

functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* New information collection.

(2) *Title of the Form/Collection:* Business Transformation—USCIS Electronic Immigration System (ELIS).

(3) *Agency Form Number, if any, and the Applicable Component of the Department of Homeland Security Sponsoring the Collection:* No form number; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected Public Who Will Be Asked or Required to Respond, as Well as a Brief Abstract: Primary:* Individuals or households. As part of the Business Transformation initiative, USCIS is developing an automated Electronic Immigration System (USCIS ELIS). The USCIS ELIS will use wizard technology and will allow e-filing. Wizard technology gives USCIS the ability to electronically interact with its customers by guiding them through the application process and assisting them to file complete and accurate benefit requests.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent to Respond:* 58,500 responses at an average of 2 hours and 15 minutes per response.

(6) *An Estimate of the Total Public Burden (In Hours) Associated With the Collection:* 131,625 annual burden hours.

The information collection request contains selected screen shots that demonstrate the look and feel of the automated USCIS ELIS, and a decision tree to show the sequence of questions that the public will be asked by the wizard and the order in which the questions will be asked. For example, when the user answers the question "What is your First Name?" then he or she will be prompted with the question: "What is your Given Name?" If you

need to review this information collection instrument, please visit the Web site at: <http://www.regulations.gov/>.

Dated: October 11, 2011.

#### Sunday Aigbe,

Chief, Regulatory Products Division, Office of the Executive Secretariat, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2011-26653 Filed 10-13-11; 8:45 am]

BILLING CODE 9111-97-P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### Notice of Issuance of Final Determination Concerning a Surgical Mask With a Protective Eye Shield

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

**ACTION:** Notice of final determination.

**SUMMARY:** This document provides notice that U.S. Customs and Border Protection ("CBP") has issued a final determination concerning the country of origin of a Surgical Mask with a Protective Eye Shield. Based upon the facts presented, CBP has concluded in the final determination that Turkey is the country of origin of the Surgical Mask with a Protective Eye Shield, for purposes of U.S. Government procurement.

**DATES:** The final determination was issued on October 5, 2011. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination on or before November 14, 2011.

**FOR FURTHER INFORMATION CONTACT:** Robert Dinerstein, Valuation and Special Programs Branch: (202) 325-0132.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on October 5, 2011, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of the Surgical Mask with a Protective Eye Shield, which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, in HQ H175429, was issued at the request of Berkley Surgical Company, Inc. under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511-18). In the final determination, CBP explained that,

because the surgical mask is classified in the Harmonized Tariff Schedule of the United States (HTSUS) as a textile product, its country of origin is governed by the country of origin rules for textile products, which is set forth in 19 U.S.C. 3592. The country of origin rules for textile products are implemented by the CBP Regulations at 19 CFR 102.21. Applying the specific rule of origin in 19 CFR 102.21 for products classified in subheading 6370.90, HTSUS, we determined that because the manufacturing process involved in producing the surgical face mask occurs in Turkey, the country of origin of the surgical mask with an eye-shield for purposes of government procurement is Turkey.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: October 5, 2011.

**Sandra L. Bell,**

Executive Director, Regulations and Rulings, Office of International Trade.

#### Attachment

##### HQ H175429

October 5, 2011

MAR-02 OT:RR:CTF:VS H175429 RSD

CATEGORY: MARKING

Mr. Domenic Tommarello, Vice President  
Berkley Surgical Company  
49 Virginia Avenue  
Uniontown, Pennsylvania 15401

RE: Final Determination; U.S. Government Procurement; Country of Origin of a Surgical Face Mask with a Protective Eye Shield; 19 CFR § 177.21; Textile Rules of Origin, 19 CFR § 102.21(c)(4)

Dear Tommarello:

This is in response to a letter dated June 27, 2011, requesting a final determination pursuant to subpart B Part 177, Customs and Border Protection ("CBP") Regulations (19 CFR § 177.21 et. seq.). Under these regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (codified at 19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government. This final determination concerns the country of origin of a fluid resistant surgical face mask with an eye shield. We note that Berkley Surgical Company (Berkley) is a party-at-interest

within the meaning of 19 CFR § 177.22(d)(1) and is entitled to request this final determination.

#### FACTS:

The product at issue is a surgical face mask with an eye shield. The product is made to be compliant with the United States Food and Drug Administration's (FDA) requirements for such medical devices. Berkley imports fluid resistant surgical face masks without the eye shields from Turkey. According to the information submitted, the surgical face masks without eye shields are manufactured in Turkey. The outer facing of the surgical face masks are made from printed cellulose or colored polypropylene spun bond non-woven. The surgical mask has two filters inside of it. The first filter is made from 100 percent melt-blown polypropylene and is made in the U.S. The second filter is made of non-woven netting. The inner facing of the mask is made from a white cellulose material. In order to keep the surgical mask in place, it contains a nose wire made from aluminum or coated metal wire. To tie the mask around the face, edge tapes and tie tapes made of polypropylene or polyester non-woven are used. The surgical mask has ear loops made from knitted polyester. All of the other fabrics used in producing the surgical face mask are made in Turkey.

After the surgical mask is imported into the U.S., the transparent eye shield is permanently attached to it through an ultrasonic bonding process. The eye shield provides the wearer splash protection for the eyes, nose and mouth area in a single-device. This eliminates the need for separate and more expensive eye-wear. The eye-shield is made in the United States of optical quality polyester film. The eye-shield accounts for more than 68 percent of the total value of the finished product. The final product is packaged in the United States with packer boxes and shipper boxes manufactured in the United States.

You have indicated that the finished surgical face mask with an eye-shield is classified in subheading 6307.90.98 of the Harmonized Tariff Schedule of the United States (HTSUS). Samples were submitted with your request.

#### ISSUE:

What is the country of origin of the finished surgical mask with a protective eye shield for purposes of U.S. government procurement?

#### LAW AND ANALYSIS:

Pursuant to subpart B of part 177, 19 C.F.R. § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the

growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 C.F.R. § 177.22(a) defining "country of origin" in identical terms.

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of Subpart B of Part 177 consistent with the Federal Procurement Regulations. See 19 CFR § 177.21. In this regard, CBP recognizes that the Federal Procurement Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. See 48 CFR § 25.403(c)(1).

The Federal Procurement Regulations define "U.S.-made end product" as: \* \* \* an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. See 48 CFR § 25.003. Therefore, the question presented in this final determination is whether, as a result of the operations performed in the United States, the imported surgical face mask is substantially transformed into a product of the United States.

With regard to the surgical face mask with a protective eye shield at issue, your request involves determining whether the article is a U.S.-made end product or a product of Turkey. The information submitted indicates that the surgical mask is made chiefly from non-woven textile fabrics. You also indicate that it is classified in subheading 6307.90.98, HTSUS, as a textile product. The rules of origin for textile products for purposes of the customs laws and the administration of quantitative restrictions are governed by 19 U.S.C. § 3592, unless otherwise provided for by statute. See Headquarters Ruling (HQ) H112725 dated October 6, 2010. These provisions are implemented in the CBP Regulations at 19 CFR § 102.21. Section 3592 has been described as Congress's expression of substantial transformation as it relates to textile products. Therefore, country of origin of the surgical face mask for government procurement purposes will be determined under the textile rules of origin.

As the finished surgical face mask is produced by processing in more than one country, its origin cannot be determined by application of 19 CFR § 102.21(c)(1), wholly obtained or produced rule, and resort must be made to 19 CFR § 102.21(c)(2). Section 102.21(c)(2) states that the origin of a good is the country "in which each foreign material incorporated in that good underwent an applicable change in tariff classification, and/or met any other requirement, specified for the good in paragraph (e) of [102.21]." Section 102.21(e) provides in pertinent part:

The following rules will apply for purposes of determining the country of origin of a

textile or apparel product under paragraph (c)(2) of this section:

6307.90 The country of origin of a good classifiable under subheading 6307.90 is the country, territory, or insular possession in which the fabric comprising the good was formed by a fabric-making process.

As you have indicated, while most of the fabric used in producing the surgical face mask is made in Turkey, the melt-blown polypropylene fabric used in one of the filter linings of the surgical mask is made in the United States. Consequently, there is more than one country involved in the fabric-making process, and thus 19 CFR § 102.21(c)(2) is inapplicable.

19 CFR § 102.21(c)(3) states in pertinent part,

Where the country of origin of a textile or apparel cannot be determined under paragraph (c)(1) or (2) of this section: (ii) Except for goods of \* \* \* subheading \* \* \* 6307.90 \* \* \* if the good was not knit to shape and the good was wholly assembled in a single country, territory, or insular possession, the country of origin of the good is the country, territory, or insular possession in which the good was wholly assembled.

As the subject merchandise is not knit to shape, and is classified in heading 6307.90, HTSUS, section 102.21(c)(3) is also inapplicable.

Section 102.21(c)(4) states, "Where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1), (2) or (3) of this section, the country of origin of the good is the single country, territory or insular possession in which the most important assembly or manufacturing process occurred".

In this case, there are two basic processes involved in producing the finished good. The first process is the manufacture of the surgical face mask in Turkey from the various non-woven textile fabrics. The second process is the attachment of the protective eye-shield to the surgical face mask using ultrasonic bonding which occurs in the United States. We believe of these two processes that the more important one is the manufacturing process of the surgical face mask from the various fabrics in Turkey. The surgical face mask is the more significant part of the completed item because even without the protective eye-shield, the surgical face mask can still be worn across the face and be used when performing surgical procedures. On the other hand, the protective eye-shield must be attached to the surgical mask; otherwise, it is completely useless. The assembly of eye-shield to the surgical mask constitutes only an enhancement to the surgical face mask, but it does not change the fundamental nature or the basic use of the product. In addition, the manufacture of the surgical facial mask from the various fabrics seems to be a more complex operation than the relatively simple assembly operation of using an ultrasonic bonding process to attach the protective eye-shield to the surgical face mask. Consequently, we conclude that the manufacture of the surgical face mask from various non-woven fabrics occurring in

Turkey is the most important process involved in producing the finished product. Therefore, we find in accordance with 19 CFR § 102.21(c)(4), the country of origin of the surgical face mask with a protective eye-shield for purposes of government procurement is Turkey.

**HOLDING:**

Based on the facts and analysis set forth above, the finished surgical face mask with a protective eye-shield is a product of Turkey for the purpose of government procurement.

Notice of this final determination will be given in the Federal Register, as required by 19 CFR § 177.29. Any party-at-interest other than the party which requested the final determination may request, pursuant to 19 CFR § 177.31, that CBP reexamine the matter anew and issue a new final determination. Any party-at-interest may, within 30 days after publication of the Federal Register notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Sandra L. Bell,  
Executive Director, Office of Regulations and Rulings, Office of International Trade.

[FR Doc. 2011-26550 Filed 10-13-11; 8:45 am]

**BILLING CODE 9111-14-P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-5477-N-41a]

**Federal Property Suitable as Facilities to Assist the Homeless**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**FOR FURTHER INFORMATION CONTACT:** Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800-927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the

purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: October 6, 2011.

**Mark R. Johnston,**

*Deputy Assistant Secretary for Special Needs.*

[FR Doc. 2011-26317 Filed 10-13-11; 8:45 am]

**BILLING CODE 4210-67-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

[FWS-R3-ES-2011-N202; 30120-1112-0000-F6]

**Endangered and Threatened Wildlife and Plants; Incidental Take Permit Application; Proposed Low-Effect Habitat Conservation Plan and Associated Documents; Duke Energy Corp., Gibson County, IN**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following application to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act requires that we invite public comment before issuing these permits.

**DATES:** We must receive any written comments on or before November 14, 2011.

**ADDRESSES:** Send written comments by U.S. Mail to the Regional Director, Attn: Lisa Mandell, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd., West, Suite 990, Bloomington, MN 55437-1458; or by electronic mail to [permitsR3ES@fws.gov](mailto:permitsR3ES@fws.gov).

**FOR FURTHER INFORMATION CONTACT:** Lisa Mandell, (612) 713-5343.

**SUPPLEMENTARY INFORMATION:** We invite public comment on the following permit application for certain activities with endangered species authorized by section 10(a)(2)(A) of the Act (16 U.S.C. 1531 *et seq.*) and our regulations governing the taking of endangered species in the Code of Federal Regulations (CFR) at 50 CFR 17. Submit your written data, comments, or request for a copy of the complete application and Habitat Conservation Plan (HCP) to the address shown in **ADDRESSES**.

**Background**

In 1986, a single pair of endangered Interior least terns (*Sterna antillarum*) nested at Cinergy Corporation's (Cinergy) Gibson Generating Station in Gibson County, Indiana. Since that time, the least tern colony at the facility has grown. During the 1990s, Cinergy worked cooperatively with the Indiana Department of Natural Resources (IDNR) and the Service to maintain favorable conditions for successful tern production at the Gibson Generating Station. Between 1986 and 1999, the most terns recorded in a single year (1998) included an estimated 85 adult terns, 63 nests, and 72 fledged young.

In the late 1990s, Cinergy worked cooperatively with the IDNR and the Service to develop a Habitat Conservation Plan (HCP) regarding continued operation of the facility, and, in late 1999, the Service issued an Incidental Take Permit (ITP) to Cinergy. In 2005, the ITP was renewed. Management of the facility under the HCP has promoted the continued growth of the tern colony. In 2010, an estimated 150 adults, 110 nests, and 165 fledged young were recorded. In addition to the growth in numbers, the tern colony has expanded to areas beyond the original location along a splitter dike adjacent to a cooling pond. Nesting has now been documented on the splitter dike, adjacent to ash ponds, a coal combustion waste landfill, construction areas and station access roads. The expansion of the tern nesting area presents management challenges for the generating station and associated facilities.

**Current Proposal**

Duke Power Company purchased and merged with Cinergy Corp. to form Duke Energy Corporation (Duke) in 2006. Duke has continued to operate the facility in accordance with the HCP and the ITP. Duke has applied to the Service for renewal of its ITP number TE016724. An updated HCP accompanies this renewal application. The HCP describes management activities in and around the Gibson Generating Station, including water management, predator control, and minimization of human disturbance due to recreational use.

Proactive management over the past 25 years has resulted in an increase in the Interior least tern population nesting at Gibson Generating Station and surrounding areas. However, no incidental take of least terns has occurred during that time. Actions that may result in take include human disturbance during management and operations, including foot traffic,