

the CBP Regulations). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (77 FR 64533) on October 22, 2012, allowing for a 60-day comment period. Two comments were received. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

**DATES:** Written comments should be received on or before February 7, 2013.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229-1177, at 202-325-0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104-13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency/component 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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological

techniques or other forms of information.

**Title:** Regulations Relating to Recordation and Enforcement of Trademark and Copyrights (Part 133 of the CBP Regulations).

**OMB Number:** 1651-0123.

**Form Number:** None.

**Abstract:** In accordance with 19 CFR part 133, trademark and trade name owners and those claiming copyright protection may submit information to CBP to enable CBP officers to identify violating articles at the borders. Parties seeking to have merchandise excluded from entry must provide proof to CBP of the validity of the rights they seek to protect. The information collected by CBP is used to identify infringing goods at the borders and determine if such goods infringe on intellectual property rights for which federal law provides import protection. Respondents may submit their information to CBP electronically at <https://apps.cbp.gov/e-recordations/>, or they may submit their information on paper in accordance with 19 CFR 133.2 and 133.3 for trademarks, or 19 CFR 133.32 and 133.33 for copyrights.

**Current Actions:** This submission is being made to extend the expiration date.

**Type of Review:** Extension (without change).

**Affected Public:** Businesses and Individuals.

**Estimated Number of Respondents:** 2,000.

**Estimated Time per Respondent:** 2 hours.

**Estimated Total Annual Burden Hours:** 4,000.

Dated: January 3, 2013.

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2013-00144 Filed 1-7-13; 8:45 am]

**BILLING CODE 9111-14-P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### Notice of Issuance of Final Determination Concerning Ponstel® (Mefenamic Acid) Capsules

**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 Ponstel® (mefenamic acid) capsules. Based upon the facts presented, CBP has concluded in the final determination that India is the country of origin of the Ponstel (mefenamic acid) capsules for purposes of U.S. Government procurement.

**DATES:** The final determination was issued on December 26, 2012. 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 February 7, 2013.

**FOR FURTHER INFORMATION CONTACT:** Heather K. Pinnock, Valuation and Special Programs Branch: (202) 325-0034.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on December 26, 2012, pursuant to subpart B of part 177, Customs and Border Protection Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of Ponstel (mefenamic acid) capsules, which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, in HQ H233356, was issued at the request of West-Ward Pharmaceutical Corp., 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 concluded that, based upon the facts presented, mefenamic acid from India, blended with excipients and packaged into dosage form in the United States, was not substantially transformed in the United States, such that India is the country of origin of the finished Ponstel (mefenamic acid) capsules for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination 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: January 3, 2013.

**Jeremy Baskin,**

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

**Attachment**

**HQ H233356**

*December 26, 2012*

MAR-2 OT:RR:CTF:VS H233356HkP

## CATEGORY: Origin

Ms. Susan Todd  
Senior Manager, Regulatory Affairs  
West-Ward Pharmaceutical Corp.  
435 Industrial Way West  
Eatontown, NJ 07724

RE: Government Procurement; Trade  
Agreements Act; Country of Origin of  
Ponstel® (mefenamic acid) Capsules;  
Substantial Transformation

Dear Ms. Todd:

This is in response to your letter, dated August 21, 2012, requesting a final determination on behalf of West-Ward Pharmaceutical Corp. ("West-Ward") pursuant to subpart B of part 177 of the U.S. Customs and Border Protection ("CBP") Regulations (19 C.F.R. Part 177). Under these regulations, which implement Title III of the Trade Agreements Act of 1979 ("TAA"), 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.

This final determination concerns the country of origin of Ponstel (mefenamic acid) capsules. As a U.S. importer, West-Ward is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

## FACTS:

West-Ward imports mefenamic acid powder in bulk form from India, where it is manufactured. Mefenamic acid is the active pharmaceutical ingredient ("API") in the pharmaceutical product Ponstel. Ponstel is indicated for the relief of mild to moderate pain caused by primary dysmenorrhea and is approved by the U.S. Food and Drug Administration, NDA no. 015034.

After importation, West-Ward combines the API, mefenamic acid, with inactive ingredients and processes it into dosage form. The inactive ingredients are lactose monohydrate, D&C Yellow No. 10, FD&C Yellow No. 6, gelatin, titanium dioxide, and food-grade inks. The mefenamic acid is added to a tumbler and blended. Lactose monohydrate, a diluent, is then added to the tumbler and blended with the API. The blend is transferred to an encapsulating machine and used to fill capsules purchased from a U.S. supplier. The capsules are packed into bottles of 30 capsules each, which are packaged and shipped to the U.S.-holder of the New Drug Application for Ponstel.

## ISSUE:

What is the country of origin of Ponstel (mefenamic acid) capsules for purposes 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 C.F.R. § 177.22(a).

A substantial transformation occurs when an article emerges from a process with a new name, character and use different from that possessed by the article prior to processing. A substantial transformation will not result from a minor manufacturing or combining process that leaves the identity of the article intact. See *United States v. Gibson-Thomsen Co.*, 27 C.C.P.A. 267 (1940); and, *National Juice Products Association v. United States*, 628 F. Supp. 978 (Ct. Int'l Trade 1986).

In determining whether a substantial transformation occurs in the manufacture of chemical products such as pharmaceuticals, CBP has consistently examined the complexity of the processing and whether the final article retains the essential identity and character of the raw material. To that end, CBP has generally held that the processing of pharmaceutical products from bulk form into measured doses does not result in a substantial transformation of the product. See e.g., Headquarters Ruling Letter ("HQ") 561975, dated April 3, 2002; HQ 561544, dated May 1, 2000; and, HQ 735146, dated November 15, 1993.

For instance, in HQ 561975, the anesthetic drug sevoflurane imported into the U.S. in bulk form and processed into dosage form by extensive testing operations, followed by filtering and packaging into bottles, was found not to have undergone a substantial transformation in the U.S. There was no change in name (the product was identified as sevoflurane in both its bulk and processed form). The sevoflurane retained its chemical and physical properties after the U.S. processing. Lastly, because the imported bulk sevoflurane had a predetermined medicinal use as an inhalable anesthetic drug, the processing in the United States resulted in no change in the product's use.

Likewise, in HQ 561544, the testing, filtering and sterile packaging of Geneticin Sulfate bulk powder, to create Geneticin Selective Antibiotic, was not found to have substantially transformed the antibiotic substance because the processing only involved the removal of impurities from the bulk chemical and the placement of the chemical into smaller packaging.

In HQ 735146, 100 percent pure acetaminophen imported from China was blended with excipients in the United States, granulated and sold to pharmaceutical companies to process into tablets for retail sale under private labels. U.S. Customs (now CBP) found that the process in the United

States did not substantially transform the imported product because the product was referred to as acetaminophen both before importation and after U.S. processing, as imported the acetaminophen was used for medicinal purposes and continued to be so used after U.S. processing, and the granulating process minimally affected the chemical and physical properties of the acetaminophen.

In this case, the mefenamic acid imported from India is blended with excipients and packaged into dosage form in the United States. Based on the rulings above, we find that this process does not substantially transform the mefenamic acid because its chemical character remains the same. As such, we find that the country of origin of the Ponstel (mefenamic acid) capsules is India, where the mefenamic acid was manufactured.

## HOLDING:

Based on the facts in this case, the blending and packaging operations performed in the United States do not substantially transform the mefenamic acid imported from India. Therefore, the country of origin of the Ponstel® (mefenamic acid) capsules is India for purposes of U.S. Government procurement.

Notice of this final determination will be given in the **Federal Register**, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,  
Jeremy Baskin,  
Acting Executive Director, Regulations and  
Rulings, Office of International Trade.

[FR Doc. 2013-00140 Filed 1-7-13; 8:45 am]

BILLING CODE:P

## DEPARTMENT OF HOMELAND SECURITY

## U.S. Customs and Border Protection

## Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

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

**ACTION:** General notice.

**SUMMARY:** This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning January 1, 2013, the interest rates for