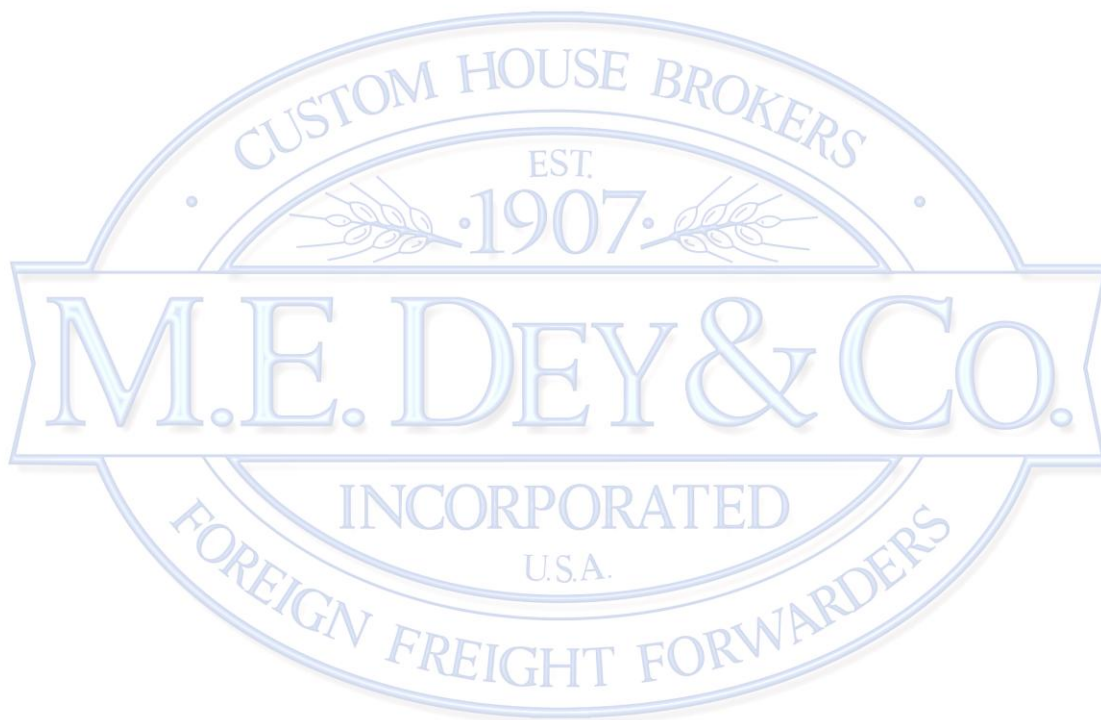


***What Every Member of the
Trade Community Should Know About:***

Decals, Decorative Stickers and “Window Clings”



AN CBP INFORMED COMPLIANCE PUBLICATION

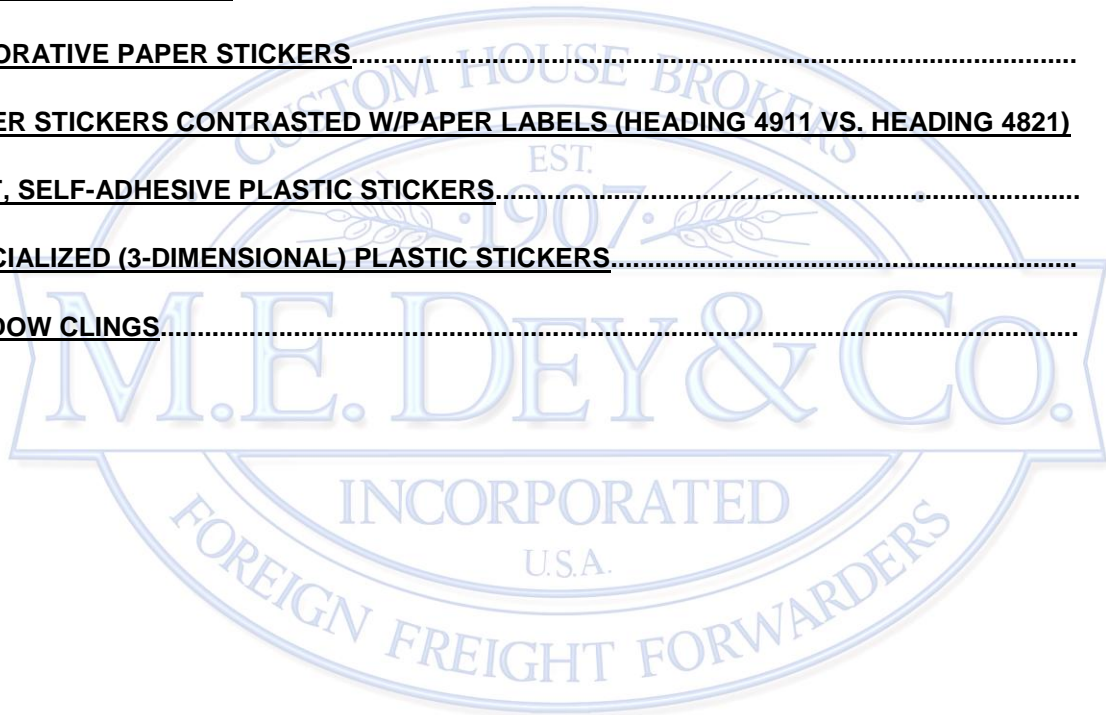
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NOTICE:

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INTRODUCTION

This publication concerns a variety of articles designed to be applied to the surfaces of other objects, usually for decorative purposes. Commonly known as decals, stickers and window clings, these articles are manufactured using a range of disparate materials and formats, and function in different ways. That circumstance, together with imprecise use of identifying terminology, can easily result in confusion as to the true nature of a given product and how it is classified in the Harmonized Tariff Schedule of the United States (HTSUS) by Customs and Border Protection (CBP). The discussion that follows will describe and contrast the physical form, use and tariff treatment of the several commonly imported types of goods comprising this broad group of products.

DECALS (TRANSFERS)

A decal (short for “decalcomania,” derived from the French *decalcomanie*) consists of an image that has been printed onto a specially coated carrier sheet, generally of paper or plastic. The imprint itself is coated with an adhesive, and is meant to be transferred from its carrier to the surface of some other object, where it will serve as a decoration, informational marking, etc., depending on the nature of its printed content. The image must generally be transferred by placing the entire decal sheet, printed side down, onto the receiving surface and applying pressure to the back of the carrier. In many cases, the decal must be pre-moistened or heated/pressed with an iron to effect the transfer. After the image has been transferred to the other object, the carrier can be stripped away and discarded.

Decals are specifically provided for, as printed transfers, in heading 4908 of the HTSUS. This heading is broken down into two subheadings, the first of which, 4908.10, provides for certain specialized decals referred to as vitrifiable transfers. The word “vitrify” means to convert into glass or a glassy substance by means of heat and fusion. Thus, vitrifiable decals are those designed to be applied to certain articles (e.g., of glass or ceramics) which in turn will be “fired” in a kiln or the like, effecting a permanent fusing of the image with the receiving object’s surface. New York Ruling Letter (NYRL) C88987 (June 16, 1998), for example, describes such a vitrifiable decal intended for use in the decoration of a glass article. As indicated in the ruling, decals of this kind must be manufactured using special vitrifiable materials (e.g., preparations of heading 3207, HTSUS) that will withstand the heating process and produce the desired result.

Most decals fall in the second subheading, 4908.90, which provides for transfers other than vitrifiable. These decals may be applied to a variety of objects (e.g., of metal, plastic, wood, paperboard, textile fabric, etc.), which need not undergo any further processing after the image has been transferred. The decals may serve any decorative or utilitarian purpose, such as ornamenting a kitchen cabinet with a printed design (See **NYRL L81901** of Jan. 26, 2005, which discusses that process), identifying the model number of a machine, adding a logo to a tee-shirt, or even adorning the human body, just to give a few examples.

The increasing popularity of “body art” has in fact led to an upsurge in the use of decals known as “temporary tattoos,” which can be applied to the skin using the same pressure/moisture method described above, and which can be easily removed with alcohol, cold cream, etc. Often marketed toward children and teenagers, these products also fall within subheading 4908.90. NYRL 884872 (April 22, 1993), for example, describes a sheet of paper bearing four pictorial tattoo-decals on the front and printed instructions on the back. The instructions advise the user to cut out the design of his/her choice, place it face down on the skin, rub firmly with a damp cloth or sponge, and peel the paper away after the image has been transferred. The resulting “tattoo,” which is said to last up to several days, can be removed with baby oil or rubbing alcohol. **NYRL I87877** (Oct. 30, 2002) describes similar products, in this instance

known as “reward tattoos,” which can be applied to the skin and subsequently removed in the same manner. Both rulings classify the temporary tattoos in subheading 4908.90, HTSUS.

It should be noted that, in contrast to the other types of products discussed below, decals are relatively insubstantial and delicate in terms of their physical being. Aside from their carriers, they are nothing more than printed images on extremely thin, nearly invisible coating-material substrates that are not meant to be handled. In ordinary usage, one does not, for example, peel a decal off of its backing (carrier sheet) and place it somewhere else with one’s fingers. It is not designed for such treatment, and must be directly transferred, as described above, according to the particular manufacturer’s instructions, which are usually provided.

DECORATIVE PAPER STICKERS

Unfortunately, the term “sticker” does not have as precise a meaning as the term “decal,” and can legitimately be used to refer to a number of different kinds of products. For the purposes of this publication, however, a sticker is a gummed piece of paper or plastic that has been printed (with designs, pictures, words, characters, etc.), generally for decorative use. Unlike decals, stickers typically are designed to be peeled off a backing and simply stuck onto a surface using finger pressure. Stickers are not specifically provided for, by name, in the HTSUS, and must be classified according to their particular, individual characteristics. The first types to be dealt with are those made of paper.

The decorative paper stickers marketed today are typically die-cut, self-adhesive paper shapes put up for sale on release-paper backers, either in single sheets or in bound pads or booklets. (“Release paper” is paper with a slick coating, e.g., silicone, which will hold adhesive-coated products in place but which will also allow such products to be easily peeled off when desired.) These stickers, often marketed toward children or teenagers, are printed with a wide variety of images, such as cartoon characters, pictures of animals, abstract designs, trendy phrases, etc. They are typically used to decorate notebooks, other personal possessions, stationery, gift packages and the like. In addition to being sold on their own, decorative paper stickers are often included as constituent parts of children’s arts & crafts or activity kits of various kinds.

The decorative paper stickers under discussion are generally classified as “other printed matter,” in heading 4911, HTSUS. The specific applicable subheading depends on the nature of the printed content and the type of printing process used to manufacture the stickers.

Those that consist entirely, or essentially, of pictures or designs (i.e., with little or no significant textual content), when printed by a lithographic process, usually fall in subheading 4911.91.2040, which provides for pictures, designs and photographs: lithographs on paper or paperboard, not over 0.51 mm in thickness. When printed by a process other than lithography, these pictorial/design stickers instead fall in subheading 4911.91.4040, which provides for printed pictures, designs and photographs, other than lithographs on paper. (Lithography is a printing process that employs a flat, as opposed to a raised or engraved, printing plate. *Offset lithography*, the principal form of lithographic printing, is now often referred to simply as “offset printing.”) **NYRLs A85982** (Aug. 6, 1996) and **I84846** (Aug. 13, 2002) provide examples of lithographically printed pictorial/design stickers. Both rulings discuss pressure-sensitive paper stickers printed with assorted designs, and classify the goods in subheading 4911.91.2040, HTSUS. **NYRL L81424** (Dec. 20, 2004), on the other hand, deals with pictorial stickers printed on paper by a letterpress (raised-plate) process, and classifies them in subheading 4911.91.40, HTSUS.

Paper stickers printed with text, lettering and/or numerals generally fall in subheading 4911.99.6000 (if printed lithographically) or 4911.99.8000 (if printed by some other method). These classifications also apply to paper stickers whose printed content combines significant text/lettering with pictures/designs, e.g., the phrase “Totally Awesome” prominently printed against a pictorial background. **NYRL J89512**

(Oct. 17, 2003), for example, deals with paper stickers that have been lithographically printed with various words and phrases, and classifies them in subheading 4911.99.6000, HTSUS. **NYRL I85475** (Aug. 30, 2002) concerns, in pertinent part, paper stickers that have been letterpress-printed with wording, numerals, letters of the alphabet, etc., and classifies them in subheading 4911.99.8000, HTSUS.

It often happens that pictorial stickers are mixed with textual stickers on the same sheet, or within the same booklet. CBP's practice has been to classify such assortments on the basis of the predominant type present in the retail package.

PAPER STICKERS CONTRASTED WITH PAPER LABELS (HEADING 4911 VS. HEADING 4821)

Before proceeding to the topic of plastic stickers, we will digress to note that paper labels, which are specifically provided for in heading 4821 of the HTSUS, can in many cases be virtually indistinguishable, in physical form, from the paper stickers discussed above. That is, they may be gummed, printed pieces of paper designed to be applied to the surface of some other object. For tariff purposes, the difference lies in their principal use. While the stickers under discussion are primarily decorative in nature, labels are utilitarian, serving to convey specific, practical information about the items to which they are attached (e.g., the identity and ingredients of a can of soup, the return address for a piece of mail, the price and bar code for a bottle of vitamins, the ownership of a book).

In this regard, **NYRL K86439** (June 25, 2004), which encompasses both paper labels of heading 4821 and paper stickers of heading 4911, provides a useful contrast. One of the products discussed in the ruling is a retail packet of 20 "bookplates," each of which is a 4-1/2" x 2-7/8" sheet of pressure-sensitive paper meant to be affixed to a book (presumably inside the front cover). The face of each bookplate bears a design-printed border and a caption reading, "This book belongs to: ____" or, in other instances, "From the library of: ____". The ruling goes on to classify the bookplates as paper labels of heading 4821, HTSUS. On the other hand, the ruling also discusses different products, identified as "happy stars stickers," which are 5/8"-diameter, pressure-sensitive paper discs printed with smiley-face star designs. These items, which, unlike the bookplates, are not manifestly utilitarian in nature but rather are suitable for miscellaneous decorative applications, are classified in the ruling as printed pictures of heading 4911.91, HTSUS.

FLAT, SELF-ADHESIVE PLASTIC STICKERS

Some decorative stickers are made of plastic film rather than paper. In appearance, flat plastic stickers are similar to the paper ones, but generally are somewhat glossier and more difficult to tear with the fingers. They are generally put up for sale on release-paper or plastic backers (single sheets or bound booklets), from which they may be easily peeled prior to placement on chosen surfaces. The plastic used to make them may be of various kinds and colors, and in some cases may be "metallized" (very thinly coated with a metallic substance such as aluminum) and/or printed with holographic images. These stickers, if they are both flat and self-adhesive, are classifiable in heading 3919 (usually subheading 3919.90.5060), HTSUS, which provides for self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics. The term "self-adhesive" means pressure-sensitive, which is defined in the Harmonized **Explanatory Notes** (ENs) to heading 3919 as referring to products "which at room temperature, without wetting or other addition, are permanently tacky (on one or both sides) and which firmly adhere to a variety of dissimilar surfaces upon mere contact, without the need for more than finger or hand pressure."

Flat, self-adhesive plastic stickers are classifiable in heading 3919 whether they are printed or unprinted. Furthermore, variations in the nature of any printed content (e.g., pictures vs. text vs. repetitive patterns, etc.) do not alter their classification in this instance. This is an important exception to the general rule that forces many other printed plastic articles into chapter 49, HTSUS. The exception can be traced to Note 2 of Section VII, HTSUS, which states: “**Except** for the goods of heading 3918 or **3919**, plastics, rubber and articles thereof, printed with motifs, characters or pictorial representations, which are not merely incidental to the primary use of the goods, fall in chapter 49.” (Emphasis supplied.) This Note is clarified and reinforced by certain of the **Explanatory Notes**. The General EN for Section VII, Note 2, states, in pertinent part, that goods of heading 3919, even if bearing printed content not merely incidental to the primary use of the goods, do not fall in chapter 49 but remain classified in heading 3919. The General EN for chapter 49 mirrors this concept by stating that goods of heading 3919 are excluded from chapter 49.

NYRL J85425 (June 23, 2003), for example, classifies certain “retro success” stickers in subheading 3919.90.5060, HTSUS. The items are described as flat, self-adhesive plastic stickers printed with various designs, many incorporating words of praise or encouragement. **NYRL H83933** (July 25, 2001) concerns plastic self-adhesive stickers that are in reality flat but bear holographic images giving the illusion of depth. Again, the classification is subheading 3919.90.5060, HTSUS.

SPECIALIZED (3-DIMENSIONAL) PLASTIC STICKERS

While the flat types are probably the most common of the plastic stickers, certain specialized varieties have three-dimensional profiles. “Puffy stickers,” for example, are printed, self-adhesive, pillow-like articles consisting of plastic film that encases a foam inner layer. Although they are printed, pressure-sensitive stickers, they possess a three-dimensional, “puffy” quality, meaning that they are not considered “flat” for purposes of heading 3919. Thus, since they are made of plastic but do not answer to heading 3919, Note 2 of HTSUS Section VII applies, meaning that these stickers revert to chapter 49 for classification purposes whenever they bear printed content that is more than merely incidental. Printed plastic stickers that are not flat generally fall in subheading 4911.91.4040 or 4911.99.8000, depending on their printed content. An example may be found in **HQRL 087363** (Aug. 14, 1990), which sets forth this rationale and classifies some pictorial puffy stickers in subheading 4911.91.4040, HTSUS.

Another group of specialized stickers consists of the “domed” or “crystal” types, which generally have convex-shaped, raised hard-plastic surfaces. Again, since these are not flat, they fail to qualify for heading 3919 and fall in heading 4911. For example, in **NYRL L80856** (Nov. 29, 2004), certain convex plastic stickers, printed with pictures/designs and intended for use in decorating packages or other articles, are classified in subheading 4911.91.4040. In **NYRL L87048** (Sept. 9, 2005), similar convex plastic stickers whose printed designs incorporate significant wording are classified in subheading 4911.99.8000.

A third specialty group consists of items known as “gel stickers,” which are pliable, die-cut shapes made of soft, jellylike plastic. They are not coated with adhesive, but their consistency is such that they will adhere to smooth, nonporous surfaces such as mirrors and window glass. However, because these stickers, which lack adhesive, adhere only to smooth, nonporous surfaces and cannot adhere to a variety of dissimilar surfaces, they fail to qualify for heading 3919 and fall in heading 4911 when they are printed.

It is important to note, however, that in some cases the specialized plastic stickers under discussion may not be printed at all, or may be printed merely with coloration or a repetitive design (such as a continuous series of dots, diamonds or squiggles). Mere coloration or repetitive designs do not constitute “printed matter” for purposes of chapter 49, HTSUS. Thus, some specialized plastic stickers do not qualify for classification either as products of heading 3919 or as “printed matter” of chapter 49. Such items (e.g., an unprinted gel sticker, or a domed sticker printed with dots and color) are usually classified in subheading 3926.40.0000, which provides for “other articles of plastics: statuettes and other ornamental articles.” For

example, **NYRL H81460** (June 18, 2001) deals with certain “stick-on gems” described as convex, hard-plastic self-adhesive discs in several shapes and colors. The ruling classifies them in subheading 3926.40.0000, HTSUS. Likewise, **NYRL L82983** (Feb. 10, 2005) classifies certain unprinted “hearts and flowers gel stickers” in that same tariff subheading.

WINDOW CLINGS

“Window clings”, which tend to be considerably larger in surface area than any of the stickers previously discussed, generally consist of printed plastic sheets that adhere to glass or other nonporous surfaces by the action of static electricity. Except for their larger size, they resemble the flat, self-adhesive stickers of heading 3919, and are typically supplied on paper/paperboard backers from which they are to be peeled. However, they do not have any adhesive, and are often made of somewhat heavier-gauge plastic so that they can withstand repeated handling and re-use.

Like the gel stickers, the window clings, which lack adhesive and are not tacky, do not fall in heading 3919 because they do not adhere to a variety of dissimilar surfaces. However, before classifying them as printed matter in chapter 49, one must first consider the possibility that they may fall in heading 9505, HTSUS, which provides for festive, carnival and other entertainment articles. Chapter 49, by virtue of its own Note 1(c), excludes goods of chapter 95. (NOTE: This is generally not a consideration with any of the paper or plastic stickers discussed earlier in this report, since they are frequently used to embellish packaging. Packaging-related items generally are considered to be outside the scope of heading 9505.)

Window clings, generally used for decorative purposes, often bear recognized holiday-related symbols or phrases (e.g., a picture of Santa Claus or the words “Happy Thanksgiving”), or entertainment-related words or imagery. Thus, window clings having such printed content fall in subheadings 9505.10.25 (Christmas-related) or 9505.90.60 (other). Those with printed content not answering to the terms of heading 9505 fall in subheadings 4911.91.4040 (pictures/designs) or 4911.99.8000 (wording, with or without pictures/designs).

NYRLs K82279 (Jan. 8, 2004) and **H88639** (Feb. 27, 2002), for example, describe window clings bearing representations of Christmas motifs (Santa Claus, Christmas wreaths, Christmas tree ornaments, etc.), and classify them as Christmas festive articles/ornaments, in subheading 9505.10.25, HTSUS. **NYRL K84842** (April 14, 2004) describes a window cling bearing a red heart design incorporating the words “Happy Valentine’s Day,” and classifies the product as “other festive articles,” in subheading 9505.90.60, HTSUS. However, the same ruling also discusses some other window clings bearing wordless heart designs not clearly related to any particular holiday or festive occasion. The ruling holds that these more generic styles convey an overall imagery of “country, cuteness, etc.,” and can be suitably displayed at any time. They are therefore classified as printed pictures/designs in subheading 4911.91, HTSUS.

Plastic window clings that are not printed, or are printed merely with coloration or repetitive designs, fall in subheading 3926.40. **NYRL K88350** (Aug. 31, 2004), for example, deals with multi-piece, multi-colored “window gel clings” made of a thermoplastic elastomer. The products consist of several soft, jellylike, unprinted plastic shapes designed to be arranged on a windowpane to form decorative designs. The shapes adhere to the glass without adhesive. Since they are not “printed matter,” the ruling classifies these items as statuettes and other ornamental articles of plastics, in subheading 3926.40, HTSUS.