

■ In consideration of the following, and pursuant to the authority contained in the Commodity Exchange Act, and in particular, section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 2a(11), the Commission hereby amends Chapter I of title 17 of the Code of Federal Regulations as follows:

#### PART 2—OFFICIAL SEAL

■ 1. The authority citation for part 2 is revised to read as follows:

**Authority:** 7 U.S.C. 2a(11).

■ 2. Part 2 is amended by adding a new section 2.4 to read as follows:

\* \* \* \* \*

#### § 2.4 Employee Recreation Association's Use of Commission Seal

(a) As a specific exception to the provisions of 17 CFR 2.2 and 2.3, the Commodity Futures Trading Commission Employee Recreation Association ("Association") is hereby authorized to use the Commission seal as an imprint upon sport apparel (e.g., hats, clothing, accessories, etc.) and novelty items (e.g., office mugs, lanyards, badge holders, stationary items, among other);

(b) The Association may sell or distribute above said items imprinted with the Commission seal to members of the Association or others to meet its fundraising goals and/or in conjunction with its sports, social or similar events.

Issued in Washington, DC, on the 22nd of May 2007, by the Commission.

**Eileen A. Donovan,**

*Acting Secretary of the Commission.*

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#### DEPARTMENT OF HOMELAND SECURITY

#### U.S. Customs and Border Protection

#### DEPARTMENT OF THE TREASURY

#### 19 CFR Part 10

[CBP Dec. 07-26; USCBP-2006-0012]

RIN 1505-AB64

#### Dominican Republic—Central America—United States Free Trade Agreement

**AGENCIES:** U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document adopts as a final rule, with some changes, interim

amendments to title 19 of the Code of Federal Regulations ("CFR") which were published in the **Federal Register** on March 7, 2006, as CBP Dec. 06-06 to set forth the conditions and requirements that apply for purposes of submitting requests to U.S. Customs and Border Protection for refunds of any excess customs duties paid with respect to entries of textile or apparel goods entitled to retroactive application of preferential tariff treatment under the Dominican Republic—Central America—United States Free Trade Agreement.

**EFFECTIVE DATE:** Final rule effective May 25, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Operational aspects: Robert Abels, Textile Operations, Office of International Trade, (202) 344-1959. Legal aspects: Cynthia Reese, Tariff Classification and Marking Branch, Office of International Trade, (202) 572-8812.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Dominican Republic—Central America—United States Free Trade Agreement ("CAFTA-DR" or "Agreement") was entered into by the governments of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and the United States on August 5, 2004. The CAFTA-DR was approved by the U.S. Congress with the enactment on August 2, 2005, of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the "Act"), Public Law 109-53, 119 Stat. 462 (19 U.S.C. 4001 *et seq.*).

Section 205 of the Act (19 U.S.C. 4034), as recently amended by section 1634(d) of the Pension Protection Act of 2006 (Pub. L. 109-280), implements Article 3.20 of the CAFTA-DR by providing for the retroactive application of the preferential tariff provisions of the Agreement with respect to certain entries of qualifying textile or apparel goods of eligible CAFTA-DR countries. Specifically, section 205(a) provides that, notwithstanding 19 U.S.C. 1514 or any other provision of law, an entry of a textile or apparel good will be liquidated or reliquidated at the applicable rate of duty for that good set out in Annex 3.3 of the Agreement, and the Secretary of the Treasury will refund any excess customs duties paid with respect to that entry, if it meets four conditions: (1) The textile or apparel good must be of a CAFTA-DR country that the United States Trade Representative has designated as an eligible country for purposes of section

205; (2) The good would have qualified as an originating good under section 203 of the Act if the good had been entered after the date of entry into force of the Agreement for that country; (3) The entry was made on or after January 1, 2004, and before the date of the entry into force of the Agreement with respect to that country or any other CAFTA-DR country; and (4) Customs duties were paid in excess of the applicable rate of duty for that good set out in Annex 3.3 of the Agreement.

Section 205(b) of the Act provides that the United States Trade Representative will determine which CAFTA-DR countries are eligible countries for purposes of this section and will publish a list of those countries in the **Federal Register**.

Section 205(c) of the Act provides that liquidation or reliquidation may be made under section 205(a) with respect to an entry of a textile or apparel good only if a request for such liquidation or reliquidation is filed with CBP, within such period as CBP shall establish by regulation in consultation with the Secretary of the Treasury, that contains sufficient information to enable CBP: (1) To locate the entry or to reconstruct the entry if it cannot be located; and (2) to determine that the good satisfies the conditions set out in section 205(a).

Section 205(d) states that, as used in section 205, the term "entry" includes a withdrawal from warehouse for consumption.

On March 7, 2006, U.S. Customs and Border Protection ("CBP") published in the **Federal Register** (71 FR 11304) as CBP Dec. 06-06 an interim rule that amended the CBP regulations by adding a new subpart J to Part 10 and new section 10.699 to set forth the conditions and requirements that apply for purposes of requesting refunds pursuant to section 205 of the Act. Pursuant to section 205(c) of the Act, the interim amendments included a provision establishing the time period within which requests for refunds of any excess customs duties paid with respect to entries of textile or apparel goods of an eligible CAFTA-DR country must be submitted to CBP. The interim rule provided that requests for refunds must be filed with CBP by the later of December 31, 2006, or the date that is 90 days after the entry into force of the Agreement with respect to that country.

The interim rule also noted that section 10.699 provides that any refund of excess customs duties made pursuant to that section will be accompanied by interest from the date of the affected entry.

Although the interim regulatory amendments were promulgated without

prior public notice and comment procedures and took effect on March 7, 2006, CBP Dec. 06–06 provided for the submission of public comments which would be considered before adoption of the interim regulations as a final rule. The prescribed public comment period closed on May 8, 2006.

#### Discussion of Comments

Two commenters responded to the solicitation of comments on the interim regulations set forth in CBP Dec. 06–06. The comments are discussed below.

##### *Comment*

Both commenters urged that CBP modify the deadline for the submission of requests for refunds of any excess customs duties paid with respect to entries of textile or apparel goods of an eligible CAFTA–DR country. One commenter recommended that the deadline be changed to the later of December 31, 2006, or the date that is 180 days after the entry into force of the Agreement with respect to that country. According to this commenter, 180 days is more appropriate than the 90 days specified in the interim rule as the former period mirrors the deadline for filing a protest under 19 U.S.C. 1514(c)(3). In addition, the commenter stated that a 180-day period would be fairer to importers of goods from CAFTA–DR countries that may not accede to the Agreement until after December 31, 2006.

The second commenter stated that the deadline should be the later of December 31, 2006, or the date that is 90 days after the entry into force of the Agreement of the “last CAFTA–DR country.” This commenter advised that extending the deadline in this manner addresses a potential situation in which a good of a CAFTA–DR country for which the Agreement has entered into force is made from inputs (e.g., fabric) from a second CAFTA–DR country for which the Agreement has not entered into force at the time that the refund period for the good expires. According to the commenter, without the suggested modification in the deadline, the inputs from the second CAFTA–DR country would appear to be disregarded in determining whether the good qualifies as originating and thus eligible for a refund of any excess duties paid.

##### *CBP’s Response*

CBP agrees with the second commenter’s suggested modification. As indicated in the background portion of this final rule, section 1634(d) of the Pension Protection Act of 2006 recently amended the Act. That amendment added to section 205(a)(2) the words “or any other CAFTA–DR country” immediately following the words “with

respect to that country”. (See the third condition for goods to qualify for a refund of duty under section 205(a), as stated in the background section above.) CBP believes that the words “that country or any other CAFTA–DR country” as used in the Act are intended to mean “the last CAFTA–DR country.” In conformance with this amendment to the Act, CBP, in consultation with the Department of the Treasury, has determined that the period within which refund requests must be filed, as set forth in § 10.699(c), should be modified to permit such requests for goods of an eligible CAFTA–DR country to be filed within 90 days after the date of the entry into force of the Agreement for the last CAFTA–DR country. This modification has the effect of extending the period within which refund requests must be submitted to CBP for goods of all but the last CAFTA–DR country. Section 10.699(c) has been amended in this final rule document to reflect the above modification, which addresses the potential problem identified by the second commenter. Section 10.699(d) has also been amended to add a definition of “last CAFTA–DR country” to clarify that this term means, “of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua, the last country for which the Agreement enters into force.”

CBP submits that the first commenter’s suggested modification (substituting 180 days for 90 days) is unnecessary in view of the modification of the deadline for the submission of refund requests effected by the amendment to 10.699(c) discussed above. CBP believes that the revised period within which requests for refunds must be submitted to CBP affords entities ample time to prepare and submit such requests. This is especially true considering that the importing public has had since March 7, 2006 (the date of publication of CBP Dec. 06–06 in the **Federal Register**) to ascertain which entries of textile or apparel goods from CAFTA–DR countries may be eligible for refunds of any excess customs duties paid, and to prepare requests for refunds with respect to those entries.

##### *Comment*

A commenter requested that CBP issue a clarification regarding when “\* \* \* companies are able to submit refund requests when the CAFTA–DR has not yet entered into force for a country that is the source of an input used in an originating good that is eligible for refunds.” The commenter’s understanding is that a refund request may be submitted in such a situation

only after the Agreement has entered into force with respect to the CAFTA–DR country that is the source of the input.

##### *CBP’s Response*

The answer to this commenter’s question depends on whether the good (of an eligible CAFTA–DR country for which the Agreement has entered into force) would in fact have qualified as an originating good if the good had been entered after the date of entry into force of the Agreement for that country. An input (used in the production of the good) sourced from a CAFTA–DR country for which the Agreement has not yet entered into force may affect the determination of whether the good would have qualified as originating under the applicable CAFTA–DR rules of origin. If the good would have qualified as originating without taking into account the input, then a request for a refund of any excess duties paid may be submitted to CBP after the date of entry into force of the Agreement for the country in which the good (not the input) was produced but not later than 90 days after the Agreement enters into force for the last CAFTA–DR country. However, if the good would qualify as originating only if that input qualifies as originating, then a refund request may be submitted to CBP only after the Agreement enters into force for the CAFTA–DR country that is the source of the input (but not later than 90 days after the date of the entry into force of the Agreement for the last CAFTA–DR country).

In regard to goods made from inputs sourced from countries for which the Agreement has not yet entered into force, importers (or other entities that may submit refund requests) are advised to prepare such requests in advance and to submit them to CBP after the Agreement enters into force for all the CAFTA–DR countries that contributed toward the production that qualifies the goods as originating.

##### *Comment*

A commenter urged CBP to provide examples of the type of information that would be considered satisfactory to enable CBP to locate the entry or to reconstruct the entry that is the subject of a refund request. The commenter stated the current language in § 10.699(c), requiring a refund request to include “sufficient information” to enable CBP to locate or reconstruct an entry, is overly broad and fails to provide the trade community with a reasonable indication of the type of information that must be submitted.

*CBP's Response*

To enable CBP to locate or reconstruct an entry, the refund request should include a copy of the entry summary if at all possible. If a copy of the entry summary is unavailable, however, other information may be submitted for purposes of enabling CBP to reconstruct the entry from its automated commercial system. Such information would include the entry number, entry date, importer number, manufacturer identification code (MID), and the goods' country of origin. Refund requests should clearly specify the goods (by line item) covered by an entry for which refunds are being sought. If only a portion of a line item is encompassed by a refund request, the quantity in dozens should be indicated.

**Additional Changes to the Regulations**

In addition to the regulatory changes identified and discussed above in connection with the discussion of public comments received in response to CBP Dec. 06–06, the final rulemaking text set forth below incorporates the following additional changes, which CBP believes are necessary either to conform § 10.699 to the recent amendment to section 205(a)(2) of the Act made by section 1634(d) of the Pension Protection Act of 2006 or as a result of further internal review of the interim regulatory text:

1. The § 10.699 heading has been revised to correct errors in capitalization and punctuation;
2. In § 10.699(a), the second sentence has been revised to add the words “, as amended by section 1634(d) of the Pension Protection Act of 2006 (Pub. L. 109–280)” to the end of the sentence;
3. In § 10.699(a), the third sentence has been revised to add the words “, as amended,” immediately following the words “the Act”; and
4. In § 10.699(b), the introductory text has been revised to remove the words “that country” and add, in their place, the words “the last CAFTA–DR country”.

**Conclusion**

Accordingly, based on the analysis of the comments received and the recent legislative change, CBP has determined to adopt the interim regulations published as CBP Dec. 06–06 as a final rule with certain amendments as discussed above and as set forth below.

**Inapplicability of Delayed Effective Date Requirement**

Under the Administrative Procedure Act (“APA”) (5 U.S.C. 553), agencies generally are required to publish final amendments at least 30 days prior to

their effective date. However, sections 553(d)(1) and (d)(3) of the APA exempt agencies from the requirement of publishing notice of final rules at least 30 days prior to their effective date when a substantive rule grants or recognizes an exemption or relieves a restriction and when the agency finds that good cause exists for not meeting the advance publication requirement. As discussed previously, the changes to the interim regulations made by this final rule document, which conform to a recent amendment to the Act, seek to ensure that retroactive preferential tariff treatment under the Agreement is accorded to qualifying textile or apparel goods made in an eligible CAFTA–DR country from inputs from one or more other eligible CAFTA–DR countries. For this reason, CBP has determined that these regulations relieve restrictions and that good cause exists for dispensing with a delayed effective date.

**Executive Order 12866**

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States and implements certain preferential tariff treatment provisions of an international agreement and, therefore, is specifically exempted by section 3(d)(2) of Executive Order 12866.

**Regulatory Flexibility Act**

CBP Dec. 06–06 was issued as an interim rule rather than as a notice of proposed rulemaking because CBP had determined that: (1) The interim regulations involve a foreign affairs function of the United States pursuant to section 553(a)(1) of the Administrative Procedure Act (APA); and (2) prior public notice and comment procedures on these regulations were impracticable, unnecessary, and contrary to the public interest pursuant to section 553(b)(B) of the APA. Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply. Accordingly, this final rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

**Paperwork Reduction Act**

The collection of information contained in this final rule has previously been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork

Reduction Act (44 U.S.C. 3507) under control number 1651–0125. The collection of information in these regulations is in § 10.699. This information is required in connection with requests for refunds of any excess customs duties paid with respect to entries of textile or apparel goods entitled to retroactive application of preferential tariff treatment under the CAFTA–DR and the Act and will be used by CBP to determine eligibility for such refunds under the CAFTA–DR and the Act. The likely respondents are business organizations, including importers, exporters and manufacturers.

The estimated average annual burden associated with the collection of information in this final rule is 96 minutes per respondent or recordkeeper. Comments concerning the accuracy of this burden estimate and suggestions for reducing that burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

**Signing Authority**

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)), pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain CBP revenue functions.

**List of Subjects in 19 CFR Part 10**

Customs duties and inspection, Entry, Imports, Preference programs, Reporting and recordkeeping requirements, Trade agreements.

**Amendments to CBP Regulations**

■ Accordingly, the interim rule amending part 10 of the CBP regulations (19 CFR part 10), which was published at 71 FR 11304 on March 7, 2006, is adopted as a final rule with certain changes as discussed above and set forth below.

**PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.**

■ 1. The general authority citation for part 10 and the specific authority for Subpart J continue to read as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the

United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

\* \* \* \* \*

Section 10.699 also issued under Pub. L. 109-53, 119 Stat. 462.

■ 2. In § 10.699:

■ a. The section heading is revised.

■ b. Paragraph (a) is amended by adding the words “, as amended by § 1634(d) of the Pension Protection Act of 2006 (Pub. L. 109-280)” to the end of the second sentence, and by adding the words “, as amended,” immediately following the words “the Act” in the third sentence;

■ c. Paragraph (b) introductory text is amended by removing the words “that country” and adding, in their place, the words “the last CAFTA-DR country”;

■ d. Paragraph (c) introductory text is amended by removing the words “by the later of December 31, 2006, or the date that is” and adding, in their place, the word “within”, and by removing the words “that country” and adding, in their place, the words “the last CAFTA-DR country”; and

■ e. Current paragraph (d)(2) is redesignated as paragraph (d)(3) and a new paragraph (d)(2) is added.

The revised section heading and new paragraph (d)(2) read as follows:

**§ 10.699 Refunds of excess customs duties.**

\* \* \* \* \*

(d) \* \* \*

(2) “Last CAFTA-DR country” means, of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua, the last country for which the Agreement enters into force.

\* \* \* \* \*

**Deborah J. Spero,**

*Acting Commissioner, Customs and Border Protection.*

Approved: May 21, 2007.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 07-2587 Filed 5-24-07; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 234

[DoD-2006-OS-0031; 0790-AI09]

### Conduct on the Pentagon Reservation

**AGENCY:** Department of Defense, Washington Headquarters Services.

**ACTION:** Final rule.

**SUMMARY:** This rule administrative revises DoD policy concerning conduct

on the Pentagon Reservation and Raven Rock Mountain Complex. In 2003, Congress amended 10 U.S.C. 2674(g) so that the “Pentagon Reservation” also included the land and physical facilities at the Raven Rock Mountain Complex. Given this amendment, the Department has recognized the need to amend rules and regulations under 32 CFR Part 234 so that they are applicable to Raven Rock Mountain Complex. Therefore, minor and administrative changes to the rules and regulations were necessary.

**DATES:** *Effective Date:* May 25, 2007.

**FOR FURTHER INFORMATION CONTACT:** Bill Brazis, Office of General Counsel, Washington Headquarters Services, 1155 Defense Pentagon Room 1D197, Washington, DC 20301-1155.

**SUPPLEMENTARY INFORMATION:**

**Justification for Final Rule**

Because the amendments and revisions to this final rule are only administrative in nature, it is impracticable and contrary to the public interest to precede it with a notice of proposed rulemaking and an opportunity for public comment. The administrative corrections described in this rule are necessary to make the rules applicable to Raven Rock Mountain Complex, which is now part of the Pentagon Reservation. The additional changes are nonsubstantive in nature. Therefore, the Department finds that there is good cause under section 553(b)(3)(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) to make these corrections and changes without first issuing a notice of proposed rulemaking. For the same reasons, the Department finds that there is good cause under section 553(d)(3) of the Administrative Procedure Act to make this final rule effective immediately.

The Department has identified six sections requiring minor changes and has recognized the need to add one additional section.

The first change is in the definition of “Authorized person” in § 234.1. The definition of “Authorized person” now refers to an employee or agent of the Pentagon Force Protection Agency, formerly known as the Defense Protective Service.

The second change is in the definition of “Pentagon Reservation” under § 234.1. Because Raven Rock Mountain Complex is now considered part of the “Pentagon Reservation,” as specified in 10 U.S.C. 2674(g), the description of the area of land known as Raven Rock Mountain Complex was added to the definition of “Pentagon Reservation” under § 234.1.

The third change is the amendment of the language of § 234.3. In § 234.3(d), the Department added “Installation Commander” to the list of authorized personnel who can review applications for permits for certain activities on the Pentagon Reservation, including Raven Rock Mountain Complex. Raven Rock Mountain Complex is under the custody and control of an “Installation Commander.”

The fourth change is the amendment of the language of § 234.8. This section prohibited willfully destroying or damaging private and government property. The word “and” was changed to “or” to prohibit damaging private or government property on the Pentagon Reservation. Courts have misconstrued this section to only prohibit the destroying or damaging of both private and government property, but not such property individually.

The fifth change is the amendment to § 234.9. Previously, this section prohibited using or possessing fireworks or firecrackers, except with permission of the Pentagon Building Management Office. The amendment seeks to prohibit using or possessing such items entirely. Furthermore, the words “Installation Commander” were added to paragraphs 234.9 (a) and (c) as authorized personnel who can review applications for permits for certain activities on the Pentagon Reservation, including Raven Rock Mountain Complex.

The sixth change is an amendment to the language of § 234.10. “Defense Protective Service” was changed to “Pentagon Force Protection Agency or the Installation Commander” as the agency or person who can authorize carrying of a weapon at the Pentagon or Raven Rock Mountain Complex.

The seventh change is an amendment to the language of § 234.11. “Defense Protective Service” was changed to “Pentagon Force Protection Agency”. In addition, the word “Installation Commander” was added as a person who can authorize the use of alcoholic beverages for certain events at Raven Rock Mountain Complex.

The eighth change is a revision to § 234.15, governing the use of visual and recording devices. Previously, the use of cameras and visual recording devices was prohibited in restricted areas or in internal offices without the approval of the Office of the Assistant to the Secretary of Defense for Public Affairs. This section was revised to prohibit all photography on the Pentagon Reservation and Raven Rock Mountain Complex without approval of the Pentagon Force Protection Agency, the Installation Commander, or the Office of