

Dated: August 19, 2004.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 04-19580 Filed 8-26-04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Interpretive Rule Concerning Classification of Baseball-Style Caps With Ornamental Braid

AGENCY: Customs and Border Protection, Homeland Security.

ACTION: Proposed interpretive rule; solicitation of comments.

SUMMARY: This document concerns the proper classification under the Harmonized Tariff Schedule of the United States (HTSUS) of baseball-style caps featuring ornamental braid located between peak and crown. The specific issue presented is how wide must ornamental braid be on a baseball-style cap to be classified in the HTSUS as either “wholly or in part of braid” rather than “not in part of braid.” In an effort to achieve uniformity in the classification of this commodity, Customs and Border Protection (CBP) is proposing that ornamental braid on a baseball-style cap, located between peak and crown, in a width of $\frac{1}{8}$ of an inch or greater will render the cap classifiable as “wholly or in part of braid.” Conversely, it is proposed that such braid in a width of less than $\frac{1}{8}$ of an inch will result in a cap being classifiable as “not in part of braid.” CBP is soliciting public comment as to the appropriateness of the proposed threshold width.

DATES: Comments must be received on or before October 26, 2004.

ADDRESSES: Written comments (preferably in triplicate) may be submitted to U.S. Customs and Border Protection, Office of Regulations & Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue NW., Washington, DC 20229. Submitted comments may be inspected at Customs and Border Protection, 799 9th Street, NW., Washington, DC, during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Teresa Frazier, U.S. Customs and Border Protection, Office of Regulations &

Rulings, Textiles Branch, (202) 572-8821.

SUPPLEMENTARY INFORMATION:

Background

Baseball-style caps are classifiable in heading 6505 of the Harmonized Tariff Schedule of the United States (HTSUS) which provides for, in pertinent part, “hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; * * *.” Within heading 6505, HTSUS, two subheadings differentiate between hats and other headgear that are “wholly or in part of braid” and those that are “not in part of braid.” See HTSUS subheadings 6505.90.50 and 6505.90.70 which provide for, in pertinent part, hats and other headgear “wholly or in part of braid”, and HTSUS subheadings 6505.90.60 and 6505.90.80 which provide for hats and other headgear which are “not in part of braid.” In this regard, it is noted that hats and other headgear that are classifiable as “not in part of braid” carry a higher rate of duty than those that are classifiable as “wholly or in part of braid.”

In cases where baseball-style caps feature ornamental braid located between the peak and crown, the determinative issue is whether the braid impacts classification at the subheading level so as to render the cap classifiable as either “in part of braid” or “not in part of braid.” The 2003 HTSUS defines the term “in part of” in General Note 22. General Note 22(e)(ii), HTSUS, provides that “in part of” or “containing” means that the goods contain a significant quantity of the named material and that “with regard to the application of the quantitative concepts specified above, it is intended that the *de minimis* rule apply.”

The *de minimis* rule is applicable in customs practice principally in determining whether the presence of some ingredient in an imported commodity affects its classification. See Ruth F. Sturm, *A Manual of Customs Law* 182 (1974). The rule stands for the proposition that:

Certain amounts of an ingredient, although substantial, may be ignored for classification purposes, depending upon many different circumstances, including the purpose which Congress sought to bring about by the language used and whether or not the amount used has really changed or affected the nature of the article, and of course, its salability.

Varsity Watch Company v. United States, 43 Cust. Ct. 1, C.D. 2094 (1959), *appeal dismissed*, 47 CCPA 173 (1959).

In a prior application of the *de minimis* rule to the term “in part of braid,” CBP determined that if the quantity of ornamental braid in an article serves a useful purpose or affects the nature of the article or increases the salability of the article, the baseball style cap would be considered “in part of braid” for classification purposes. See Headquarters Ruling Letter (HQ) 087060, dated August 17, 1990, in which CBP determined that a baseball-style cap with non-contrasting ornamental braid measuring nine inches long and $\frac{3}{16}$ -inch wide between the peak and the crown was classifiable as “not in part of braid.” Upon reconsideration of this ruling, CBP held in HQ 088438, dated January 14, 1991, that the cap was classifiable as “in part of braid” by application of the *de minimis* rule.

After the issuance of these rulings, CBP published a proposed interpretive rule in the **Federal Register** concerning the classification of baseball-style caps featuring ornamental braid located between peak and crown. See 56 FR 46134, dated September 10, 1991. The proposed interpretive rule solicited comment from the public as to the appropriate width of ornamental braid on a baseball-style cap that would be determinative of classification for purposes of the *de minimis* rule. Three comments were received; however, none of the submitted comments assisted CBP in formulating a definitive threshold width.

CBP did not publish a final interpretive rule on this issue. Since publication of the proposed interpretive rule in 1991, CBP has issued inconsistent classification rulings on merchandise featuring ornamental braid of various widths. In this regard, it is noted that several of these rulings adopted a $\frac{1}{8}$ of an inch standard for purposes of the *de minimis* rule. In this document, CBP proposes this same standard as a means of ensuring the uniform application of the *de minimis* rule and providing consistency in the classification of baseball-style caps with braid trim. It is CBP’s view that braid trim in widths of less than $\frac{1}{8}$ of an inch will not appreciably affect a cap’s salability or utility. Accordingly, CBP is proposing that ornamental braid on a baseball-style cap in a width of $\frac{1}{8}$ of an inch or greater will render the cap classifiable as “wholly or in part of braid.” Conversely, it is proposed that such braid in a width of less than $\frac{1}{8}$ of an inch will result in a cap being classifiable as “not in part of braid.”

CBP is soliciting public comment as to the appropriateness of the proposed threshold width.

Comments

CBP will consider written comments timely submitted in its review of the proposed width (*i.e.*, less than 1/8 of an inch) at which ornamental braid located between peak and crown on a baseball-style cap should be considered *de minimis* so as to result in the cap's classification in the HTSUS as "not in part of braid." Submitted comments will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)) on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Customs and Border Protection, 799 9th Street, NW., Washington, DC. Arrangements to inspect submitted documents should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

Drafting Information

The principal author of this document was Ms. Suzanne Kingsbury, Office of Regulations and Rulings, U.S. Customs and Border Protection. However, personnel from other offices participated in its development.

Dated: August 23, 2004.

Robert C. Bonner,

Commissioner, Customs and Border Protection.

[FR Doc. 04-19581 Filed 8-26-04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA-1539-DR]

Florida; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA-1539-DR), dated August 13, 2004, and related determinations.

DATES: Effective August 19, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency

(FEMA) hereby gives notice that pursuant to the authority vested in the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, William L. Carwile, III, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Michael E. Bolch as Federal Coordinating Officer for this disaster.

(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 Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA-1535-DR]

Kansas; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Kansas (FEMA-1535-DR), dated August 3, 2004, and related determinations.

DATES: Effective August 18, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Kansas is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a

major disaster by the President in his declaration of August 3, 2004:

Rooks and Woodson Counties for Public Assistance.

(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 Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA-1537-DR]

Kentucky; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky (FEMA-1537-DR), dated August 6, 2004, and related determinations.

DATES: Effective August 19, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 6, 2004:

Shelby County for Public Assistance.

(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