



The Month So Far: June 18 through 24, 2016

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**  
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**PROPOSED RULES**

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Wine Labeling and Recordkeeping Requirements [\[TEXT\]](#) [\[PDF\]](#)

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**CONSUMER PRODUCT SAFETY COMMISSION**  
**NOTICES**

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Follow-Up Activities for Product-Related Injuries [\[TEXT\]](#) [\[PDF\]](#)

**Quick Links:** [CPSIA Basics](#) [View Safety Guides](#) [Voluntary Standards](#)

**Certification Resources for Non-Children's Products:**

[Model General Conformity Certificate \(GCC\)](#) [Testing or Reasonable Testing Program FAQ](#)

**Related Resources for Non-Children's Products:**

[Rules Requiring a General Certificate of Conformity](#)

[General Certificate of Conformity](#) [Sample General Certificate of Conformity \(GCC\)](#)

[Third Party Testing FAQ](#)

*THIRD PARTY TESTING is required to support a certification of compliance to the rules shown below for children's products that are manufactured after the effective dates listed with each rule. The laboratories in this list have been accepted as accredited to test products to one or more of these children's product safety rules, as identified in the accreditation scope for each laboratory. A manufacturer of a children's [Eleanor Rose Recalls Children's Loungewear Due to Violation of Federal Flammability Standard](#) product that must comply with one or more of these rules must support its certification of compliance with test results from one of these laboratories. -CHECK THE: [List of Accredited Testing Laboratories](#)*

- Search the [CPSC Recalls and Safety News Page](#)

**CPSC RECALLS & UPDATES**

- [October Mountain Products Recalls Hanging Bow Scales Due to Impact and Laceration Hazards](#)
- [HP Recalls Batteries for HP and Compaq Notebook Computers Due to Fire and Burn Hazards](#)
- [3M Recalls Hard Hats Due to Shock Hazard](#)
- [The Land of Nod Recalls Octopus Rattles Due to Choking Hazard](#)
- [Tomme Tippee Electric Bottle and Food Warmers Recalled by Mayborn USA Due to Fire Hazard](#)

Search the [CPSC Recalls and Safety News Page](#)

**CENSUS BUREAU**

**NOTICES**

Current Mandatory Business Surveys

[\[TEXT\]](#) [\[PDF\]](#)

- *The Bureau of the Census (U.S. Census Bureau) has determined that it is conducting the following current mandatory business surveys for 2016: Annual Retail Trade Survey, Annual Wholesale Trade Survey, Service Annual Survey, Company Organization Survey, Annual Survey of Manufactures, Manufacturers' Unfilled Orders Survey, Annual Capital Expenditures Survey, Business R&D and Innovation Survey, Annual Survey of Entrepreneurs, Management and Organizational Practices Survey, and the Business & Professional Classification Report. As an example of the information that can be requested, is the Annual Wholesale Trade Survey, which is described as follows:*

*The Annual Wholesale Trade Survey collects data on annual sales, e-commerce sales, year-end inventories held both inside and outside of the United States, method of inventory valuation, total operating expenses, purchases, gross selling value, and commissions from a sample of employer firms with establishments classified in wholesale trade as defined by the North American Industry Classification System (NAICS).*

**CUSTOMS AND BORDER PROTECTION**

**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Arrival and Departure Record and Electronic System for Travel Authorization

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[Centers for Excellence and Expertise Directory](#)

Contact Information to reach Centers for Excellence and Expertise (CEEs) organized by their trade focus



**C-TPAT Portal 2.0 Phase II Training Manual**

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**CBP BULLETIN**

[June 22, 2016](#)

**General Notices**

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**Revocation of One Ruling Letter and Revocation of Treatment Relating to the Tariff Classification of a Certain Case for Baby Wipes . . . . .1**

**EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 22, 2016.**

*In NY N247516, CBP classified a certain case for baby wipes in heading 4202, HTSUS, specifically in subheading 4202.99.9000 of the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), which provides, in pertinent part, for other bags and containers, other, other, other. CBP has reviewed NY N247516 and has determined the ruling letter to be in error. **It is now CBP's position that the fillable case for baby wipes are properly classified, by operation of GRIs 1 and 6, in heading 4202, HTSUS, specifically in subheading 4202.92.9060, HTSUSA, which provides, in pertinent part, for other containers and cases, with outer surface of plastic sheeting or textiles materials, other, other, other.***

*Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N247516 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter H257222, set forth as Attachment "A" 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.*

**ISSUE:** *What is the proper classification under the HTSUS for the subject merchandise?*

...

*There is no dispute that the subject merchandise is provided for under heading 4202, HTSUS. Pursuant to GRI 6, each subheading within heading 4202, HTSUS, are considered in order to determine which best describes the merchandise in question.*

*The subheadings under consideration in this case are subheading 4202.92, HTSUS, which provides, in pertinent part, for other containers or cases, with outer surface of sheeting plastics and subheading 4202.99, HTSUS, which covers other containers and cases. There is no dispute that the sample description in ruling NY N247516 was inaccurate. The sample merchandise is not of molded plastic; it is of plastic sheeting. There is no textile in the sample submitted. Furthermore, the sample merchandise is a one-piece case, not a two-piece case. Therefore, the subject merchandise is properly classified under subheading 4202.92, HTSUS, and therefore cannot be classified under the residual subheading 4202.99, HTSUS.*

**HOLDING:** *By application of GRIs 1 and 6, the case for baby wipes is classifiable under heading 4202, HTSUS, and specifically provided for in subheading 4202.92.9060, HTSUSA, which provides, in pertinent part for other containers or cases, with outer surface of sheeting of plastic. The column one, general rate of duty is 17.6 percent ad valorem.*

**Proposed Revocation of Two Ruling Letters and Revocation of Treatment Relating to the Tariff Classification of Non-Structural Laminated Fiberboard Ceiling, Wall, and Flooring Panels . . . . . 6**

**DATES: Comments must be received on or before July 22, 2016.**

*In ruling letters NY N235680 and N238576, CBP classified nonstructural laminated fiberboard ceiling, wall, and flooring panels in heading 4411, HTSUS, which provides for “Fiberboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances.” CBP has reviewed ruling letters NY N235680 and N238576 and has determined the ruling letters to be in error. It is now CBP’s position that non-structural laminated fiberboard ceiling, wall, and flooring panels are properly classified, by operation of GRI 1, under heading 4418, HTSUS, which provides for “Builders’ joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes.”*

*Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke ruling letters NY N235680 and N238576 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H242050, 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.*

...

**ISSUE:** *Whether the non-structural laminated fiberboard ceiling, wall, and flooring panels are classified under heading 4411, HTSUS, as fiberboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances, or under heading 4418, HTSUS, as builders’ joinery and carpentry of wood, including cellular wood panels and assembled flooring panels.*

**LAW AND ANALYSIS:**

...

*In its request for reconsideration of ruling letter NY N235680, Halstead asserts that the non-structural laminated fiberboard ceiling and wall panels at issue in NY N235680 are properly classified under heading 4418, HTSUS. In support of its position, Halstead states that the physical characteristics of the ceiling and wall panels are “virtually identical” to certain laminated fiberboard flooring panels that were previously classified under heading 4418, HTSUS, by the U.S. Court of Appeal for the Federal Circuit (CAFC). See *Faus Group, Inc. v. United States*, 581 F.3d 1369 (Fed. Cir. 2009). Accordingly, Halstead asserts that ruling letter NY N235680 should be revoked and that CBP should classify its non-structural laminated fiberboard panels under heading 4418, HTSUS, in accord with the guidance provided by the CAFC in *Faus*.*

In Faus, the CAFC addressed the question of whether certain laminated flooring panels were properly classified as “fiberboard” under heading 4411, HTSUS, or as “builders’ joinery” under heading 4418, HTSUS. See Faus, 581 F.3d at 1369. Similar to the fiberboard panels at issue in ruling letters NY N242050 and N238576, the laminated flooring panels in Faus consisted of a fiberboard core with a color photograph overlay on each panel to simulate the appearance of a natural wood product. Faus, 581 F.3d at 1370. Likewise, the CAFC described the panels as non-structural finished articles designed to be installed by end users over a structural subfloor. Id. Each panel possessed tongue-and-groove joints along its edges to facilitate assembly with other like flooring panels. Id.

As an initial matter, the CAFC in Faus determined that the laminated flooring panels were prima facie classifiable under heading 4418, HTSUS, as “builders’ joinery,” based on the U.S. Court of International Trade’s (CIT) definition of the heading terms, “builders” and “joinery.” Faus, 581 F.3d at 1372. Specifically, the CAFC adopted the CIT’s definition of “builders’ joinery” in heading 4418, HTSUS, to mean “already joined pieces of wood or wood products capable of being joined with joints that function as non-structural elements of a building and are used as finishing for the interior of a building.” Id. (quoting Faus Group, Inc. v. United States, 358 F. Supp. 2d 1244, 28 Ct. Int’l Trade 1879 (Ct. Int’l Trade 2004)).

The CAFC noted that although the plain language of heading 4418, HTSUS, states that builders’ joinery “includ[es] cellular wood panels and assembled parquet panels,” the heading text does not indicate that heading 4418 is limited only to those specific exemplars. Faus, 581 F.3d at 1372 (stating “[N]othing in heading 4418 suggests that it applies only to products that are not described by the language of other provisions.”). Accordingly, because the plain language of heading 4418, HTSUS, does not exclude laminated flooring panels from classification under heading 4418, the CAFC upheld the CIT’s determination that the flooring panels were prima facie classifiable under heading 4418, HTSUS. Id. at 1373.

Having concluded that the laminated flooring panels were prima facie classifiable under heading 4418, HTSUS, the CAFC next accepted—for the sake of argument—that the flooring panels were also prima facie classifiable under heading 4411, HTSUS.<sup>1</sup> Faus, 581 F.3d at 1373. Consequently, because the Court considered the merchandise to be prima facie classifiable under both headings 4418 and 4411, HTSUS, the CAFC observed that classification must be determined by application of GRI 3(a), which require the Court to look to the Nomenclature provision with requirements that are more difficult to satisfy and that describe the article with the greatest degree of accuracy and certainty. Id.

According to GRI 3(a), when a product is prima facie classifiable under two or more headings, “[t]he headings which provides the most specific description shall be preferred to headings providing a more general description.” For example, in Orlando Food Corp. v. United States, 140 F.3d 1437 (Fed. Cir. 1998), the CAFC compared heading 2103, HTSUS, which covers preparations for sauces, with heading 2002, HTSUS, which covers prepared and preserved tomatoes, and concluded that heading 2103 was “more difficult to satisfy,” because producing a preparation for a sauce necessarily involves some degree of processing. Faus, 581 F.3d at 1374 (citing Orlando Food, 140 F.3d at 1441–42). By contrast, the CAFC noted that heading 2002, HTSUS, requires only minimal processing. Id. Consequently, because the requirements of heading 2103, HTSUS, were more difficult to satisfy, the CAFC in Orlando Food held that heading 2103 provided a more specific product description than heading 2002, HTSUS, and was therefore preferred for the purposes of classification under GRI 3(a). Id.

Similar to the CAFC’s analysis in Orlando Food, the Court in Faus determined that the plain language of heading 4418, HTSUS, describes articles with greater specificity than heading 4411, HTSUS, and was therefore more difficult to satisfy than heading 4411. Specifically, the CAFC observed that in order to be classified under heading 4418, HTSUS:

<sup>1</sup> The CAFC noted that if it were to determine that the laminated flooring panels were not prima facie classifiable under heading 4411, HTSUS, such a determination would leave heading 4418, HTSUS, as the only possible classification of the merchandise. Faus, 581 F.3d at 1373.

*[I]t is necessary that the raw material (fiberboard or other wood-based material) be processed so that there can be a joining of pieces, or so that products are created that are capable of being joined. In contrast, while fiberboard that has undergone some processing may under Note 4 still come within heading 4418, processing is not a requirement for classification in [heading 4411], which by its plain language includes raw fiber-board. Faus, 581 F.3d at 1374.*

*Consequently, the CAFC noted that while heading 4418, HTSUS, may embrace a number of different products, the uses of those products are rather limited. Faus, 581 F.3d at 1374.*

*By contrast, the terms of heading 4411, HTSUS, are not limited at all by use, and the CAFC concluded that because heading 4411, HTSUS, covers a large variety of both unprocessed and processed fiberboard products—whereas heading 4418, HTSUS, covers only processed products for use as non-structural elements in the construction of buildings, heading 4418 is the more specific of the two headings. Faus, 581 F.3d at 1374. Accordingly, by application of GRI 3 (a), the CAFC classified the laminated flooring panels under heading 4418, HTSUS, because the heading is more specific than heading 4411, HTSUS. Id. at 1374–75.*

*In accord with the definition of “builders’ joinery” set forth by the CAFC in Faus, CBP finds that the laminated fiberboard panels at issue in ruling letters NY N242050 and N238576 are properly described as “already joined pieces of wood or wood products capable of being joined with joints that function as non-structural elements of a building and are used as finishing for the interior of a building.” See Faus, 581 F.3d at 1372. Similar to the laminated flooring panels in Faus, the instant laminated fiberboard ceiling, wall, and flooring panels each consist of non-structural wood fiberboard that has been laminated with paper on both surfaces of the fiberboard core. The paper laminated to the top surface of each panel features a decorative design overlay to simulate the appearance of natural wood. The fiberboard panels are tongue-and-grooved along the edges and ends of the panels to create an interlocking profile that facilitates the assembly with other like ceiling, wall, or flooring panels. Accordingly, CBP finds that the instant laminated panels are substantially similar to the merchandise at issue in Faus and that the ceiling, wall, and flooring panels are prima facie classifiable under heading 4418, HTSUS, as builders’ joinery.*

*Consistent with CAFC’s analysis in Faus, CBP has similarly assumed—for the sake of argument—that the ceiling, wall, and flooring panels are also classifiable prima facie under heading 4411, HTSUS. See Faus, 581 F.3d at 1373. There, the CAFC instructed that classification between headings 4418 and 4411, HTSUS, should be determined by application of GRI 3(a), i.e. the heading which provides the most specific description of the merchandise. Id. Thus, under the CAFC’s decision in Faus, because heading 4418, HTSUS, encompasses a narrower range of items and uses than heading 4411, HTSUS, it is the more specific of the two headings. Id. Consequently, by application of GRI 3 (a), CBP finds that the instant non-structural laminated fiberboard ceiling, wall, and flooring panels are properly classified under heading 4418, HTSUS.*

**HOLDING:** *By application of GRI 3(a), the non-structural laminated fiberboard ceiling and wall panels at issue in ruling letter NY N235680 are classified under heading 4418, HTSUS, specifically in subheading 4418.90.46, which provides for “Builders’ joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes: Other: Other.” The 2016 column one, general rate of duty is 3.2% ad valorem.*

*By application of GRI 3(a), the non-structural laminated fiberboard flooring panels at issue in ruling letter NY N238576 are classified under heading 4418, HTSUS, specifically in subheading 4418.90.46, which provides for “Builders’ joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes: Other: Other.” The 2016 column one, general rate of duty is 3.2% ad valorem.*

**Modification of One Ruling Letter and Revocation of Treatment Relating to the Tariff Classification of Cereal Bars . . . . . 18**

***EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 22, 2016.***

*In NY N211715, CBP classified two cereal bars, the Kellogg's Frosted Flakes Bar and the Froot Loops Bar, in heading 1704, HTSUS, specifically in subheading 1704.90.35, HTSUS, which provides for "Sugar confectionery (including white chocolate), not containing cocoa." It is now CBP's position that the Frosted Flakes Bar is properly classified in heading 1806, HTSUS, specifically in subheading 1806.32.90, HTSUS, which provides for "Chocolate and other food preparations containing cocoa."*

*Pursuant to 19 U.S.C. §1625(c)(1), CBP is modifying NY N211715 and to revoke any other ruling not specifically identified to reflect the tariff classification of the subject merchandise according to the analysis contained in Headquarters Ruling Letter ("HQ") H269530, set forth as Attachment B 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.*

***ISSUE: Whether the Frosted Flakes Bar is classified in heading 1704, HTSUS, as sugar confectionery; in heading 1806, HTSUS, as a food preparation containing cocoa; in heading 1904, HTSUS, as a cereal product; or in heading 2106, HTSUS, as a food preparation not elsewhere specified or included.***

...  
*Heading 1704, HTSUS, provides for "Sugar confectionery (including white chocolate), not containing cocoa" (emphasis added). Note 1 to Chapter 17 reiterates that Chapter 17 does not include "sugar confectionery containing cocoa (heading 18.06)", and the EN to heading 17.04 further elaborates that heading 1704, HTSUS, excludes "Sugar confectionery containing cocoa or chocolate (other than white chocolate) in any proportion, and sweetened cocoa powders (heading 18.06)." (emphasis added). The classification of sugar confectionery containing cocoa is directed to heading 1806, HTSUS. Thus, in order for the Frosted Flakes Bar to be classified in heading 1704, HTSUS, it must be "sugar confectionery" within the meaning of the heading, and it must not contain cocoa or chocolate.*

*The term "confectionery" is not defined in the HTSUS. However, CBP has adopted the meaning of the term given by the United States Customs Court (now the Court of International Trade) in Leaf Brands, Inc. v. United States, ("Leaf Brands") 70 Cust. Ct. 66 (1973).<sup>1</sup> The Court defined "confectionery" as the "many kinds of sweet-tasting articles which are eaten as such for their taste and flavor without further preparation and which are usually sold in confectionery outlets." Id. at 71. Further, the Court found that whether an article is confectionery is determined by its chief use as a confection, which may be evidenced by its character and design and the manner in which it is sold (i.e., through candy brokers, in confectionery outlets), rather than by its shape and texture.<sup>2</sup> Id. at 72. Following Leaf Brands, CBP has consistently taken the position that a confection is a product that, in its condition as imported, is ready for consumption at retail as a confectionery and is marketed as such; it is not an ingredient of another food product. [citations omitted]*

*As the instant product is no longer in production, we cannot ascertain the manner in which it is sold or marketed. However, we can ascertain from the ingredients, specifically the high proportion of added sugars, that the Frosted Flakes Bar has the character of confectionery. The aforementioned ingredients collectively comprise more than 26% of the Frosted Flakes Bar, without counting the additional sugar present in the frosted flakes and chocolate coating (Frosted Flakes cereal is stated to contain 10 g of sugar per 29 grams of cereal, but the sugar in the chocolate coating is not broken down by amount). Thus, the Frosted Flakes Bar has the character of a sugar confectionery.*

*The Kellogg's Frosted Flakes Bar contains roughly 1.5% cocoa on a defatted basis. Although the total cocoa content of the bar is low, the heading text and ENs to heading 1704, HTSUS, are clear that any amount of cocoa is sufficient to exclude a product of sugar confectionery from this heading. Thus, although the Frosted Flakes Bar has the character of sugar confectionery, we agree that because it contains cocoa, it cannot be classified in heading 1704, HTSUS.*

*You suggest that the Frosted Flakes Bar is classified in either heading 1806, HTSUS, heading 1904, HTSUS, or heading 2106, HTSUS. Note 1 to Chapter 17 and Note 2 to Chapter 18 direct the*

**classification of sugar confectionery containing cocoa to heading 1806, HTSUS.** *The Frosted Flakes Bar, as a sugar confectionery containing cocoa, is thus classified in heading 1806, HTSUS, and not heading 1904, HTSUS. Note 3 to Chapter 19 confirms that “heading 19.04 does not cover preparations containing more than 6% by weight of cocoa calculated on a totally defatted basis or completely coated with chocolate or other food preparations containing cocoa of heading 18.06 (18.06)” (emphasis added). Thus, because the Frosted Flakes Bar has the character of sugar confectionery, it is excluded from classification as a food preparation of Chapter 19 or heading 1904, HTSUS. See also, HQ H200575, dated April 16, 2012. Because the Frosted Flakes Bar is specifically provided for in heading 1806, HTSUS, it cannot be classified in heading 2106, HTSUS.*

By comparison, CBP has consistently classified snack bars containing cocoa in heading 1806, HTSUS. [citations omitted]

**HOLDING:** *Pursuant to GRIs 1 and 6, the Kellogg’s Frosted Flakes Bar is classified in heading 1806, HTSUS, specifically subheading 1806.32.90, HTSUS, which provides for “Chocolate and other food preparations containing cocoa: Other, in blocks, slabs or bars: Not filled: Other: Other.” The 2016, column one, general rate of duty is 6% ad valorem.*

**Proposed Revocation of One Ruling Letter and Revocation of Treatment Relating to the Tariff Classification of Certain Plastic Rainwear . . . . . 26**

**DATES: Comments must be received on or before July 22, 2016.**

*In NY N247420, CBP classified rainwear consisting of an unlined jacket and a pair of trousers in heading 3926, HTSUS, specifically in subheading 3926.20.60, HTSUS, which provides for “[o]ther articles of plastics and articles of other materials of headings 3901 to 3914: Articles of apparel and clothing accessories (including gloves, mittens and mitts): Other: Plastic rainwear, including jackets, coats, ponchos, parkas and slickers, featuring an outer shell of polyvinyl chloride plastic with or without attached hoods, valued not over \$10 per unit.” CBP has reviewed NY N247420 and has determined the ruling letter to be in error. It is now CBP’s position that the unlined jacket and trousers are properly classified, by operation of GRI 1, in heading 6210, HTSUS, specifically in subheading 6210.10.90, HTSUS, which provides for “[g]arments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907: Of fabrics of heading 5602 or 5603: Other: Other: Other.”*

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N247420 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ H268945, 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.

**ISSUE:** *Whether the merchandise is classified as “[o]ther articles of plastics and articles of other materials of headings 3901 to 3914”, under heading 3926, HTSUS, or as “[g]arments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907”, under heading 6210, HTSUS.*

#### **LAW AND ANALYSIS:**

...

*The HTSUS headings at issue are as follows:*

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

*\*\*\**

*6210 Garments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907:*

*Note 3(c) to Chapter 56, HTSUS states:*

*Headings 56.02 and 56.03 cover respectively felt and nonwovens, impregnated, coated, covered or laminated with plastics or rubber whatever the nature of these materials (compact or cellular).*

*Heading 56.03 also includes nonwovens in which plastics or rubber forms the bonding substance.*

*Headings 56.02 and 56.03 do not, however, cover: . . .*

(c) Plates, sheets or strip of cellular plastics or cellular rubber combined with felt or nonwovens, where the textile material is present merely for reinforcing purposes (Chapter 39 or 40).

In NY 247420, and following Note 3(c) to Chapter 56, HTSUS, CBP concluded that the nonwoven backing for Style UL12104Y-04 was used merely for reinforcement of the polyurethane plastic. Therefore, the jacket and trousers were considered made of plastic material of Chapter 39, HTSUS. However, an analysis of the fabric swatch from Style UL12104Y-04 by the CBP Laboratory revealed that the garment is constructed from non-cellular (compact) plastic. As such, we now believe that the garments are not excluded from Chapter 56 by Note 3 (c) to Chapter 56, and are composed of fabric of Chapter 56. Therefore, we find that under GRI 1, the jacket and trousers are described by heading 6210, HTSUS, which provides for “[g]arments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907”.

**HOLDING: Under the authority of GRIs 1 and 6, the jacket and trousers are provided for in heading 6210, HTSUS, specifically in subheading 6210.10.90, HTSUS, which provides for, “[g]arments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907: Of fabrics of heading 5602 or 5603: Other: Other: Other.” The column one general rate of duty is 16% ad valorem.**

**Withdrawal of Proposed Revocation of One Ruling Letter and Proposed Revocation of Treatment Relating to the Tariff Classification of a Wine Bottle Bag ..... 34**

**EFFECTIVE DATE: This action is effective immediately.**

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the Customs Bulletin, Vol. 47, No. 28, on July 3, 2013, proposing to revoke New York Ruling Letter (NY) N025633, dated April 14, 2008, which classified a wine bottle shopping bag in subheading 4202.92.30, HTSUS, as “travel, sports and similar bags, with outer surface of textile materials, other, of man-made fibers, other.” In the notice of July 3, 2013, we proposed to classify the wine bag in subheading 4202.92.90, HTSUS, as an other type of bag. **Though no comments were received in response to this notice, we have determined that the classification of the wine bottle bag in subheading 4202.92.30, HTSUS, is correct.**

Pursuant to 19 U.S.C. § 1625(c), and 19 C.F.R. § 177.7(a), which states, in relevant part, that “[n]o ruling letter will be issued...in any instance in which it appears contrary to the sound administration of the Customs and related laws to do so,” **CBP is withdrawing its proposed revocation of NY N025633.**

**Proposed Revocation of One Ruling Letter and Revocation of Treatment Relating to the Tariff Classification of Hospital Patient Tops and Shorts ..... 36**

**DATES: Comments must be received on or before July 22, 2016.**

In NY N257998, CBP classified the subject hospital patient tops in heading 6206, HTSUS, specifically in subheading 6206.40.30, HTSUS, which provides for “Women’s or girls’ blouses, shirts and shirt-blouses: Of man-made fibers: Other: Other,” and the subject shorts in heading 6204, HTSUS, specifically subheading 6204.63.35, HTSUS, which provides for “Women’s or girls’ suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): Trousers, bib and brace overalls, breeches and shorts: Of synthetic fibers: Other: Other: Other: Other: Other: Other.” CBP has reviewed NY N257998 and has determined this ruling letter to be in error. **It is now CBP’s position that the subject hospital patient tops and shorts are properly classified, by operation of GRIs 1 and 6, in heading 6404, HTSUS. Specifically, the tops are classified in subheading 6204.23.0055, HTSUS, which provides for “Women’s or girls’ ... ensembles...: Ensembles: Of synthetic fibers: Other: Blouses and shirts: Other.” The shorts are classified in subheading 6404.23.0045, HTSUS, which provides for “Women’s or girls’ ... ensembles...: Ensembles: Of synthetic fibers: Other: Shorts.”**

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N257998 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H262283, 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.



**ISSUE:** *What is the correct classification of the hospital patient tops and shorts under the HTSUS?*

**LAW AND ANALYSIS:**

...

*In NY N257998, the top was classified in heading 6206, HTSUS, a provision for women's shirts, and the shorts were classified in heading 6204 HTSUS, a provision for women's shorts.*

*You believe that the garments were confused for women's or girls' work/street/everyday clothing that is worn in public and professional everyday settings. However, this is not the case. The classification of garments within chapter 62, HTSUS, is governed, in relevant part, by Note 8 to Chapter 62, which provides that: Garments of this chapter designed for left over right closure at the front shall be regarded as men's or boy's garments, and those designed for right over left closure at the front as women's or girls' garments. These provisions do not apply where the cut of the garment clearly indicates that it is designed for one or other of the sexes.*

***Garments which cannot be identified as either men's or boy's garments or as women's or girls' garments are to be classified in the headings covering women's or girls' garments.***

*We have examined the tops, and they are designed for right over left closure at the front. You confirm that the tops are unisex garments, and based upon our examination, we agree that the cut of the garment does not clearly indicate that it is designed for one or other of the sexes. Therefore, for purposes of classification in chapter 62, HTSUS, and pursuant to Note 8 to chapter 62, the tops are considered women's or girls' garments. We reach a similar conclusion regarding the shorts. We have examined the shorts and they cannot be identified as either men's or boy's garments or as women's or girls' garments. You confirm that the shorts are unisex garments. Therefore, for purposes of classification in chapter 62, HTSUS, and pursuant to Note 8 to chapter 62, the shorts are considered women's or girls' garments. Since the tops and shorts are not described as men's or boys garments, they cannot be classified under heading 6207, which is a provision for "Men's or boys singlets and other undershirts, underpants, briefs, nightshirts, pajamas, bathrobes, dressing gowns and similar articles."*

*Next, you argue that the top is not a "regular" shirt of heading 6206, HTSUS. Instead, you argue it is more like sleepwear, dressing gowns, or pajamas. You note the different design and construction features of the top, including a rear pocket designed to hold medical devices, including post-operative drains for collecting bodily fluids from surgical sites. You note openings in the front chest area designed to accommodate electrical wires used to connect to monitor pads on the chest, and to accommodate heart monitors and post-operative drains. You also note both garments were designed with plastic snaps to accommodate equipment used in a variety of medical examinations and procedures. You argue the shorts are not "regular" shorts of heading 6204, HTSUS. You note the shorts were designed and constructed to conceal a Foley catheter leg bag. You also note the double rows of plastic snaps to accommodate proper sizing, and that they do not have pockets or a fly opening. You also note that a hospital logo is embroidered on both the top and shorts. You conclude that the top and shorts are medical sleepwear/dressing "gowns" for patient use during hospital stays. As such, you propose classification of both garments under heading 6208, HTSUS, as women's or girls' pajamas or dressing gowns.*

*In a recent Informed Compliance Publication (ICP), CBP provided, in pertinent part, the following guideline for classification of garments having multiple uses, to include sleeping.*

***Certain garments are also marketed as having multiple uses that may include sleeping. Such garments would not be classified as sleepwear, but in the specific headings for the named articles.***

*See, CBP Informed Compliance Publication on Classification: Apparel Terminology under the HTSUS, June 2008. As you have indicated, the subject tops and shorts have been designed and are marketed for multiple uses, such as for patient examinations, and medical tests and procedures, they are not classified as pajamas in heading 6207, HTSUS, or heading 6208, HTSUS. But see NY N245694, dated September 26, 2013 (classifying men's pants, designed and marketed to be worn only for sleeping, in heading 6207, HTSUS); NY N120470, dated September 24, 2010 (classifying men's sleepwear in heading 6207, HTSUS);*

NY N256458, dated September 12, 2014 (classifying women's two-piece pajama sets in heading 6208, HTSUS); and NY K87386, dated July 21, 2004 (classifying women's pajama sets in heading 6208, HTSUS).

However, we do agree with your argument that both garments should be classified together under a single heading. Note 14 to Section XI, provides:

Unless the context otherwise requires, textile garments of different headings are to be classified in their own headings even if put up in sets for retail sale.

The submitted upper and lower garments would normally be classified separately. As per the terms of Note 14, to be classified together as a single article, there must be a heading and a subheading which specifically provides for those garments under a single classification.

Heading 6204, HTSUS, covers "Women's or girls' suits, ensembles. . .and shorts (other than swimwear). Subheading 6204.23.00, HTSUS, specifically provides for ensembles of synthetic fibers. Both garments are constructed from 65% polyester and 35% cotton woven fabric. Note 2(A) to Section XI and Subheading Note 2 to Section XI, when read together, require that textile garments containing two or more textile materials be classified according to that material which predominates by weight.

The term "ensemble" as defined in Note 3(b) to chapter 62, HTSUS, provides as follows:

For the purposes of headings 6203 and 6204: The term "ensemble" means a set of garments (other than suits and articles of heading 6207 or 6208) composed of several pieces made up in identical fabric, put up for retail sale, and comprising:

- one garment designed to cover the upper part of the body, with the exception of waistcoats which may also form a second upper garment, and

- one or two different garments, designed to cover the lower part of the body and consisting of trousers, bib and brace overalls, breeches, shorts (other than swimwear), a skirt or a divided skirt.

All of the components of an ensemble must be of the same fabric construction, style, color and composition; they also must be of corresponding or compatible size...

**The above requirements for an ensemble make it clear that where the top and bottom portions are not identical in all material aspects, the garments are precluded from the ensemble classification. To qualify as an ensemble the subject merchandise must consist of a set of garments composed of several pieces made up in identical fabric, style, color, compatible size and put up for retail sale. Based upon our examination of the garments, we conclude that they are made of the identical fabric, are the same in color, composition and size, and are put together for retail sale.**

Therefore, pursuant to Note 3(b) to Chapter 62, both the top and the shorts are described as a women's or girls' ensemble. They are described by heading 6204, HTSUS. As such, since the top and shorts are classified in heading 6204, HTSUS, they cannot be classified in heading 6211, HTSUS, which is a provision for, in relevant part, "other garments."

**HOLDING: By application of GRIs 1 and GRI 6, the tops and shorts are classified as ensembles under heading 6204, HTSUS, and subheading 6204.23.00, HTSUS, which provides for "Women's or girls' ... ensembles...: Ensembles: Of synthetic fibers."**

**The tops are classified in subheading 6204.23.0055, HTSUS, which provides for "Women's or girls' ... ensembles...: Ensembles: Of synthetic fibers: Other: Blouses and shirts: Other."** The 2016, column one rate of duty will be 26.9% ad valorem. This is the rate that would apply if the garments were entered separately and classified in subheading 6206.40.3030, HTSUS.

**The shorts are classified in subheading 6404.23.0045, HTSUS, which provides for "Women's or girls' ... ensembles...: Ensembles: Of synthetic fibers: Other: Shorts."** The 2016, column one rate of duty will be 28.6% ad valorem.

This is the rate that would apply if the garments were entered separately, and classified in subheading 6204.63.3532, HTSUS.

**Proposed Revocation of Four Ruling Letters and Revocation of Treatment Relating to the Tariff Classification of Plant Movers . . . . . 45**

**DATES: Comments must be received on or before July 22, 2016.**

In NY N024680, NY N024678, NY N012582, and NY N012026, CBP classified various plant movers in heading 8716, HTSUS, specifically in subheading 8716.80.50, HTSUS, which provides for “Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof: Other vehicles: Other.”

CBP has reviewed NY N024680, NY N024678, NY N012582, and NY N012026 and has determined the ruling letters to be in error. **It is now CBP’s position that the subject plant movers are properly classified, by operation of GRI 1, in heading 9403, HTSUS, specifically in subheading 9403.20.00, HTSUS, which provides for “Other furniture and parts thereof: Other metal furniture.”**

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N024680, NY N024678, NY N012582, and NY N012026, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H271824, set forth as Attachment E 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.

**ISSUE:** Whether the instant cast iron plant mover is classified in heading 8716, HTSUS, as “other vehicles, not mechanically propelled”, or in heading 9403, HTSUS, as “other furniture.”

**LAW AND ANALYSIS:**

....  
In NY N024680, CBP classified a “cast iron pot mover” used to store, display and move potted plants in heading 8716, HTSUS. Heading 8716, HTSUS, provides for “other vehicles, not mechanically propelled”. The Explanatory Note to heading 8716 clarifies that this heading includes vehicles designed to be pushed or pulled by hand or feet, such as wheelbarrows, food carts and buffet movers (other than the type falling in heading 94.03), of a kind used in railway stations, and hand carts.

Unlike the exemplars listed in EN 87.16 however, the instant plant mover is not principally designed for the transport of goods or persons. The plant mover is designed primarily for the storage and display of articles (plants), and home décor. Although the mover clearly aids in the transport of any article placed on its surface, the mover has no means of securing any articles being transported, and without any handle, it is difficult to manoeuvre. Thus, it is impractical to use the mover primarily for the transport of goods. Additionally, unlike the exemplars listed in the EN 87.16, the mover lacks any kind of chassis or frame. As such, it falls outside the scope of heading 8716, HTSUS (as indicated by the exclusion of carts having the character of furniture of heading 9403, HTSUS, from item (B)(3) in the 87.16 EN).

CBP has classified similar items as articles of furniture of heading 9403, HTSUS, in past rulings. See e.g., NY N087856, dated December 23, 2009; NY 895256, dated March 10, 1994. The General EN to Chapter 94 defines “furniture” as “any ‘movable’ articles (not included under other more specific headings of the Nomenclature), which have the essential characteristic that they are constructed for placing on the floor or ground, and which are used, mainly with a utilitarian purpose, to equip private dwellings...). Similar articles (seats, chairs, etc.) for use in gardens, squares, promenades, etc., are also included in this category.”

As a movable article designed for placing on the floor or ground to equip private dwellings, the instant article meets the definition of furniture laid out in the General EN to Chapter 94. Furthermore, as noted in the Explanatory Note for heading 9403, HTSUS, “furniture” of this heading includes a number of similar items, such as plant and music stands, and serving movers. Like a plant stand, the plant mover is a platform for display of potted plants. Unlike a typical plant stand, it is not stationary and lacks a base or leg. However, we consider the mover to be ejusdem generis with plant stands--like a plant stand, and like furniture in general, it has both a decorative and utilitarian function—it is an ornate decorative

*platform which holds and displays a plant and allows the plant to be easily moved around. Thus, the instant plant mover is classified in heading 9403, HTSUS.*

**HOLDING:** *By application of GRI 1, the cast iron pot mover is classified in heading 9403, HTSUS, and is specifically provided for in subheading 9403.20.00, HTSUS, which provides for “Other furniture and parts thereof: Other metal furniture.” The 2016, column one, general rate of duty is Free.*

**Proposed Modification of a Ruling Letter and Revocation of Treatment Relating to the Tariff Classification of a Printed Artwork from China . . . . . 56**

**DATES: Comments must be received on or before July 22, 2016.**

*In NY N265121, CBP classified a printed artwork from China, identified by item number 61957101D, in heading 4911, HTSUS, specifically in subheading 4911.91.2020, HTSUSA, which provides for “Other printed matter, including printed pictures and photographs: Other: Pictures, designs and photographs: Printed not over 20 years at time of importation: Other: Lithographs on paper or paperboard: Not over 0.51 mm in thickness: Posters.” NY N265121 also classified four other products which were identified as item number 2917969, item number 42386101D, item number kc-2014-shine, and item number 0412080C. CBP has reviewed NY N265121 and has determined the ruling letter to be in error with respect to item number 61957101D. The classification of the four other products remains unmodified. It is now CBP’s position that the printed artwork from China, identified as item number 61957101D, is properly classified, by operation of GRI 1, in heading 4911, HTSUS, specifically in subheading 4911.91.2040, HTSUSA, which provides for “Other printed matter, including printed pictures and photographs: Other: Pictures, designs and photographs: Printed not over 20 years at time of importation: Other: Lithographs on paper or paperboard: Not over 0.51 mm in thickness: Other.”*

*Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to modify N265121 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H265036, 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.*

**ISSUE:** *What is the proper classification of the printed artwork from China?*

**LAW AND ANALYSIS:**

....  
*Heading 4911, HTSUS, provides for other printed matter including printed pictures and photographs. This heading includes pictures and photographs printed by lithography. There is no dispute that the instant merchandise is classifiable under subheading 4911.91, HTSUS. However, importer disagrees with CBP with the 10 digit level tariff which classifies the merchandise as a “poster” under subheading 4911.91.2020, HTSUSA. The instant merchandise does not appear to fit the meaning of a “poster.” The Meriam-Webster dictionary defines a “poster” as “a bill or placard for posting often in a public place; especially: one that is decorative or pictorial,” or “a sheet bearing an announcement for posting in a public place.” <http://www.merriam-webster.com/dictionary/posters> The paper with the printed lithograph is not over 0.51 mm in thickness and the printed lattice design is permanently mounted onto a wooden board (medium-density fiberboard surface) that is 1.25 inches in thickness. The subject merchandise is not a “poster,” under subheading 4911.91.2020, HTSUSA. Therefore, it is properly provided for under subheading 4911.91.2040, HTSUSA.*

**HOLDING:** *By application of GRIs 1 and 6, we find that the picture with a lattice design identified as item number 61957101D is classified in subheading 4911.91.2040, HTSUSA, which provides for “Other printed matter, including printed pictures and photographs: Other: Pictures, designs and photographs: Printed not over 20 years at time of importation: Other: Lithographs on paper or paperboard: Not over 0.51 mm in thickness: Other.” The duty rate is “Free.”*

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- CSMS [16000520](#) ACE PRODUCTION Deployment on 6/23/16 @1600 ET Complete
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- CSMS [16000508](#) Updated ACE PGA CATAIR Documentation Posted to CBP.gov
- CSMS [16000507](#) ACE PRODUCTION deployment, Thursday June 23, 2016 @0500ET, impact ACE CargoRel & EntrySumm
- CSMS [16000506](#) Updated ACE and PGA Documentation Posted to CBP.gov
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- CSMS [16000504](#) Initiation of AD/CVD Duty Investigations: Ammonium Sulfate from the PRC
- CSMS [16000503](#) FDA Interoperability Web Service (IWS) on Saturday June 18, 2016
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- [Whole Genome Sequencing: Cracking the Genetic Code for Foodborne Illness](#)
- [Bolthouse Farms Voluntarily Recalls Protein Beverages Due to Possible Spoilage](#)
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- [Pinnacle Foods Inc. Voluntarily Recalls Limited Quantity of C&W Early Harvest Petite Peas and C&W Petite Peas Due to Possible Listeria Contamination](#)
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#### Proposed Production Activities:

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## INTERNATIONAL TRADE ADMINISTRATION

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[\*Cold-Rolled Steel Flat Products from China and Japan\*](#)

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[Certain Carbon Spine Board, Cervical Collar, CPR Masks and Various Medical Training Manikin Devices, and Trademarks, Copyrights of Product Catalogues, Product Inserts and Components Thereof](#)

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Western Balkans; Continuation of National Emergency (Notice of June 21, 2016)

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## CALIFORNIA

[Office of Environmental Health Hazard Assessment](#)

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[AG Number 2016-00613\(View Details\)](#)

Chemical: Diisononyl phthalate (DINP)

Source: Monster 25 ft. CAT SE Network Cable, UPC No. 050644623691

[AG Number 2016-00612\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: TYM Photo Album

[AG Number 2016-00611\(View Details\)](#)

Chemical: Lead

Source: Grip Rite hardware cloth

[AG Number 2016-00610\(View Details\)](#)

Chemical: Cadmium

Source: Trader Joe's Cocoa Nibs Drenched in 65% Cacao Chocolate

[AG Number 2016-00609\(View Details\)](#)

Chemical: Lead

Source: Hot/Col Stem, UPC No. 037155 18552 8

[AG Number 2016-00608\(View Details\)](#)

Chemical: Lead

Source: Gerbs Dried Goji Berries

[AG Number 2016-00607\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: Selfie Stick

[AG Number 2016-00606\(View Details\)](#)

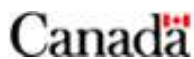
Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: Study Hard Travel Often accessory kit

[AG Number 2016-00605\(View Details\)](#)

Chemical: Wood dust

Source: GEM White Wood Bedding Shavings



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***Report an Incident Involving a Consumer Product or a Cosmetic***

Incident report forms: [www.healthcanada.gc.ca/reportaproduct](http://www.healthcanada.gc.ca/reportaproduct) ***Recalls & Safety Alerts:***

### **RECALLS & ALERTS:**

◆ [MRXPERION MR INJECTION SYSTEM \(2016-06-24\)](#)

◆ [Gateway Coop brand Canadian Harvest Bread recalled due to undeclared mustard](#)

◆ [HP Inc. Canada recalls HP Lithium Ion Batteries in HP and Compaq Notebook Computers](#)

[EQ3 recalls Otis Rug](#)



- ◆ [Bolthouse Farms brand protein beverages recalled due to possible spoilage](#)
- ◆ [Choices' Own brand deli products containing green peas recalled due to Listeria monocytogenes](#)
- ◆ [à table! brand Chicken Sandwich Filling recalled due to pieces of plastic](#)
- ◆ [CTM International Giftware Inc. recalls Infinity Bamboo Torch](#)
- ◆ [NAVISTAR issued a recall on multiple vehicle models](#)
- ◆ [ALLIED RECREATION GROUP issued a recall on multiple vehicle models](#)
- ◆ [Remember to regularly test and clean your swimming pool and spa water](#)
- ◆ [Choripdong brand Shrimp Flavored Seafood Mix Pancake recalled due to undeclared egg](#)
- ◆ [GENERAL MOTORS issued a recall on the EQUINOX model](#)

**ANTIDUMPING:**

[Large diameter carbon and alloy steel line pipe - Notice of Preliminary Determinations of Investigations](#)  
[Gypsum Board -Initiation of Investigations - Statement of Reasons](#)

\* \* \*

***BROWSE THE INDIVIDUAL FEDERAL REGISTER PAGES FOR THIS PERIOD:***

[Monday, June 20, 2016](#) [Tuesday June 21, 2016](#) [Wednesday, June 22, 2016](#)

[Thursday, June 23, 2016](#) [Friday, June 24, 2016](#)

[\*Access Past Issues\*](#)