

HTSUS	Tariff shift and/or other requirements
	A change to subheading 8471.60 through 8472.90 from any other subheading outside that group, except from subheading 8504.40 or heading 8473; or A change to subheading 8471.60 through 8472.90 from any other subheading within that group or from subheading 8504.90 or from heading 8473, provided that the change is not the result of simple assembly
8479.10–8479.89	A change to printing machines of subheading 8479.89 from any other subheading, except from subheading 8443.11 through 8443.60; or A change to subheading 8479.10 through 8479.89 from any other subheading, including another subheading within that group
9009.91–9009.99	A change to subheading 9009.91 through 9009.99 from any other heading
9021.10	A change to subheading 9021.10 from any other subheading, except from nails classified in heading 7317 or screws classified in heading 7318 when resulting from a simple assembly
9112.20	A change to subheading 9112.20 from any other subheading, except from subheading 9112.90 when that change is pursuant to General Rule of Interpretation 2(a)
9404.30–9404.90	A change to down- and/or feather-filled goods classified in subheading 9404.30 through 9404.90 from any other heading; or For all other goods classified in subheading 9404.30 through 9404.90, a change from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5804, 5806, 5809 through 5810, 5901, 5903 through 5904, 5906 through 5907, or 6001 through 6006, or subheading 6307.90

Robert C. Bonner,
Commissioner, Customs and Border Protection.

Approved: July 21, 2003.

Timothy E. Skud,
Deputy Assistant Secretary of the Treasury.
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DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 133

[CBP Decision 03–12]

RIN 1515–AC98

Civil Fines for Importation of Merchandise Bearing a Counterfeit Mark

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

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to clarify the limit on the amount of a civil fine which may be assessed by the Bureau of Customs and Border Protection (CBP; a bureau of

the new Department of Homeland Security that encompasses much of the agency formerly known as the U.S. Customs Service) when imported merchandise bearing a counterfeit mark is seized under 19 U.S.C. 1526(e). The regulations currently use, as a measurement for determining the limit, the domestic value of merchandise as if it had been genuine, based on the manufacturer's suggested retail price of the merchandise at the time of seizure. The language set forth in the amended regulation adheres more closely to the statutory language, basing the limit of the civil fine on the value of the genuine good according to the manufacturer's suggested retail price (MSRP), without any reference to domestic value. Because the MSRP excludes discounted sales and markdowns, it is usually greater than the good's domestic value. Removing the distinction between the statutory and regulatory language will clear up confusion and result in CBP more uniformly determining the amount of a civil fine when merchandise bearing a counterfeit mark is imported.

EFFECTIVE DATE: August 25, 2003.

FOR FURTHER INFORMATION CONTACT: Lynne O. Robinson, Office of Regulations and Rulings: (202) 572–8743.

SUPPLEMENTARY INFORMATION:

Background

The Anticounterfeiting Consumer Protection Act of 1996 (the ACPA; Pub. L. 104–153, 110 Stat. 1386) was signed into law on July 2, 1996, to ensure that Federal law adequately addresses the scope and sophistication of modern counterfeiting which costs American businesses an estimated \$200 billion a year worldwide. Toward that end, the ACPA amended section 526 of the Tariff Act of 1930, as amended (19 U.S.C. 1526), to provide two new tools to fight the importation of counterfeit goods: (1) the seizure, forfeiture, and destruction of merchandise bearing a counterfeit mark under 19 U.S.C. 1526(e) (section 1526(e)), as amended by section 9 of the ACPA, and (2) the imposition of a civil fine under 19 U.S.C. 1526(f) (section 1526(f)), a new section of law created under section 10 of the ACPA.

Under section 1526(e), merchandise bearing a counterfeit mark that is seized and forfeited must be destroyed except where the merchandise is not unsafe or a hazard to health and the trademark owner has consented to its disposal by one of several alternative methods (see sections 1526(e)(1),(2) and (3)). This provision ensures that a violator cannot regain possession of the forfeited goods and distribute them in some other manner (including making another attempt to import them at another U.S.