by cutting; trim.

Drawing from above, we believe that the dictionary meanings cited by the commenter align with the functional descriptions of shavers and clippers cited in EN 85.10. To wit, EN 85.10 describes a shaver's function as "rotating or reciprocating cutters or knife blades slide along the inside of a perforated or slotted plate, thus cutting those hairs which protrude through the perforations or slot" and describes a clipper's function as "a comb-like cutter blade slides to and fro over a fixed metal comb thus cutting the hair or wool which is caught between the teeth of the combs." Rather than being "irrelevant in determining whether a trimmer is a shaver or a hair clipper," those described functions align with the dictionary meanings cited by the commenter. Further support for our position is found in the definition of "shaver" offered by the Oxford English Dictionary: "A shaving instrument or tool. Now esp. a small electrical appliance with a set of blades working against a perforated guard." www.oed.com/view/Entry/177643?redirectedFrom=shaver#eid (last visited September 9, 2019). Therefore, we are not persuaded by the commenter's assertions that the common and commercial meanings of the terms "clippers" and "shavers" contradict or undermine the value of EN 85.10 in differentiating between the terms.

HOLDING:

By application of GRIs 1, 3(b) and 6, and Note 3 to Section XVI, HTSUS, the trimmers of NY N272219, NY N273910, NY N273911, NY N274044 and NY N274103 are properly classified as clippers of subheading 8510.20.90, HTSUS, dutiable at 4.5% *ad valorem*. Duty rates are provided for your convenience and subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY N272219 (January 28, 2016), NY N273910 (April 5, 2016), NY N273911 (April 5, 2016), NY N274044 (April 8, 2016) and NY N274103 (April 18, 2016) 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,
GREG CONNOR
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

TARIFF CLASSIFICATION OF CERTAIN FOOTWEAR

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

ACTION: Notice of proposed revocation of two ruling letters and revocation of treatment relating to the tariff classification of certain footwear.

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

DATE: Comments must be received on or before November 15, 2109.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Tatiana Salnik Matherne, Food, Textiles, and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0351.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. §1625(c)(1), this notice advises interested parties that CBP is proposing to revoke two ruling letters pertaining to the tariff classification of certain footwear. Although in this notice CBP is specifically referring to New York Ruling Letter (NY) N285583, dated June 6, 2017 (Attachment A), and NY N299433, dated August 23, 2018 (Attachment B), this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the two identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

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

In NY N285583, dated June 6, 2017, and NY N299433, dated August 23, 2018, CBP classified certain footwear in heading 6404, HTSUS, specifically in subheading 6404.19.90, HTSUS, which provides for "Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Other: Other: Valued over \$12/pair." CBP has reviewed NY N285583 and NY N299433, dated August 23, 2018, and has determined these ruling letters to be in error. It is now CBP's position that the footwear at issue in these rulings is properly classified in subheading 6404.11.90, HTSUS, which provides for "Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like: Other: Valued over \$12/pair."

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N285583 and NY N299433, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the

proposed HQ H302976, set forth as Attachment C to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: September 26, 2019

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

N285583

June 6, 2017

CLA-2-64:OT:RR:NC:N3:447

CATEGORY: Classification

TARIFF NO.: 6404.19.9090

MR. GREGORY WATTS
SKECHERS USA, INC.
255 S. SEPULVEDA BLVD.
MANHATTAN BEACH, CA 90266

RE: The tariff classification of footwear from China

DEAR MR. WATTS:

In your letter dated April 21, 2017 you requested a tariff classification ruling. The submitted sample is being returned to you, as requested.

Style 80523L is a girl's, closed-toe, closed-heel, below-the-ankle shoe. You provided the external surface area breakdown of the upper as 55.16 percent textile and 44.84 percent synthetic (rubber or plastics). The shoe has bungee type elastic laces that are threaded through four textile eyelets. It features a padded collar and a padded tongue with a sewn on textile overlay strip on the topside that extends up to form a pull-on tab containing the word Skechers. The shoe has a heel pull-on tab and a synthetic heel overlay with the word Skechers. Embroidered to the lateral side of the shoe is a butterfly and floral motif. It has a hook and loop strap closure at the top of the instep with a label that has the word Skechers. The outer sole is made from 90 percent rubber and 10 percent ethylene vinyl acetate (EVA). The shoe is lightweight with a flexible outer sole. The value is stated to be over \$12/pair.

We agree with you that although this shoe has certain "athletic" features, we do not feel that it meets the definition of "athletic" footwear. T.D. 93-88, "Footwear Definitions," dated October 25, 1993, states in pertinent part that "athletic" footwear does not include...sneakers with a sequined or extensively embroidered upper.

The applicable subheading for Style 80523L will be 6404.19.9090, Harmonized Tariff Schedule of the United States (HTSUS), which provides for footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: other: other: valued over \$12/pair: other. The rate of duty will be 9 percent ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Stacey Kalkines at stacey.kalkines@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK

Director

National Commodity Specialist Division

ATTACHMENT B

N299433

August 23, 2018
CLA-2-64:OT:RR:NC:N2:247
CATEGORY: Classification
TARIFF NO.: 6404.19.9060

MR. EDWARD FOSTER
COLE HAAN
150 OCEAN ROAD
GREENLAND, NH 03840

RE: The tariff classification of footwear from Vietnam

DEAR MR. FOSTER:

In your letter dated July 24, 2018, you requested a tariff classification ruling. The submitted sample will be returned to you.

GrandPro Tennis Sneaker Stock # W14150, is a woman's closed-toe, closed-heel, and below-the-ankle casual shoe. The upper is made from textile material and leather. The textile material upper is embroidered with gold metallic thread depicting foliage. It features a lace-up closure, a leather patch on the tongue, and a leather heel overlay with the brand name Cole Haan. The shoe has a rubber or plastics outer sole. It is not "protective" and does have a foxing or foxing-like band. The shoe is lightweight with a flexible outer sole. You provided the value of the shoe as over \$12/pair.

We agree with you that although this shoe has certain "athletic" features, we do not feel that it meets the definition of "athletic" footwear. T.D. 93-88, "Footwear Definitions," dated October 25, 1993, states in pertinent part that "athletic" footwear does not include ...sneakers with a sequined or extensively embroidered upper.

The applicable subheading for GrandPro Tennis Sneaker Stock # W14150 will be 6404.19.9060, Harmonized Tariff Schedule of the United States (HTSUS), which provides for footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: other: other: valued over \$12/pair: for women. The rate of duty will be 9 percent ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Stacey Kalkines at stacey.kalkines@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK

Director

National Commodity Specialist Division

ATTACHMENT C

HQ H302976
OT:RR:CTF:TCM H302976 TSM
CATEGORY: Classification
TARIFF NO.: 6404.11.90

MR. GREGORY WATTS
SKECHERS USA, INC.
255 S. SEPULVEDA BLVD.
MANHATTAN BEACH, CA 90266

RE: Revocation of NY N285583 and NY N299433; The tariff classification of footwear from China.

DEAR MR. WATTS:

This is in reference to New York Ruling Letter (“NY”) N285583, dated June 6, 2017, concerning the tariff classification of certain footwear. This is also in reference to NY N299433, dated August 23, 2018, also concerning the tariff classification of certain footwear. In those rulings, U.S. Customs and Border Protection (“CBP”) classified the footwear at issue under subheading 6404.19.90, Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for “Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Other: Other: Valued over \$12/pair.” Upon additional review, we have found this classification to be incorrect. For the reasons set forth below we hereby revoke NY N285583 and NY N299433.

FACTS:

NY N285583 describes the subject merchandise as follows:

Style 80523L is a girl’s, closed-toe, closed-heel, below-the-ankle shoe. You provided the external surface area breakdown of the upper as 55.16 percent textile and 44.84 percent synthetic (rubber or plastics). The shoe has bungee type elastic laces that are threaded through four textile eyelets. It features a padded collar and a padded tongue with a sewn on textile overlay strip on the topside that extends up to form a pull-on tab containing the word Skechers. The shoe has a heel pull-on tab and a synthetic heel overlay with the word Skechers. Embroidered to the lateral side of the shoe is a butterfly and floral motif. It has a hook and loop strap closure at the top of the instep with a label that has the word Skechers. The outer sole is made from 90 percent rubber and 10 percent ethylene vinyl acetate (EVA). The shoe is lightweight with a flexible outer sole. The value is stated to be over \$12/pair.

NY N299433 describes the subject merchandise as follows:

GrandPro Tennis Sneaker Stock # W14150, is a woman’s closed-toe, closed-heel, and below-the-ankle casual shoe. The upper is made from textile material and leather. The textile material upper is embroidered with gold metallic thread depicting foliage. It features a lace-up closure, a leather patch on the tongue, and a leather heel overlay with the brand name Cole Haan. The shoe has a rubber or plastics outer sole. It is not “protective” and does have a foxing or foxing-like band. The shoe is lightweight with a flexible outer sole.

ISSUE:

What is the tariff classification of the footwear at issue?

LAW AND ANALYSIS:

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

The 2019 HTSUS provisions under consideration are as follows:

| | |
|------------|--|
| 6404 | Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: |
| | Footwear with outer soles of rubber or plastics: |
| 6404.11 | Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like: |
| | Other: |
| 6404.11.90 | Valued over \$12/pair * * * |
| 6404.19 | Other: |
| | Other: |
| 6404.19.90 | Valued over \$12/pair * * * |

Additional U.S. Note 2 to Chapter 64 provides as follows:

For the purposes of this chapter, the term “tennis shoes, basketball shoes, gym shoes, training shoes and the like” covers athletic footwear other than sports footwear (as defined in subheading note 1 above), whether or not principally used for such athletic games or purposes.¹

* * *

“Footwear Definitions” T.D. 93–88, dated October 25, 1993, provides in relevant part:

“Athletic” footwear (sports footwear included in this context) includes:

1. Shoes usable only in the serious pursuit of a particular sport, which have or have provision for attachment of spikes, cleats, clips or the like.

2. Ski, wrestling & boxing boots; cycling shoes; and skating boots w/o skates attached.

¹ Subheading Note 1 to Chapter 64 provides as follows:

For the purposes of subheadings 6402.12, 6402.19, 6403.12, 6403.19 and 6404.11, the expression “sports footwear” applies only to:

- (a) Footwear which is designed for a sporting activity and has, or has provision for the attachment of spikes, sprigs, cleats, stops, clips, bars or the like;
- (b) Skating boots, ski-boots and cross-country ski footwear, snowboard boots, wrestling boots, boxing boots and cycling shoes.

3. Tennis shoes, basketball shoes, gym shoes (sneakers), training shoes (joggers) and the like whether or not principally used for such games or purposes.

It does not include:

1. Shoes that resemble sport shoes but clearly could not be used at all in that sporting activity. Examples include sneakers with a sequined or extensively embroidered uppers.
2. A “slip-on”, except gymnastic slippers.
3. Skate boots with ice or roller skates attached.

In NY N285583 and NY N299433, CBP concluded that consistent with the definition of “athletic footwear” in T.D. 93–88, “‘athletic’ footwear does not include ... sneakers with a sequined or extensively embroidered upper.” Upon additional review, we find that to be incorrect. Although sneakers with a sequined or extensively embroidered uppers are referenced as examples of footwear that is not covered by the T.D. 93–88 definition of “athletic” footwear, we note that the definition also requires the footwear to be such that could clearly not be used at all in a sporting activity. Accordingly, we find that embroidery alone does not preclude footwear from being classified as “Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like” of subheading 6404.11, HTSUS.

Upon further review, we find that the record does not show that the embroidered footwear at issue in NY N285583 and NY N299433 could clearly not be used at all in a sporting activity. Moreover, there is nothing in the construction of the footwear at issue in these rulings that would preclude its use as athletic. We find that the footwear at issue in NY N285583 is suitable for athletic activity based on the following features: it is lightweight and flexible, it has a traction outer sole, an underfoot cushioning, a secure form of closure (consisting of no tie elastic shoelaces and hook and loop strap closure), as well as an overall athletic appearance. With regard to the footwear at issue in NY N299433, we also find that it is suitable for athletic activity based on the following features: it is a sneaker with an overall athletic appearance, it has adequate underfoot cushioning, a secure lace closure, and a flexible rubber/plastic traction outer sole. Therefore, we conclude that although the footwear at issue is embroidered, it meets the T.D. 93–88 definition of “Athletic” footwear. Moreover, it meets the definition of “tennis shoes, basketball shoes, gym shoes, training shoes and the like” found in Additional U.S. Note 2 to Chapter 64, which provides that athletic footwear may or may not be principally used for athletic games or purposes.

Accordingly, we find that the footwear at issue in NY N285583 and NY N299433 is classified in subheading 6404.11, HTSUS, and more specifically in subheading 6404.11.90, HTSUS, which provides for “Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like: Other: Valued over \$12/pair.”

HOLDING:

By application of GRIs 1 and 6, we find that the footwear at issue in NY N285583 and NY N299433 is classified under heading 6404, HTSUS, and specifically under subheading 6404.11.90, HTSUS, which provides for “Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like: Other: Valued over \$12/pair.” The 2019 column one, general rate of duty is 20% *ad valorem*.

EFFECT ON OTHER RULINGS:

NY N285583, dated June 6, 2017, and NY N299433, dated August 23, 2018, are REVOKED, in accordance with the above analysis.

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

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

19 CFR PART 177**REVOCACTION OF ONE RULING LETTER AND
REVOCACTION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF INFLATABLE GUITAR**

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 an inflatable guitar.

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 an inflatable guitar 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. 53, No. 26, on July 31, 2019. 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 December 16, 2019.

FOR FURTHER INFORMATION CONTACT: Michele A. Boyd, Chemicals, Petroleum, Metals and Miscellaneous Articles Branch, Regulations and Rulings, Office of Trade, at (202) 325–0136.

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. 53, No. 26, on July 31, 2019, proposing to revoke one ruling letter pertaining to the tariff classification of an inflatable guitar. 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") J81414, dated February 27, 2003, CBP classified an inflatable guitar in heading 9503, HTSUS, specifically in subheading 9503.50.00, HTSUS, which provides for "Other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof: toy musical instruments and apparatus and parts and accessories thereof." CBP has reviewed NY J81414 and has determined the ruling letter to be in error. It is now CBP's position that the inflatable guitar is properly classified, in heading 3926, HTSUS, specifically in subheading 3926.90.75, HTSUS, which provides for "Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Pneumatic mattresses and other inflatable articles, not elsewhere specified or included."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY J81414 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H289843, 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*.

Dated: September 26, 2019

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H298843

September 26, 2019

OT:RR:CTF:CPMM H298843 MAB

CATEGORY: Classification

TARIFF NO.: 3926.90.7500

MR. DENNIS SHOSTAK
CUSTOMS COMPLIANCE OFFICER
THE PAPER MAGIC GROUP, INC.
54 GLENMAURA NATIONAL BLVD., SUITE 200
MOOSIC, PA 18507

RE: Revocation of NY J81414; Tariff classification of an inflatable guitar from China

DEAR MR. SHOSTAK:

On February 27, 2003, U.S. Customs and Border Protection (“CBP”) issued The Paper Magic Group, Inc., New York Ruling Letter (“NY”) J81414. The ruling pertains to the tariff classification under the Harmonized Tariff Schedule of the United States (“HTSUS”) of an inflatable guitar from China. We have reviewed additional information regarding this product and have found NY J81414 to be in error with respect to the tariff classification.

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 proposing to revoke NY L83439 was published on July 31, 2019, in Volume 53, Number 26, of the *Customs Bulletin*. No comments were received in response to this Notice.

FACTS:

In NY J81414, CBP found the following:

The sample submitted, Item #6546680, 42” Inflatable Guitar, is a toy rubber musical instrument that, when inflated by air, resembles a six string electric guitar. The item has the words “Rock ‘n Roll” on its body and when fully inflated measures 42 inches in length. The toy guitar does not play actual notes, but is designed to provide amusement through the simulation of guitar playing.

The applicable subheading for Item #654660, 42” Inflatable Guitar, will be 9503.50.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for “Other toys; reduced-size (“scale”) models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof: toy musical instruments and apparatus and parts and accessories thereof.” The rate of duty will be free.

ISSUE:

Whether the subject inflatable guitar is classified as “other articles of plastics” in heading 3926, HTSUS, or as “other toys” in heading 9503, HTSUS.

LAW AND ANALYSIS:

The classification of merchandise under the HTSUS is governed by the General Rules of Interpretation (“GRIs”). GRI 1 provides, in part, that “for legal purposes, classification shall be determined according to terms of the

headings 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 in order.

The 2018 HTSUS headings under consideration are as follows:

3926 Other articles of plastics and articles of other materials of headings 3901 to 3914:

* * * * *

9503 Tricycles, scooters, pedal cars and similar wheeled toys; dolls’ carriages; dolls, other toys; reduced-scale (“scale”) models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof..

* * * * *

Chapter 39, Note 2(y) states:

2. This chapter does not cover:

(y) Articles of chapter 95 (for example, toys, games, sports equipment)

* * * * *

Additional U.S. Rule of Interpretation 1(a), HTSUS:

1. In the absence of special language or context which otherwise requires –

- (a) a tariff classification controlled by use (other than actual use) is to be determined in accordance with the use in the United States at, or immediately prior to, the date of importation, of goods of that class or kind to which the imported goods belong, and the controlling use is the principal use

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Classification within chapter 39 is subject to chapter 39, Legal Note 2(y), which excludes from chapter 39 goods that are classifiable in chapter 95, HTSUS. Therefore, as long as the subject article is described in chapter 95, it is precluded from classification in any of the provisions of chapter 39, even if it is described therein. We must therefore first address whether the subject article is described in heading 9503, HTSUS.

Heading 9503, HTSUS, is the provision for “other toys.” Although the term “toy” is not defined in the HTSUS, in *Minnetonka Brands, Inc. v. United States*, 24 CIT 645, 651, 110 F. Supp. 2d 1020, 1026 (2000), the Court of International Trade (CIT) held that an “object is a toy only if it is designed and used for amusement, diversion or play, rather than practicality.” *Id.* The court also concluded that heading 9503, HTSUS, is a “principal use” provision within the meaning of Additional U.S. Rule of Interpretation 1(a), HTSUS. Therefore, classification under the heading is controlled by the principal use of goods of that class or kind to which the imported goods belong in the United States at or immediately prior to the date of the importation.

In order to be considered a toy, the inflatable guitar must be designed for amusement and not practicality. Internet research reveals that identical items imported into the United States are marketed and used as party decorations and favors. Thus, any amusement value provided by the inflatable guitar is incidental to its practical purpose as a party favor or decoration. This is because when inflated with air, although it is shaped like an electric guitar, the article is not operable as a music-maker. It is not capable of emitting sound. Instead, the article is merely a depiction of an electric guitar

with six strings and keys printed on inflatable plastic.¹ We therefore find that the inflatable guitar is not a toy classifiable in heading 9503, HTSUS.

Accordingly, we consider whether the inflatable guitar is classified in heading 3926, HTSUS, which provides, *inter alia*, for “other articles of plastics.” In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be utilized. ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. Customs believes the ENs should always be consulted. See T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989). EN 39.26 states, in relevant part, that heading 3926, HTSUS “covers articles, not elsewhere specified or included, of plastics...” Consistent with EN 39.26, we have previously classified an inflatable plastic article with a depiction of a musical instrument printed on it in heading 3926, HTSUS. See NY C82463 (Dec. 18, 1997), wherein CBP classified an inflatable plastic saxophone in subheading 3926.90.7500, HTSUSA.

Consequently, as an article made up entirely of plastic that is not described by heading 9503 or elsewhere in the HTSUS, it is our decision that the inflatable guitar is classified in heading 3926, HTSUS, as “Other articles of plastics...” Specifically, it is classified in subheading 3926.90.7500, HTSUSA, as: “Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Pneumatic mattresses and other inflatable articles, not elsewhere specified or included.”

Our decision is also consistent with rulings wherein we classified musical instruments that provide amusement and are operable as music-makers by emitting sound as toys in heading 9503, HTSUS. See *e.g.* NY L85699 (June 22, 2005), classifying various toy musical instruments, including an electronic guitar mixer featuring button modes for rap, funk, hip-hop, rock and pop, in subheading 9503.50.0000, HTSUS; NY L87114 (Aug. 30, 2005), classifying toy musical keyboards in subheading 9503.50.0000, HTSUS; and NY M86122 (Aug. 29, 2006), classifying percussion tubes and a keyboard in subheading 9503.50.0000, HTSUS, as “... electronic toys designed to provide amusement by allowing one to ‘create’ their own music.”

HOLDING:

Pursuant to GRI 1 and Additional U.S. Rule of Interpretation 1(a), HTSUS, the subject inflatable saxophone is classified in heading 3926, HTSUS. It is specifically provided for in subheading 3926.90.7500, HTSUSA, which provides for: “Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Pneumatic mattresses and other inflatable articles, not elsewhere specified or included.” The column one, general rate of duty is 4.2 percent *ad valorem*.

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

¹ Although the inflatable guitar is referred to as “rubber” in NY J81414, our research indicates that it is made of plastic.

EFFECT ON OTHER RULINGS:

NY J81414, dated February 27, 2003, is hereby REVOKED as set forth above with regard to the classification of the inflatable guitar described therein.

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

Sincerely,

ALLYSON MATTANAH

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division