DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

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


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 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 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, 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 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 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. Cl. 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 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. 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. 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 1/8 of an inch standard 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 is soliciting public comment as to the appropriateness of the proposed threshold width.
Federal Emergency Management Agency

[FEMA–1533–DR]

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


ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Kansas (FEMA–1533–DR), dated August 3, 2004, and related determinations.


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.)

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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


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.


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...