

were designed by a project engineer with many years of experience in “designing and building hardware.” While replicating the program pattern from a “master” PROM may be a quick one-step process, the development of the pattern and the production of the “master” PROM required much time and expertise. The court noted that it was undisputed that programming alters the character of a PROM. The essence of the article, its interconnections or stored memory, was established by programming. The court concluded that altering the non-functioning circuitry comprising a PROM through technological expertise in order to produce a functioning read only memory device possessing a desired distinctive circuit pattern was no less a “substantial transformation” than the manual interconnection of transistors, resistors and diodes upon a circuit board creating a similar pattern.

In C.S.D. 84–86, CBP stated:

We are of the opinion that the rationale of the court in the Data General case may be applied in the present case to support the principle that the essence of an integrated circuit memory storage device is established by programming * * * . [W]e are of the opinion that the programming (or reprogramming) of an EPROM results in a new and different article of commerce which would be considered to be a product of the country where the programming or reprogramming takes place.

Accordingly, the programming of a device that changes or defines its use generally constitutes substantial transformation. *See also* HQ 733085, dated July 13, 1990; and HQ 558868, dated February 23, 1995 (programming of SecureID Card substantially transforms the card because it gives the card its character and use as part of a security system and the programming is a permanent change that cannot be undone); HQ 735027, dated September 7, 1993 (programming blank media (EEPROM) with instructions on it that allows it to perform certain functions of preventing piracy of software constituted substantial transformation); *but see* HQ 732870, dated March 19, 1990 (formatting a blank diskette did not constitute substantial transformation because it did not add value, did not involve complex or highly technical operations and did not create a new or different product); HQ 734518, dated June 28, 1993 (concluding that motherboards were not substantially transformed by the implanting of the central processing unit on the board because, whereas in *Data General* use was being assigned to the PROM, the use of the motherboard had already been determined when the importer imported it).

In HQ 563012, dated May 4, 2004, CBP considered whether components of various origins were substantially transformed when assembled to form a fabric switch which involved a combination of computer hardware and software. Most of the assembly of computer hardware was performed in China. Then, in either Hong Kong or the U.S., the hardware was completed and the U.S.-origin software was downloaded onto the hardware. CBP noted that the U.S.-developed software provided the finished product with its “distinctive functional characteristics.” In

making the determination that the product was substantially transformed in the United States, where the fabric switch was assembled to completion, CBP considered both the assembly process that occurred in the United States and the configuration operations that required U.S.-origin software. In the scenario where the fabric switch was assembled to completion in Hong Kong, CBP determined the origin for marking purposes was Hong Kong.

In HQ 559255, dated August 21, 1995, a device referred to as a “CardDock” was under consideration for country of origin marking purposes. The CardDock was a device which was installed in IBM PC compatible computers. After installation, the units were able to accept PCMCIA cards for the purpose of interfacing such PCMCIA cards with the computer in which the CardDock unit was installed. The CardDock units were partially assembled abroad but completed in the United States. The overseas processing included manufacturing the product’s injection molded plastic frame and installing integrated circuits onto a circuit board along with various diodes, resistors and capacitors. After such operations, these items were shipped to the United States for further processing that included mating a U.S.-origin circuit board to the foreign-origin frame and board. The assembled units were thereafter subjected to various testing procedures. In consideration of the foregoing, CBP held that the foreign-origin components, *i.e.*, the ISA boards, frame assemblies and connector cables, were substantially transformed when assembled to completion in the United States. In finding that the name, character, and use of the foreign-origin components had changed during processing in the United States, CBP noted that the components had lost their separate identity during assembly and had become an integral part of a new and distinct item which was visibly different from any of the individual foreign-origin components.

In HQ 735027, dated September 7, 1993, a device that software companies used to protect their software from piracy was under consideration for country of origin marking purposes. The device, referred to as the “MemoPlug,” was assembled in Israel from parts that were obtained from Taiwan (such as various connectors and an Electronically Erasable Programmable Read Only Memory, or “EEPROM”) and Israel (such as an internal circuit board). After assembly, these components were shipped to a processing facility in the United States where the EEPROM was programmed with special software. Such processing in the United States accounted for approximately 50 percent of the final selling price of the MemoPlugs. In finding that the foreign-origin components were substantially transformed in the United States, CBP noted that the U.S. processing transformed a blank media, the EEPROM, into a device that performed functions necessary to the prevention of software piracy.

We make our determinations based on the totality of the circumstances. Here, we take particular note of the fact that the installation of the Communication Manager software adds functionality to certain individual

components and changes functionality of other components. This software is developed and tested exclusively by Avaya in Denver, Colorado. Avaya began development of Communication Manager in 2002 and since that time has spent significant resources in the development and maintenance of the software. In addition, assembly and installation of the hardware components that make up the Avaya Communication Solution will typically take approximately one month to complete and are performed in the United States. While the subassemblies are manufactured in China and Israel, all of the initial engineering, development, and design were developed in the United States.

Based upon the above precedents and the totality of the circumstances, we find that there is a substantial transformation of the component parts in the United States, the location where the final assembly and installation of the hardware as well as the application of the Communication Manager software occur. It follows that we find the country of origin for government procurement purposes is the United States.

HOLDING:

Based on the facts provided, the assembly, installation, and programming operations performed in the United States impart the essential character to Communication Manager. As such, Communication Manager will be considered a product of the United States for the purpose of 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. 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, Regulations and Rulings,
Office of International Trade.*

[FR Doc. 2010–19363 Filed 8–5–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1928–DR; Docket ID FEMA–2010–0002]

Iowa; 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 Iowa (FEMA–1928–DR), dated July 27, 2010, and related determinations.

DATES: *Effective Date:* July 27, 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 July 27, 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 Iowa resulting from severe storms and flooding during the period of May 12–13, 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 Iowa.

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, Thomas A. Hall, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

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

Des Moines and Lee Counties for Public Assistance.

All counties within the State of Iowa 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; 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 Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially 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. 2010–19467 Filed 8–5–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1930–DR; Docket ID FEMA–2010–0002]

Iowa; 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 Iowa (FEMA–1930–DR), dated July 29, 2010, and related determinations.

DATES: *Effective Date:* July 29, 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 July 29, 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 Iowa resulting from severe storms, flooding, and tornadoes beginning on June 1, 2010, and continuing, 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 Iowa.

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, Thomas A. Hall, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

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

Adams, Appanoose, Audubon, Buena Vista, Butler, Cherokee, Clay, Davis, Decatur, Franklin, Howard, Humboldt, Iowa, Lee, Lyon, Madison, Marion, Mills, Monroe, Montgomery, O’Brien, Osceola, Palo Alto, Ringgold, Shelby, Union, Van Buren, Wapello, Warren, Wayne, Webster, and Wright Counties for Public Assistance.

All counties within the State of Iowa 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; 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 Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially 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. 2010–19465 Filed 8–5–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1929–DR; Docket ID FEMA–2010–0002]

South Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.