

Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2010-6914 Filed 3-26-10; 8:45 am]

**BILLING CODE 9111-23-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA-3309-EM; Docket ID FEMA-2010-0002]

**North Dakota; Emergency and Related Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of an emergency for the State of North Dakota (FEMA-3309-EM), dated March 14, 2010, and related determinations.

**DATES:** *Effective Date:* March 14, 2010.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Recovery Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3886.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated March 14, 2010, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of North Dakota resulting from flooding beginning on February 26, 2010, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* ("the Stafford Act"). Therefore, I declare that such an emergency exists in the State of North Dakota.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program. This assistance excludes regular time costs for subgrantees' regular employees.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Justo Hernandez, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of North Dakota have been designated as adversely affected by this declared emergency:

Barnes, Benson, Burleigh, Cass, Dickey, Emmons, Foster, Grand Forks, LaMoure, Mercer, Nelson, Pembina, Ramsey, Ransom, Richland, Stutsman, Traill, and Walsh Counties and the Spirit Lake Reservation for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2010-6913 Filed 3-26-10; 8:45 am]

**BILLING CODE 9110-23-P**

**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Customs and Border Protection**

**Notice of Issuance of Final Determination Concerning a Wood Chest**

**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 certain wood chest. Based upon the facts presented, CBP has concluded in the final determination that the U.S. is the country of origin of the wood chest for purposes of U.S. government procurement.

**DATES:** The final determination was issued on March 23, 2010. 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 within April 28, 2010.

**FOR FURTHER INFORMATION CONTACT:** Elif Eroglu, Valuation and Special Programs Branch: (202) 325-0277.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on March 23, 2010, 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 wood chest which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, in Headquarters Ruling Letter ("HQ") H083693, was issued at the request of J. Squared, Inc. d/b/a University Loft Company 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 has concluded that, based upon the facts presented, the wood chest, assembled in the U.S. from parts made in Malaysia and the U.S., is substantially transformed in the U.S., such that the U.S. is the country of origin of the finished article for purposes of U.S. government procurement.

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: March 23, 2010.

**Myles B. Harmon,**

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

#### **Attachment**

#### **HQ H083693**

March 23, 2010

OT:RR:CTF:VS H083693 EE

CATEGORY: Marking

Lisa A. Crosby

Sidley Austin, LLP

1501 K Street, NW

Washington, D.C. 20005

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. § 2511); Subpart B, Part 177, CBP Regulations; Wood Chest

Dear Ms. Crosby:

This is in response to your correspondence of November 4, 2009, requesting a final determination on behalf of J. Squared, Inc. d/b/a University Loft Company ("ULC"), pursuant to subpart B of part 177, Customs and Border Protection ("CBP") Regulations (19 CFR § 177.21 et seq.). Under the pertinent regulations, which implement 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.

This final determination concerns the country of origin of the G10624-30 Wood Chest. We note that ULC is a party-at-interest within the meaning of 19 CFR § 177.22(d)(1) and is entitled to request this final determination.

#### **FACTS:**

You describe the pertinent facts as follows. ULC's principal place of business is in Greenfield, Indiana. The company manufactures the wood chest at its facility in Greenfield, Indiana. The wood chest is a self-centering, stackable, two-drawer chest made of environmentally farmed hevea brasiliensis wood in a natural finish. Its dimensions are: 36 $\frac{1}{4}$ " wide, 21 $\frac{13}{16}$ " deep and 18 $\frac{11}{16}$ " high. ULC designed this chest wholly within the U.S. ULC makes the wood chest from U.S. and imported components at its facility in Greenfield, Indiana.

You state that the wood chest contains over twenty components plus

screws and other hardware. All of the materials are of U.S. or Malaysian origin. Production and packaging of the chest occurs in the U.S.

You submitted the bill of materials for the wood chest. Of the total cost of production, 40 percent is attributable to materials of U.S. origin, U.S. warehouse overhead and U.S. labor costs (including overhead). Some of the components from Malaysia include the following: drawers, panels, drawer frame pieces, top shelf frame pieces, drawer slides, and screws. The laminate top originates in the U.S. You submitted a photographic illustration of the U.S. production. The production of the wood chest takes approximately forty-one minutes. You claim that each step is completed by skilled workers who undergo an extensive training process.

The production of the wood chest begins by staging the left and right side panels for assembly. These panels are moved into the slide attachment workstation, where two drawer slides are drilled into place on each side panel using screws. A jig is used to ensure exact placement of the drawer slides. Next, two drawer frame assemblies and one top frame assembly are constructed from wood pieces imported from Malaysia. The wood pieces are hand-fitted together with glue and measured against a jig to ensure the frames meet exact specifications. After the various frame pieces are glued together, the frame is clamped and bradded to maintain a tight fit until the glue dries. The three frame assemblies (two drawer frames and one top frame) are then attached to the left and right side panel assemblies using screws and glue. The laminate top (U.S.-origin) and back panel are then affixed to the frame/side panel assembly using glue and screws.

On a separate production line, drawer assemblies are staged for production. A jig is used to align the drawer slides and attach them to the drawer assemblies with screws. The drawer assemblies with slides are then inserted into the chest and adjustments are made as necessary to meet specifications and ensure a smooth operation.

After final assembly, the wood chest undergoes a quality control review, during which the contract manufacturer and "Friends of the World" labels (reflecting that the wood is sustainably harvested) are affixed to the inside of the top drawer. The chest is then packaged using shrink-wrap and recycled cardboard. Finally, the packaged chest is palletized and labeled for shipment/delivery.

#### **ISSUE:**

What is the country of origin of the wood chest for the purpose of U.S. government procurement?

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

Pursuant to subpart B of part 177, 19 CFR § 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 purposes 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 CFR § 177.22(a).

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 Acquisition Regulations. See 19 CFR § 177.21. In this regard, CBP recognizes that the Federal Acquisition 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 Acquisition 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.

48 CFR § 25.003.

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and

whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, extent and nature of post-assembly inspection and testing procedures, and the degree of skill required during the actual manufacturing process may be relevant when determining whether a substantial transformation has occurred. No one factor is determinative.

In *Carlson Furniture Industries v. United States*, 65 Cust. Ct. 474 (1970), the U.S. Customs Court ruled that U.S. operations on imported chair parts constituted a substantial transformation, resulting in the creation of a new article of commerce. After importation, the importer assembled, fitted, and glued the wooden parts together, inserted steel pins into the key joints, cut the legs to length and leveled them, and in some instances, upholstered the chairs and fitted the legs with glides and casters. The court determined that the importer had to perform additional work on the imported chair parts and add materials to create a functional article of commerce. The court found that the operations were substantial in nature, and more than the mere assembly of the parts together.

In HQ W563456, dated July 31, 2006, CBP held that certain office chairs assembled in the U.S. were a product of the U.S. for purposes of U.S. government procurement. The office chairs were assembled from seventy U.S. and foreign components. The imported components alone were insufficient to create the finished chairs and substantial additional work and materials were added to the imported components in the U.S. to produce the finished chairs. In finding that the imported parts were substantially transformed in the U.S., CBP stated that the components lost their individual identities when they became part of the chair as a result of the U.S. assembly operations and combination with U.S. components. In HQ 561258, dated April 15, 1999, CBP determined that the assembly of numerous imported workstation components with the U.S.-origin work surface into finished workstations constituted a substantial transformation. CBP held that the imported components lost their identity as leg brackets, drawer units, panels etc. when they were assembled together to form a workstation.

This case involves twenty main components which are proposed to be assembled in the U.S., largely by skilled workers. The laminate top, of U.S. origin, will be assembled into the wood

chest in a twenty step process which will take approximately forty-one minutes. Under the described assembly process, we find that the foreign components lose their individual identities and become an integral part of a new article, the wood chest, possessing a new name, character and use. Based upon the information before us, we find that the components that are used to manufacture the wood chest, when combined with a U.S. origin laminate top, are substantially transformed as a result of the assembly operations performed in the U.S., and that the country of origin of the wood chest for government procurement purposes is the U.S.

#### **HOLDING:**

The imported components that are used to manufacture the wood chest are substantially transformed as a result of the assembly operations performed in the U.S. Therefore, we find that the country of origin of the wood chest for government procurement purposes is the U.S.

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 this final determination may request, pursuant to 19 CFR § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR § 177.30, 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,

**Myles B. Harmon,**

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

[FR Doc. 2010-6832 Filed 3-26-10; 8:45 am]

**BILLING CODE 9111-14-P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA-1883-DR; Docket ID FEMA-2010-0002]

#### **Oklahoma; Major Disaster and Related Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Oklahoma

(FEMA-1883-DR), dated March 5, 2010, and related determinations.

**DATES:** *Effective Date:* March 5, 2010.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Recovery Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3886.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated March 5, 2010, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Oklahoma resulting from a severe winter storm during the period of January 28-30, 2010, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Oklahoma.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Gregory W. Eaton, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Oklahoma have been designated as adversely affected by this major disaster:

Alfalfa, Caddo, Cleveland, Comanche, Cotton, Delaware, Dewey, Ellis, Grady, Greer, Harmon, Haskell, Hughes, Jackson, Kiowa, LeFlore, McClain, Muskogee, Okmulgee, Pontotoc, Pottawatomie, Roger Mills, Seminole, Stephens, and Washita Counties for Public Assistance.

All counties within the State of Oklahoma are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling;