



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

JUL 21 2009

The Honorable Kurt Schrader
U.S. House of Representatives
Washington, DC 20515

Dear Representative Schrader:

Thank you for your June 18, 2009, correspondence on behalf of knife manufacturing constituents in Oregon who have contacted your office, in which you requested reconsideration of the notice of proposed revocation of ruling letters relating to the admissibility of knives with spring and release assisted opening mechanisms, which was published in the Customs Bulletin and Decisions on May 22, 2009. You also requested an extension of time within which comments upon the proposal would be accepted. The admissibility of switchblade knives is determined pursuant to the Act of August 12, 1958 (Pub. L. 85-623, codified at 15 United States Code (U.S.C.) §§ 1241-1245), otherwise known as the "Switchblade Knife Act." The CBP Regulations promulgated pursuant to the Switchblade Knife Act are set forth at 19 Code of Federal Regulations (CFR) §§ 12.95-12.103.

At the outset, we would like to point out that the proposed revocation is intended to affect only knives which are constructed with a spring-assisted opening mechanism, not all knives with thumb studs or those designed to be opened with one hand. (See, for example, page 11 in proposed Headquarters Ruling Letter (HQ) H043122: "Thus, for example, pocketknives, tradesman's knives and other folding knives for a certain specific use remain generally admissible, with such determinations being made, by necessity, on a case-by-case basis.") Further, 19 CFR Part 12.96(a) provides that: "[a]mong admissible common and special purpose knives are jackknives and similar standard pocketknives, special purpose knives, scout knives, and other knives equipped with one or more blades of such single edge nonweapon styles as clip, skinner, pruner, sheep foot, spey, coping, razor, pen, and cuticle."

Late last year, CBP received a request for a binding ruling pursuant to 19 CFR Part 177 regarding the admissibility of a knife equipped with an assisted opening mechanism. A sample of the knife was submitted as part of the ruling request. The subject knife, which was not manufactured with an activating button in the handle, but rather with thumb studs on the unsharpened "back" of the blade, nevertheless opened instantaneously in a manner indistinguishable from a traditional switchblade. In light of these observations in the context of the applicable statutory and regulatory provisions, CBP decided to reexamine its interpretation of the law as applicable to these facts and is proposing to rule that such knives fall within a prohibition set forth at 19 CFR Part 12.95(a)(1), viz. a switchblade knife is "any knife with a blade which opens automatically by operation of inertia, gravity, or both[.]" As was acknowledged in the published notice of proposed revocation, CBP itself has issued conflicting

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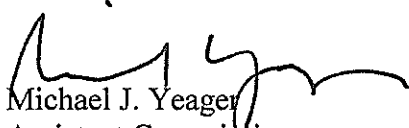
rulings regarding the admissibility of similar knives. If the proposed revocations are adopted, in accordance with 19 U.S.C. §1625(c), those rulings will not become effective until 60 days after their publication in the Customs Bulletin.

Recently, on Thursday July 9, 2009, during the Senate's consideration of the Homeland Security Appropriations Act, Sen. Cornyn (R-TX) offered an amendment to exclude the spring-assisted knives from the prohibition. The proposed amendment would add the following new provision under section 1244 of the statute (15 U.S.C. § 1244--"Exceptions"), under the exceptions to the switchblade knives prohibition: "(5) a knife that contains a spring, detent, or other mechanism designed to create a bias toward closure of the blade and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure to assist in opening the knife." Neither CBP nor DHS opposed the clarification, and the amendment passed the Senate by unanimous consent.

The amendment would effectively obviate the need for CBP's proposed revocations and render the current issue moot. Additionally, due to the numerous comments received in response to the proposed revocation, it is unlikely that CBP will take any further action prior to passage of the Appropriations Act.

Thank you for your interest in U.S. Customs and Border Protection. Should you need additional assistance, please do not hesitate to contact me at (202) 344-1760.

Sincerely,



Michael J. Yeager
Assistant Commissioner
Office of Congressional Affairs