

U.S. Customs and Border Protection



GRANT OF “LEVER-RULE” PROTECTION

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

ACTION: Notice of grant of “**Lever**-rule” protection.

SUMMARY: Pursuant to 19 CFR § 133.2(f), this notice advises interested parties that CBP has granted “**Lever**-rule” protection to John Wiley & Sons, Inc.’s “WILEY” and “JW & DESIGN” trademarks. Notice of the receipt of an application for “**Lever**-rule” protection was published in the November 27, 2013 issue of the *Customs Bulletin*.

FOR FURTHER INFORMATION CONTACT: Tatiana Salnik Matherne, Intellectual Property Rights Branch, Regulations & Rulings, (202) 325–0351.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to 19 CFR § 133.2(f), this notice advises interested parties that CBP has granted “**Lever**-rule” protection for the following textbooks, intended for sale in the United States, bearing the “WILEY” trademark (CBP Rec. No. TMK 06–01435) and the “JW & DESIGN” trademark (CBP Rec. No. TMK 06–01378): (1) *Analysis and Design of Analog Integrated Circuits*, Fifth Edition; (2) *Communication Systems*, Fifth Edition; (3) *Project Management: A Managerial Approach*, Seventh Edition; (4) *Principles of Genetics*, Fifth Edition; (5) *Management*, Tenth Edition; (6) *Fundamentals of Fluid Mechanics*, Sixth Edition; (7) *Basic Concepts of Chemistry*, Eighth Edition; (8) *Financial Accounting: Tools for Business Decision Making*, Fifth Edition; (9) *Intermediate Accounting*, Thirteenth Edition; (10) *Managerial Accounting*, Fourth Edition; and (11) *Accounting Principles*, Ninth Edition.

In accordance with the holding of *Lever Bros. Co. v. United States*, 981 F.2d 1330 (D.C. Cir. 1993), CBP has determined that the gray market textbooks differ physically and materially from their

correlating textbooks authorized for sale in the United States with respect to the following product characteristics: product construction, design, quality, appearance, market pricing and labeling.

ENFORCEMENT

Importation of the above-referenced textbooks, intended for sale in other countries is restricted, *unless* the labeling requirements of 19 CFR § 133.23(b) are satisfied.

Dated: January 30, 2014

CHARLES R. STEUART
Chief
Intellectual Property Rights Branch



RECEIPT OF APPLICATION FOR “LEVER-RULE” PROTECTION

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

ACTION: Notice of receipt of application for “Lever-Rule” protection.

SUMMARY: Pursuant to 19 CFR 133.2(f), this notice advises interested parties that CBP has received an application from Mühlbauer Technology GmbH seeking “Lever-Rule” protection for the federally registered and recorded “LUXACORE” and “LUXACORE Z” trademarks.

FOR FURTHER INFORMATION CONTACT: Robert Shervette, Intellectual Property Rights Branch, Regulations & Rulings, (202) 325–00274.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to 19 CFR 133.2(f), this notice advises interested parties that CBP has received an application from Mühlbauer Technology GmbH seeking “Lever-Rule” protection. Protection is sought against importations of dental filling materials intended for sale in countries outside the United States that bear the following Mühlbauer Technology GmbH trademarks: LUXACORE Z word mark, U.S. Trademark Registration No. 3,550,378/CBP Recordation No. TMK 13–01075 and LUXACORE word mark, U.S. Trademark Registration No. 2,358,634/CBP Recordation No. TMK 13–01098. In the event

that CBP determines that the dental filling materials under consideration are physically and materially different from the Mühlbauer Technology GmbH dental filling materials authorized for sale in the United States, CBP will publish a notice in the *Customs Bulletin*, pursuant to 19 CFR 133.2 (f), indicating that the above-referenced trademarks are entitled to “Lever-Rule” protection with respect to those physically and materially different Mühlbauer Technology GmbH dental filling materials.

Dated: January 31, 2014

CHARLES R. STEUART
Chief,
Intellectual Property Rights Branch
Regulations and Rulings,
Office of International Trade



**RECEIPT OF APPLICATION FOR “LEVER-RULE”
PROTECTION**

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

ACTION: Notice of receipt of application for “Lever-Rule” protection.

SUMMARY: Pursuant to 19 CFR 133.2(f), this notice advises interested parties that CBP has received an application from Mühlbauer Technology GmbH seeking “Lever-Rule” protection for the federally registered and recorded “LUXATEMP” and “LUXATEMP ULTRA” trademarks.

FOR FURTHER INFORMATION CONTACT: Robert Shervette, Intellectual Property Rights Branch, Regulations & Rulings, (202) 325–00274.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to 19 CFR 133.2(f), this notice advises interested parties that CBP has received an application from Mühlbauer Technology GmbH seeking “Lever-Rule” protection. Protection is sought against importations of dental materials intended for sale in countries outside the United States that bear the following Mühlbauer Technology GmbH trademarks: LUXATEMP word mark, U.S. Trademark Registration No. 1,911,030/CBP Recordation No. TMK 13–01063 and LUXATEMP ULTRA word mark, U.S. Trademark Registration No.

4,035,680/CBP Recordation No. TMK 13–01064. In the event that CBP determines that the dental materials under consideration are physically and materially different from the Mühlbauer Technology GmbH dental materials authorized for sale in the United States, CBP will publish a notice in the *Customs Bulletin*, pursuant 19 CFR 133.2 (f), indicating that the above-referenced trademarks are entitled to “Lever-Rule” protection with respect to those physically and materially different Mühlbauer Technology GmbH dental materials.

Dated: January 31, 2014

CHARLES R. STEUART
Chief,
Intellectual Property Rights Branch
Regulations and Rulings,
Office of International Trade



GENERAL NOTICE
19 CFR PART 177

**PROPOSED REVOCATION OF A RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF A VELVET POINSETTIA
WREATH**

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

ACTION: Notice of proposed modification of a ruling letter and treatment relating to the tariff classification of a velvet poinsettia wreath.

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 CBP intends to modify a ruling concerning the tariff classification of a velvet poinsettia wreath. Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

DATES: Comments must be received on or before March 21, 2014.

ADDRESSES: Written comments are to be addressed to the U.S. Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial

Regulations Branch, 90 K Street, N.E. 10th Floor, Washington, D.C. 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) 325–1008.

FOR FURTHER INFORMATION CONTACT: Nerissa Hamilton-vom Baur, Tariff Classification & Marking Branch, (202) 325–0104.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the tariff classification of a velvet poinsettia wreath. Although in this notice CBP is specifically referring to New York Ruling Letter (NY) N026510, dated May 22, 2008 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to those 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 notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP 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 notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

It is now CBP's position that the article identified in NY N026510 as Item Number 11338WF02C is classifiable under subheading 9505.10.50, HTSUS, which provides for: "Festive, carnival or other entertainment articles, including magic tricks and practical joke articles: parts and accessories: Articles for Christmas festivities and parts and accessories thereof: Other: Other".

Pursuant to 19 U.S.C. 1625(c)(1), CBP is proposing to revoke NY N026510, and any other ruling not specifically identified, to reflect the tariff classification of the subject merchandise according to the analysis contained in proposed Headquarters Ruling Letter (HQ) H067075, set forth as Attachment B 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: January 27, 2014

IEVA K. O'ROURKE
for

MYLES B. HARMON, DIRECTOR
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N026510

May 22, 2008

CLA-2-67:OT:RR:E:NC:N2:222

CATEGORY: Classification

TARIFF NO.: 6702.90.3500

MR. GARTH PAULEY
JO-ANN STORES INC.
5555 DARROW ROAD
HUDSON, OH 44236

RE: The tariff classification of a polyester poinsettia wreath with plastic berries and twig base from China

DEAR MR. PAULEY:

In your letter dated April 22, 2008 you requested a tariff classification ruling.

The submitted illustration depicts an item identified as a Velvet Poinsettia Wreath, article number 11338WF02C. The front of this wreath is completely covered with green poinsettia leaves and red poinsettia leaves that are made of polyester. The polyester leaves are glued onto plastic stems. Scattered among the poinsettia leaves are small bunches of berries that are made of plastic. Each bunch is one molded piece and each bunch is glued onto a plastic stem.

The stems of the leaves and the stems of the berries are attached to a circular shaped base made of plastic. There are several plastic stems of various lengths that extend from the plastic base and the base and those stems are all one molded piece. The stems of the leaves and the stems of the berries each have a small aperture at the end. The apertures are snapped onto the stems that extend from the plastic base, thereby holding the leaves and the berries in place on the plastic base.

Behind the plastic base is another base made of natural twig. The plastic base and the twig base are each 13 inches in diameter and both bases are bound to each other with metal wire. When viewed from the back, the plastic base is not visible, because both bases are of the exact same dimensions. The twig base completely covers the plastic base, as both bases are lined up, one on top of the other.

You have suggested that the correct classification for this item is 9505.10.2500. However, we do not agree that this item is correctly classified in the provision that you suggest. Wreaths that have a base made of natural twigs are precluded from classification as festive foliage in Chapter 95.

This item is considered to be a composite good within the meaning of General Rule of Interpretation (GRI) 3. The berries are small and only cover a very small part of the front of wreath. Neither the plastic base nor the twig base is visible at all from the front of the wreath. It is the green and the red poinsettia leaves that impart the overwhelming visual impact and decorative appeal of this item. Therefore, it is the opinion of this office that the leaves provide this item with the essential character, within the meaning of GRI 3(b).

The applicable subheading for article number 11338WF02C will be 6702.90.3500, Harmonized Tariff Schedule of the United States (HTSUS), which provides for artificial flowers, foliage and fruit and parts thereof; articles made of artificial flowers, foliage or fruit: of other materials: other: of man made fibers. 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 <http://www.usitc.gov/tata/hts/>.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Gary Kalus at 646-733-3055.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT B]

HQ H067075

CLA-2 OT:RR:CTF:TCM H067075 HvB

CATEGORY: Classification

TARIFF NO.: 9505.10.50

MR. GARTH PAULEY
DIRECTOR, PRODUCT DEVELOPMENT
JO-ANN STORES, INC.
5555 DARROW ROAD
HUDSON, OHIO 44235

RE: Reconsideration of NY N026510; Tariff classification of a wreath; festive articles

DEAR MR. PAULEY:

This is in response to your correspondence, dated May 18, 2009, in which you request reconsideration of the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of a “Velvet Poinsettia Wreath” (wreath), which is identified by item number 11338WF02C.

The wreath was the subject of New York Ruling Letter (NY) N026510, dated May 22, 2008. In that ruling, U.S. Customs and Border Protection (CBP) classified the wreath under subheading 6702.90.35, HTSUS, which provides for “Artificial flowers, foliage and fruit and parts thereof; articles made of artificial flowers, foliage or fruit: Of plastics: Of other materials”, by application of GRI 3(b). We have reviewed NY N026510 and find it to be in error. Therefore, this ruling revokes NY N026510.

FACTS:

The wreath at issue was described in NY N026510 as follows:

The submitted illustration depicts an item identified as a Velvet Poinsettia Wreath, article number 11338WF02C. The front of this wreath is completely covered with green poinsettia leaves and red poinsettia leaves that are made of polyester. The polyester leaves are glued onto plastic stems. Scattered among the poinsettia leaves are small bunches of berries that are made of plastic. Each bunch is one molded piece and each bunch is glued onto a plastic stem.

The stems of the leaves and the stems of the berries are attached to a circular shaped base made of plastic. There are several plastic stems of various lengths that extend from the plastic base and the base and those stems are all one molded piece. The stems of the leaves and the stems of the berries each have a small aperture at the end. The apertures are snapped onto the stems that extend from the plastic base, thereby holding the leaves and the berries in place on the plastic base.

Behind the plastic base is another base made of natural twig. The plastic base and the twig base are each 13 inches in diameter and both bases are bound to each other with metal wire. When viewed from the back, the plastic base is not visible, because both bases are of the exact same

dimensions. The twig base completely covers the plastic base, as both bases are lined up, one on top of the other.

In your original ruling request, dated April 22, 2008, you stated that the wreath is intended for use as a holiday decoration for the Christmas season. You substantiated this point to us in an email, stating that the article was sold only during the Christmas 2008 season, specifically between late October and January, and was displayed in the seasonal portion of the floral departments of your retail stores. At the end of January, you stated that any remaining wreaths were discarded. In the same email, you also indicated that the wreath at issue was tagged with Jo-Ann Fabric's "Holiday Inspiration" brand label, which is red and green and is only used for Christmas items.

ISSUE:

Whether the subject wreath is classified as artificial flowers, foliage and fruit of heading 6702, HTSUS, or as a festive article of heading 9505, HTSUS?

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 2014 HTSUS provisions under consideration in this case are as follows:

6702	Artificial flowers, foliage and fruit and parts thereof; articles made of artificial flowers, foliage and fruit:
* *	* *
6702.90	Of other materials:
9505	Festive, carnival or other entertainment articles, including magic tricks and practical joke articles: parts and accessories:
9505.10	Articles for Christmas festivities and parts and accessories thereof:

NY N026510 classified the instant wreath pursuant to GRI 3(b). GRI 3 is only applicable where it is determined that the subject merchandise is *prima facie* classifiable under multiple headings. Accordingly, the issue herein is whether the instant wreath is classifiable in heading 9505, HTSUS, which provides for "festive, carnival, or other articles, including magic tricks and practical jokes, parts and accessories thereof." To be considered a class or kind of merchandise termed "festive" classifiable in heading 9505, HTSUS, the article in question must satisfy the two-pronged test set forth in *Park B. Smith, Ltd. v. United States*, 347 F.3d at 922 at 927 (Fed. Cir. 2003), citing *Midwest of Cannon Falls, Inc. v. United States*, 122 F.3d, 20 Ct. Int'l Trade 123 (1996): "(1) [I]t must be closely associated with a festive occasion and (2)

the article [must be] used or displayed principally during that festive occasion.” More recently, the Court of International Trade reiterated that: “festive articles’ must be ‘closely associated with a festive occasion’ to the degree that the ‘physical appearance of an article is so intrinsically linked to a festive occasion that its use during other time periods would be aberrant.” *Michael Simon Design, Inc. v. United States*, 20 Ct. Int’l Trade 1165 at 1165, 452 F. Supp. 2d 1316 at 1323 (2006), citing *Park B. Smith*, 347 F.3d at 928.

The instant wreath features a prominent display of red and green poinsettia leaves, which CBP has recognized as a Christmas motif. See HQ 950999, dated April 16, 1992, and HQ 951520, dated October 31, 1992. See also *Wilton Industries, Inc. v. United States*, 493 F. Supp. 2d 1294, 1332 (Ct. Int’l Trade 2007)(in which the court noted Customs’ recognition of poinsettia as a Christmas motif). This decision is consistent with NY N027778, dated May 21, 2008, in which we classified a green poinsettia wreath in subheading 9505.10, HTSUS. Accordingly, the wreath meets the first prong of the *Park B. Smith* criteria. You have stated that the wreath is “intended as a holiday decoration for the Christmas season”, and because the poinsettia leaves are featured so prominently in relation to the twig backing, display of the decorative wreath outside the Christmas season would be “aberrant”. *Michael Simon Design, Inc.*, 20 Ct. Int’l Trade at 1165. In your submission, you stated that at the end of January, any remaining wreaths are discarded. You also indicated that the wreath at issue was tagged with Jo-Ann Fabric’s “Holiday Inspiration” brand label, which is red and green and is only used for Christmas items. The second prong of *Park B. Smith* is thus satisfied.

Heading 9505 provides for “festive, carnival or other entertainment” articles. We must then determine if the instant wreath, which we recognized as festive, is a member of the festive “class or kind.” To do this, we apply the factors delineated in *United States v. Carborundum Co.*, 63 C.C.P.A. 98, 536 F.2d 373 (1976). See *Midwest of Cannon Falls*, 20 Ct. Int’l Trade 123 at 129. The Court of International Trade noted that “[i]n applying the [Carborundrum] factors, no single factor is determinative, and none of these are intended to be requirements for coming within any particular heading. *Ibid.* In *Carborundrum*, the court listed factors to be used to determine whether imported merchandise falls within a particular class or kind. The factors include: “the general physical characteristics of the merchandise, the expectation of the ultimate purchaser, the channels, class or kind of trade in which the merchandise moves, the environment of sale (i.e., manner in which the merchandise is advertised and displayed). *Carborundrum*, 536 F.2d at 377.

The pertinent factors, i.e., the physical characteristics of the wreath, the channels of trade in which the article moves in, and the environment of sale, show that the wreath is principally used as a festive item. The wreath’s most noticeable characteristic is the Poinsettia artificial foliage. As we stated above, Poinsettia is traditionally associated with the Christmas season. Both the channel of trade and the environment of sale in which the wreath is offered indicate that the wreath at issue is marketed, sold, and displayed as

a decorative item during the Christmas holiday season. As such, it is classifiable as a festive article in heading 9505, HTSUS.

HOLDING:

By application of GRI 1, the subject “Velvet Poinsettia Wreath” (item number 11338WF02C) is classified in subheading 9505.10.50, HTSUS, which provides for:” Festive, carnival or other entertainment articles, including magic tricks and practical joke articles: parts and accessories: Articles for Christmas festivities and parts and accessories thereof: Other: Other”. The column one, general rate of duty for merchandise of subheading 9505.10, HTSUS, is Free.

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

EFFECT ON OTHER RULINGS:

NY N026510, dated May 22, 2008, is hereby REVOKED. In accordance with 19 U.S.C. § 1625(c), this action will become effective 60 days after publication in the *Customs Bulletin*.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF CUSTOMS AND BORDER PROTECTION (COAC)

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

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Advisory Committee on Commercial Operations of Customs and Border Protection (COAC) will meet on February 20, 2014, in Washington, DC. The meeting will be open to the public.

DATES: COAC will meet on Thursday, February 20, from 1:00 p.m. to 5:00 p.m. EST. Please note that the meeting may close early if the committee has completed its business.

Pre-Registration: Meeting participants may attend either in person or via webinar after pre-registering using a method indicated below:—For members of the public who plan to attend the meeting in person, please register either online at https://apps.cbp.gov/te_reg/index.asp?w==15; by email to tradeevents@dhs.gov; or by fax to 202–325–4290 by 5:00 p.m. EST on February 18, 2014.

—For members of the public who plan to participate via webinar, please register online at https://apps.cbp.gov/te_reg/index.asp?w=16 by 5:00 p.m. EST on February 18, 2014.

Feel free to share this information with other interested members of your organization or association.

Members of the public who are pre-registered and later require cancellation, please do so in advance of the meeting by accessing one (1) of the following links: https://apps.cbp.gov/te_reg/cancel.asp?w=15 to cancel an in person registration, or https://apps.cbp.gov/te_reg/cancel.asp?w=16 to cancel a webinar registration.

ADDRESSES: The meeting will be held at the U.S. Customs and Border Protection, Office of Training and Development Conference Space, at 1717 H Street NW., Conference Room 7300 A–C, Washington, DC 20006.

All visitors to 1717 H Street NW., must show a state-issued ID or Passport and sign in as a visitor to proceed through the security checkpoint for admittance to the building.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms.

Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection at 202–344–1661 as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee prior to the formulation of recommendations as listed in the “Agenda” section below.

Comments must be submitted in writing no later than February 13, 2014, and must be identified by Docket No. USCBP–2014–0005, and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* Tradeevents@dhs.gov. Include the docket number in the subject line of the message.
- *Fax:* 202–325–4290
- *Mail:* Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229.

Instructions: All submissions received must include the words “Department of Homeland Security” and the docket number for this action. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided. Do not submit personal information to this docket.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and search for Docket Number USCBP–2014–0005. To submit a comment, *see* the link on the Regulations.gov Web site for “How do I submit a comment?” located on the right hand side of the main site page.

There will be multiple public comment periods held during the meeting on February 20, 2014. Speakers are requested to limit their comments to two (2) minutes or less to facilitate greater participation. Contact the individual listed below to register as a speaker. Please note that the public comment period for speakers may end before the time indicated on the schedule that is posted on the CBP Web page, http://www.cbp.gov/xp/cgov/trade/trade_outreach/coac/coac_13_meetings/, at the time of the meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229; telephone 202–344–1440; facsimile 202–325–4290.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act*, 5 U.S.C. Appendix (Pub. L. 92–463). The COAC provides advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within DHS and the Department of the Treasury.

Agenda

The COAC will hear from the following project leaders and subcommittees on the topics listed below and then will review, deliberate, provide observations, and formulate recommendations on how to proceed on those topics:

1. The Trusted Trader Subcommittee: Review and discuss the subcommittee's proposed recommendations pertaining to the Customs-Trade Partnership Against Terrorism (C-TPAT) criteria for exporters. Review and discuss the action plan to establish the C-TPAT for exports component under the C-TPAT umbrella.

2. The Export Subcommittee: Review and discuss suggested revisions to specific Customs and Border Protection's export policies as well as recommendations on a Master Principles Document for a One U.S. Government at the Border focused on Exports.

3. The One U.S. Government at the Border Subcommittee: Review and discuss an update on the progress of the Partner Government Agency–Message Set (PGA–MS) and potential collaboration with the Border Inter-Agency Executive Council (BIEC).

4. The Trade Enforcement and Revenue Collection Subcommittee: Review and discuss the comments from the Regulatory Audit Working Group on the final draft document on the planned enhancements for the Focused Assessment process; report out on the Intellectual Property Rights (IPR) Working Group's work to determine the feasibility of a Trusted Trader Program for IPR, the simplified seizure process for low-value shipments, and the application of the Document Imaging System for IPR purposes; and report on the Bonds Working Group's discussions on the concept of e-bonds and centralization of Single Transaction Bonds.

5. The Trade Modernization Subcommittee: Review and discuss potential recommendations addressing the Role of the Broker Working Group in the area of Broker Permits and update on the Automated Commercial Environment (ACE) Development and Deployment Schedule.

6. The Global Supply Chain Subcommittee: Review and discuss the recommendations regarding the Air Cargo Advance Screening (ACAS) pilot and address the next steps regarding land border issues in the area of Beyond the Border and 21st Century Initiatives.

Dated: January 30, 2014.

MARIA LUISA BOYCE,
*Senior Advisor for Private Sector
Engagement,
Office of Trade Relations.*

[Published in the Federal Register, February 4, 2014 (79 FR 6616)]



**MODIFICATION OF NATIONAL CUSTOMS AUTOMATION
PROGRAM (NCAP) TEST CONCERNING AUTOMATED
COMMERCIAL ENVIRONMENT (ACE) CARGO RELEASE
FOR OCEAN AND RAIL CARRIERS**

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

ACTION: General notice.

SUMMARY: This document announces U.S. Customs and Border Protection's (CBP's) plan to modify the National Customs Automation Program (NCAP) test concerning Cargo Release functionality in the Automated Commercial Environment (ACE). Originally, the test was known as the Simplified Entry Test because the test simplified the entry process by reducing the number of data elements required to obtain release for cargo transported by air. The test continues to be modified to provide more capabilities to test participants allowing CBP to deliver enhanced functionality. This notice modifies the ACE Cargo Release test to include expansion to the ocean and rail modes of transportation. This notice invites more participants to join the test.

DATES: The ACE Cargo Release test modifications set forth in this document are effective no earlier than January 5, 2014. The test will run until approximately November 1, 2015.

ADDRESSES: Comments or questions concerning this notice and indication of interest in participation in ACE Cargo Release should be submitted, via email, to Susan Maskell at susan.c.maskell@cbp.dhs.gov. In the subject line of your email, please use, "*Comment on ACE Cargo Release*". The body of the email should include information regarding the identity of the ports where filings are likely to occur.

FOR FURTHER INFORMATION CONTACT: For policy related questions, contact Stephen Hilsen, Director, Business Transformation, ACE Business Office, Office of International Trade, at *stephen.r.hilsen@cbp.dhs.gov*. For technical questions, contact Susan Maskell, Client Representative Branch, ACE Business Office, Office of International Trade, at *susan.c.maskell@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

I. The National Customs Automation Program

The National Customs Automation Program (NCAP) was established in Subtitle B of Title VI—Customs Modernization, in the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, 2170, December 8, 1993) (Customs Modernization Act). *See* 19 U.S.C. 1411. Through NCAP, the initial thrust of customs modernization was on trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the Automated Commercial System (ACS). ACE is an automated and electronic system for commercial trade processing which is intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for U.S. Customs and Border Protection (CBP) and all of its communities of interest. The ability to meet these objectives depends on successfully modernizing CBP’s business functions and the information technology that supports those functions.

CBP’s modernization efforts are accomplished through phased releases of ACE component functionality designed to replace a specific legacy ACS function. Each release will begin with a test and, if the test is successful, will end with implementation of the functionality through the promulgation of regulations governing the new ACE feature and the retirement of the legacy ACS function.

The ACE Cargo Release test was previously known as the Simplified Entry Test because the test simplified the entry process by reducing the number of data elements required to obtain release for cargo transported by air. Through phased releases of ACE component functionality this test has been expanded to allow all eligible participants to join the test for an indefinite period regardless of the Customs-Trade Partnership Against Terrorism (C-TPAT) status of an importer self-filer or a customs broker.

For the convenience of the public, a chronological listing of **Federal Register** publications detailing ACE test developments is set forth below in *Section VII*, entitled, “*Development of ACE Prototypes*”. The procedures and criteria applicable to participation in the prior ACE tests remain in effect unless otherwise explicitly changed by this or subsequent notices published in the **Federal Register**.

II. Authorization for the Test

The Customs Modernization Act provides the Commissioner of CBP with authority to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. The test described in this notice is authorized pursuant to § 101.9(b) of title 19 of the Code of Federal Regulations (19 CFR 101.9(b)), which provides for the testing of NCAP programs or procedures. *See* Treasury Decision (T.D.) 95–21.

III. Expansion of ACE Cargo Release Test to Ocean and Rail Modes of Transportation

This document is announcing CBP’s plan to expand the ACE Cargo Release test which allows for the filing capabilities by importers and customs brokers for cargo transported by air to include filing capabilities by importers and customs brokers for cargo transported by ocean and rail.

Eligibility Requirements

To be eligible to apply for this test, the applicant must: (1) Be a self-filing importer who has the ability to file ACE Entry Summaries certified for cargo release or a broker who has the ability to file ACE Entry Summaries certified for cargo release; or (2) have evinced the intent to file entry summaries in ACE.

Parties seeking to participate in this test must use a software package that has completed Automated Broker Interface (ABI) certification testing for ACE and offers the simplified entry message set prior to transmitting data under the test. *See* the General Notice of August 26, 2008 (73 FR 50337) for a complete discussion on procedures for obtaining an ACE Portal Account. Importers not self-filing must be sure their broker has the capability to file entry summaries in ACE.

Document Image System (DIS)

Parties who file entry summaries in ACE are allowed to submit specified CBP and Partner Government Agency (PGA) documents via a CBP-approved Electronic Data Interchange (EDI). A current listing of those documents may be found on the following Web site: http://www.cbp.gov/xp/cgov/trade/automated/modernization/ace_edi_messages/catair_main/abi_catair/catair_chapters/document_imaging_igs/.

DIS provides for the storage of all submitted documents in a secure centralized location for the maintenance of associations with ACE entry summary transactions.

See 78 FR 44142 (July 23, 2013).

Test Participation Selection Criteria

The ACE Cargo Release test is open to all importers and customs brokers filing ACE Entry Summaries for cargo transported in the ocean and rail modes. Please note that participants must meet the eligibility requirements mentioned above and set forth in 76 FR 69755 (November 9, 2011).

CBP will endeavor to accept all new eligible applicants on a first come, first served basis; however, if the volume of eligible applicants exceeds CBP's administrative capabilities, CBP will reserve the right to select eligible participants in order to achieve a diverse pool in accordance with the selection standards set forth in 76 FR 69755.

Any party seeking to participate in this test must provide CBP, in their request to participate, their filer code and the port(s) at which they are interested in filing ACE Cargo Release transaction data. At this time, ACE Cargo Release data may be submitted only for entries filed at certain ports. A current listing of those ports may be found on the following Web site: http://www.cbp.gov/linkhandler/cgov/trade/automated/modernization/whats_new/info_notice_trade.ctt/info_notice_trade.pdf. CBP may expand to additional ports in the future.

Any changes and/or additions to the ports that are part of the ACE Cargo Release test will be posted to this page. See http://www.cbp.gov/xp/cgov/trade/trade_transformation/simplified_entry/.

Filing Capabilities

The filing capabilities for the ACE Cargo Release test set forth in 78 FR 66039 (November 4, 2013) continue to apply and are now ex-

panded to include importers and customs brokers filing ACE Entry Summaries for cargo transported in the ocean and rail modes. The expansion of ACE Cargo Release filing capabilities for ocean and rail modes of transportation will allow for automated corrections and cancellations, split shipments, partial shipments, entry on cargo which has been moved by in-bond from the first U.S. port of unloading, entry for a full manifested bill quantity, and entries requiring Partner Government Agency (PGA) information, if the specified entries are covered in the Implementation Guidelines. See http://www.cbp.gov/xp/cgov/trade/automated/modernization/ace_edi_messages/catair_main/abi_catair/deployment_b/. These new capabilities include functionality specific to the filing and processing of type “01” (consumption) and type “11” (informal) commercial entries for ocean and rail modes of transportation. The ACE Cargo Release filing capabilities serve to assist the importer in completion of entry as required by the provisions of 19 U.S.C. 1484(a)(1)(B).

Data Elements To Be Filed

In lieu of filing CBP Form 3461 data, the importer or broker acting on behalf of the importer must file the following 12 data elements (known as the ACE Cargo Release Data set) with CBP:

- (1) Importer of Record Number.
- (2) Buyer name and address.
- (3) Buyer Employer Identification Number (consignee number).
- (4) Seller name and address.
- (5) Manufacturer/supplier name and address.
- (6) HTS 10-digit number.
- (7) Country of origin.
- (8) Bill of lading/house air waybill number.
- (9) Bill of lading issuer code.
- (10) Entry number.
- (11) Entry type.
- (12) Estimated shipment value.

In the ocean and rail environment, the entry filer, at his option, may also provide the additional three (3) data elements:

- (13) Ship to party name and address (optional).
- (14) Consolidator name and address (optional).
- (15) Container stuffing location (optional).

To enable enhanced functionality in ACE Cargo Release, the entry filer may provide an additional three (3) data elements in certain situations:

(16) Port of Entry (if an in-bond number is provided in the entry submission, the planned port of entry must also be provided).

(17) In-Bond (if applicable).

(18) Bill Quantity (if bill of lading quantity is specified in the entry, it becomes the entered and released quantity for that bill. If the bill quantity is not specified, full bill quantity will be entered and released for that bill).

Data element (1) and data elements (6) through (12) are defined in the same manner as when they are used for entry filing on the CBP Form 3461. Data elements (2) through (5) and (13) through (15) are defined in accordance with the provisions of 19 CFR 149.3.

The ACE Cargo Release Data set may be filed at any time prior to arrival of the cargo in the United States port of arrival with the intent to unlade. This data fulfills merchandise entry requirements and allows for earlier release decisions and more certainty for the importer in determining the logistics of cargo delivery.

Functionality

Upon receipt of the ACE Cargo Release data, CBP will process the submission and will subsequently transmit its cargo release decision to the filer. If a subsequent submission is submitted to CBP, CBP's decision regarding the original submission is no longer controlling.

The merchandise will then be considered to be entered upon its arrival in the port with the intent to unlade, as provided by current 19 CFR 141.68(e).

Test Duration

This ACE Cargo Release test modifications set forth in this document are effective no earlier than January 5, 2014. The test will run until approximately November 1, 2015, and is open to type "01" (consumption) and type "11" (informal) commercial entries filed in the ocean and rail modes of transportation at specified ports. Expansion to other modes will be announced via a separate **Federal Register** notice.

IV. Misconduct under the Test

The terms for misconduct under the ACE Cargo Release Test set forth in 78 FR 66039 (November 4, 2013) continue to apply and are

now expanded to include importers and customs brokers filing ACE Entry Summaries for cargo transported in the ocean and rail modes.

V. Previous Notices

All requirements and aspects of the ACE test discussed in previous notices are hereby incorporated by reference into this notice and continue to be applicable, unless changed by this notice.

VI. Paperwork Reduction Act

The collection of information contained in this ACE Cargo Release test have been approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) and assigned OMB number 1651-0024.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

VII. Development of ACE Prototypes

A chronological listing of **Federal Register** publications detailing ACE test developments is set forth below.

- ACE Portal Accounts and Subsequent Revision Notices: 67 FR 21800 (May 1, 2002); 70 FR 5199 (February 1, 2005); 69 FR 5360 and 69 FR 5362 (February 4, 2004); 69 FR 54302 (September 8, 2004).
- ACE System of Records Notice: 71 FR 3109 (January 19, 2006).
- Terms/Conditions for Access to the ACE Portal and Subsequent Revisions: 72 FR 27632 (May 16, 2007); 73 FR 38464 (July 7, 2008).
- ACE Non-Portal Accounts and Related Notice: 70 FR 61466 (October 24, 2005); 71 FR 15756 (March 29, 2006).
- ACE Entry Summary, Accounts and Revenue (ESAR I) Capabilities: 72 FR 59105 (October 18, 2007).
- ACE Entry Summary, Accounts and Revenue (ESAR II) Capabilities: 73 FR 50337 (August 26, 2008); 74 FR 9826 (March 6, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR III) Capabilities: 74 FR 69129 (December 30, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR IV) Capabilities: 76 FR 37136 (June 24, 2011).

- Post-Entry Amendment (PEA) Processing Test: 76 FR 37136 (June 24, 2011).
- ACE Announcement of a New Start Date for the National Customs Automation Program Test of Automated Manifest Capabilities for Ocean and Rail Carriers: 76 FR 42721 (July 19, 2011).
- ACE Simplified Entry: 76 FR 69755 (November 9, 2011).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS): 77 FR 20835 (April 6, 2012).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Simplified Entry: Modification of Participant Selection Criteria and Application Process: 77 FR 48527 (August 14, 2012).
- Modification of NCAP Test Regarding Reconciliation for Filing Certain Post-Importation Preferential Tariff Treatment Claims under Certain FTAs: 78 FR 27984 (May 13, 2013).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE): 78 FR 44142 (July 23, 2013).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE); Correction: 78 FR 53466 (August 29, 2013).
- Modification of NCAP Test Concerning Automated Commercial Environment (ACE) Cargo Release (formerly known as Simplified Entry): 78 FR 66039 (November 4, 2013).
- Post-Summary Corrections to Entry Summaries Filed in ACE Pursuant to the ESAR IV Test: Modifications and Clarifications: 78 FR 69434 (November 19, 2013).
- National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Environmental Protection Agency and the Food Safety and Inspection Service Using the Partner Government Agency Message Set Through the Automated Commercial Environment (ACE): 78 FR 75931 (December 13, 2013).

Dated: January 28, 2014.

RICHARD F. DiNUCCI,
*Acting Assistant Commissioner,
Office of International Trade.*

[Published in the Federal Register, February 3, 2014 (79 FR 6210)]

AGENCY INFORMATION COLLECTION ACTIVITIES:
Customs Declaration

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

ACTION: 30-day notice and request for comments; extension of an existing collection of information: 1651-0009.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security 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: Customs Declaration. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (78 FR 70065) on November 22, 2013, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before March 6, 2014 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229-1177, at 202-325-0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Customs Declaration.

OMB Number: 1651–0009.

Form Number: CBP Form 6059B.

Abstract: CBP Form 6059B, Customs Declaration, is used as a standard report of the identity and residence of each person arriving in the United States. This form is also used to declare imported articles to U.S. Customs and Border Protection (CBP) in accordance with 19 U.S.C. 66 and section 498 of the Tariff Act of 1930, as amended (19 U.S.C. 1498). Section 148.13 of the CBP regulations prescribes the use of the CBP Form 6059B when a written declaration is required of a traveler entering the United States. Generally, written declarations are required from travelers arriving by air or sea. Section 148.12 requires verbal declarations from travelers entering the United States. Generally, verbal declarations are required from travelers arriving by land.

A sample of CBP Form 6059B can be found at: http://www.cbp.gov/xp/cgov/travel/vacation/sample_declaration_form.xml.

Current Actions: This submission is being made to extend the expiration date. In addition, burden hours have been added to this collection to allow for existing requirements for verbal declarations under 19 CFR 148.12. There are no changes to the data CBP collects under the provisions of 19 CFR 148.12, 148.13 or CBP Form 6059B.

Type of Review: Extension (with change).

Affected Public: Individuals.

CBP Form 6059B:

Estimated Number of Respondents: 104,506,000.

Estimated Number of Total Annual Responses: 104,506,000.

Estimated Time per Response: 4 minutes.

Estimated Total Annual Burden Hours: 7,001,902.

Verbal Declarations:

Estimated Number of Respondents: 233,000,000.

Estimated Number of Total Annual Responses: 233,000,000.

Estimated Time per Response: 10 seconds.

Estimated Total Annual Burden Hours: 669,000.

Dated: January 29, 2014.

TRACEY DENNING,
Agency Clearance Officer,
U.S. Customs and Border Protection.

[Published in the Federal Register, February 4, 2014 (79 FR 6615)]