

concerned with the general lack of security associated with in-bond transactions.

Upon further review, CBP has determined that permitting RLF for cargo that has already been moved using immediate transportation in-bond procedures, or any other transportation entry in-bond, is acceptable as the risks previously associated with in-bond transactions have been greatly reduced due to the significant security and cargo-processing gains accomplished by the advance cargo information regulations set forth in CBP Dec. 03-32, published in the **Federal Register** (68 FR 68140) on December 5, 2003. CBP also realizes that in-bond transactions are a mainstay of international transactions. For this reason, CBP views permitting RLF in an in-bond context as a means of broadening the scope of RLF and thereby enhancing the program's usefulness to the trade while simultaneously furthering the Bureau's modernization objectives.

It is noted that with the exception of the change to the RLF Prototype Two merchandise eligibility criteria involving in-bond transportation procedures, discussed above, all other Prototype eligibility requirements, procedures, terms and conditions, as set forth in the document published on February 25, 2003, in the **Federal Register** (68 FR 8812), remain in effect.

Dated: March 25, 2005.

**Jayson P. Ahern,**

*Assistant Commissioner, Office of Field Operations.*

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## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

[CBP Dec. 05-11]

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

**AGENCY:** Customs and Border Protection, Homeland Security.

**ACTION:** Final interpretive rule.

**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. In an effort to achieve uniformity in the classification of this commodity, Customs and Border Protection (CBP) has adopted as final a proposed interpretive rule whereby

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 in the HTSUS as "wholly or in part of braid." Conversely, such braid in a width of less than  $\frac{1}{8}$  of an inch will result in a cap being classifiable in the HTSUS as "not in part of braid."

**DATES:** *Effective Date:* May 2, 2005.

**FOR FURTHER INFORMATION CONTACT:** Theresa Frazier, Textiles Branch, Office of Regulations and Rulings, Customs and Border Protection, Tel. (202) 572-8821.

#### SUPPLEMENTARY INFORMATION:

##### Background

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 ornamental braid on a baseball-style cap must be in order to render the cap classifiable in the HTSUS as either "wholly or in part of braid" or "not in part of braid."

Baseball-style caps are classifiable in heading 6505 of the 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." 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 2004 HTSUS defines the term "in part of" in General Note 3(h)(v)(B), HTSUS, which states 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).

On August 27, 2004, a document was published in the **Federal Register** (69 FR 52726) in which Customs and Border Protection (CBP) solicited public comment as to the appropriateness of a proposed interpretive rule whereby 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, CBP proposed that such braid in a width of less than  $\frac{1}{8}$  of an inch would result in a cap being classifiable as "not in part of braid." The proposed standard was based on several previously issued Headquarters Rulings Letters which had adopted the  $\frac{1}{8}$  of an inch standard for purposes of applying the *de minimis* rule to this type of commodity. The proposed interpretive rule set forth in 69 FR 52726 was offered 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.

#### Discussion of Comment

No comments were received in response to the solicitation of public comment in 69 FR 52726.

#### Conclusion

Upon due consideration, CBP has decided to adopt as final the proposed interpretive rule published in the **Federal Register** (69 FR 52726) on August 27, 2004.

#### Drafting Information

The principal author of this document was Ms. Suzanne Kingsbury, Regulations Branch, Office of Regulations and Rulings, Customs and Border Protection. However, personnel

from other offices participated in its development.

Dated: March 28, 2005.

**Robert C. Bonner,**

*Commissioner, Bureau of Customs and Border Protection.*

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## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

#### Tuna—Tariff-Rate Quota

The tariff-rate quota for Calendar Year 2005, on tuna classifiable under subheading 1604.14.22, Harmonized Tariff Schedule of the United States (HTSUS).

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Announcement of the quota quantity of tuna in airtight containers for Calendar Year 2005.

**SUMMARY:** Each year the tariff-rate quota for tuna described in subheading 1604.14.22, HTSUS, is based on the apparent United States consumption of tuna in airtight containers during the preceding Calendar Year. This document sets forth the tariff-rate quota for Calendar Year 2005.

**DATES: Effective Dates:** The 2005 tariff-rate quota is applicable to tuna entered or withdrawn from warehouse for consumption during the period January 1, through December 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** Connie Chancey, Chief, Quota Branch, Textile Enforcement and Operations Division, Trade Compliance and Facilitation, Office of Field Operations, U.S. Customs and Border Protection, Washington, DC 20229, (202) 344-2650.

**BACKGROUND:** It has now been determined that 19,034,563 kilograms of tuna in air-tight containers may be entered for consumption or withdrawn from warehouse for consumption during the Calendar Year 2005, at the rate of 6 percent ad valorem under subheading 1604.14.22, HTSUS. Any such tuna which is entered or withdrawn from warehouse for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 percent ad valorem under subheading 1604.14.30 HTSUS.

Dated: March 25, 2005.

**Jayson P. Ahern,**

*Assistant Commissioner, Office of Field Operations.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Information Collection Renewal Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; OMB Control Number 1018-0103, Conservation Order for Control of Mid-Continent Light Geese, 50 CFR 21.60

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** The number of mid-continent light geese (MCLG) has increased exponentially over the past several decades in prairie Canada and the midwestern United States, primarily due to (1) the expansion of agriculture and concurrent increase in food supply, (2) a decline in adult mortality, and (3) an increase in winter survival. These rapidly expanding populations have placed unprecedented pressure on arctic and subarctic breeding habitats. Prior to implementation of the conservation order, we (Fish and Wildlife Service) attempted to curb the growth rate of MCLG populations by liberalizing bag limits and increasing the light goose hunting season to 107 days, the maximum allowed by the Migratory Bird Treaty Act, as amended. Although these changes resulted in increased harvest, the harvest rate (percent of population harvested) continued to decline as populations grew exponentially. Clearly, traditional wildlife management strategies were not working. Therefore, we created the conservation order, which authorizes States and tribes to implement population control measures without having to obtain a permit, thus significantly reducing their administrative burden. The States and tribes may conduct a population reduction program under the authority of the conservation order within the conditions provided by the Service. We have submitted the collection of information pertaining to the conservation order (described below) to OMB for approval under the provisions of the Paperwork Reduction Act of 1995.

**DATES:** You must submit comments on or before May 2, 2005.

**ADDRESSES:** Send your comments and suggestions on this information collection renewal to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395-6566 (fax) or [OIRA\\_DOCKET@OMB.eop.gov](mailto:OIRA_DOCKET@OMB.eop.gov) (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222-ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); (703) 358-2269 (fax); or [hope\\_grey@fws.gov](mailto:hope_grey@fws.gov) (e-mail).

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the information collection request or explanatory information, contact Hope Grey at the above addresses or by phone at (703) 358-2482.

**SUPPLEMENTARY INFORMATION:** We have submitted a request to OMB to renew approval of information collection requirements for the Conservation Order for Control of Mid-Continent Light Geese. Currently, we have approval from OMB to collect information under OMB control number 1018-0103. This approval expires on March 31, 2005. We may not conduct or sponsor and a person is not required to respond to a collection of information unless we display a currently valid OMB control number. OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). Following our submittal, OMB has up to 60 days to approve or disapprove our information collection request; however, OMB may make its decision as early as 30 days after our submittal. Therefore, to ensure that your comments receive consideration, send your comments and suggestions to OMB by the date listed in the DATES section.

On November 15, 2004, we published in the **Federal Register** (69 FR 65627) a 60-day notice of our intent to request renewal of information collection authority from OMB. In that notice, we solicited public comments for 60 days, ending on January 14, 2005. We did not receive any comments.

Lesser snow and Ross' geese are referred to as "light" geese because of their light coloration as opposed to "dark" geese such as white-fronted or Canada Geese. The number of light geese in the mid-continent region has nearly quadrupled during the past several decades. Feeding activity of light geese seriously injures their habitat and habitat important to other migratory birds, which poses a serious threat to