

Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

*Dates:* Written comments should be received on or before October 18, 2002, to be assured of consideration.

#### Internal Revenue Service (IRS)

*OMB Number:* 1545-1785.

*Form Number:* IRS Form 8884.

*Type of Review:* Revision.

*Title:* New York Liberty Zone

Business Employee Credit.

*Description:* Form 8884 is used by business owners to request the Liberty Zone Credit for wages paid to qualified employees. This form was created by section 301 of the Job Creation and Worker Assistance Act of 2002, Public 107-147.

*Respondents:* Business or other for-profit, State, individuals or households, not-for-profit institutions, farms.

*Estimated Number of Respondents/Recordkeepers:* 15,000.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping—9 hr., 48 min.

Learning about the law or the form—1 hr., 00 min.

Preparing and sending the form to the IRS—1 hr., 12 min.

*Frequency of Response:* Annually.

*Estimated Total Reporting/Recordkeeping Burden:* 180,000 hours.

*Clearance Officer:* Glenn Kirkland, Internal Revenue Service, Room 6411-03, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622-3428.

*OMB Reviewer:* Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395-7316.

**Mary A. Able,**

*Departmental Reports Management Officer.*

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#### DEPARTMENT OF THE TREASURY

##### Submission for OMB Review; Comment Request

September 10, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance

Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

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#### Internal Revenue Service (IRS)

*OMB Number:* 1545-0295.

*Notice Number:* Notice 210.

*Type of Review:* Extension.

*Title:* Preparation Instructions for Media Labels.

*Description:* Notice 210, Preparation Instructions for Media Labels, instructs the filers on how to prepare their own pressure sensitive label. This label must be attached to each and every piece of magnetic media to identify specific items needed so that the media can be processed by the Internal Revenue Service.

*Respondents:* Business or other for-profit, not-for-profit institutions.

*Estimated Number of Respondents:* 150,000.

*Estimated Burden Hours Per Respondent:* 5 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 12,765 hours.

*OMB Number:* 1545-0619.

*Form Number:* IRS Form 6765.

*Type of Review:* Revision.

*Title:* Credit for Increasing Research Activities.

*Description:* Internal Revenue Code (IRC) section 38 allows a credit against income tax (Determined under IRC section 41) for an increase in research activities in a trade or business. Form 6765 is used by businesses and individuals engaged in a trade or business to figure and report the credit. The data is used to verify that the credit claimed is correct.

*Respondents:* Business or other for-profit, individuals or households.

*Estimated Number of Respondents/Recordkeepers:* 23,947.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping—16 hr., 58 min.

Learning about the law or the form—1 hr., 40 min.

Preparing and sending the form to the IRS—2 hr., 2 min.

*Frequency of Response:* Annually.

*Estimated Total Reporting/Recordkeeping Burden:* 495,943 hours.

*OMB Number:* 1545-1210.

*Form Number:* IRS Form 8379.

*Type of Review:* Extension.

*Title:* Injured Spouse Claim and Allocation.

*Description:* A non-obligated spouse may file Form 8379 to request the non-obligated spouse's share of a joint income tax refund that would otherwise be applied to the past-due obligation owed to a state or federal agency by the other spouse.

*Respondents:* Individuals or households.

*Estimated Number of Respondents/Recordkeepers:* 300,000.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping—13 min.

Learning about the law or the form—10 min.

Preparing the form—58 min.

Copying, assembling, and sending the form to the IRS—24 min.

*Frequency of Response:* On occasion.

*Estimated Total Reporting/Recordkeeping Burden:* 531,000 hours.

*OMB Number:* 1545-1350.

*Form Number:* IRS Form 9465.

*Type of Review:* Extension.

*Title:* Installment Agreement Request.

*Description:* Form 9465 is used by the public to provide identifying account information and financial ability to enter into an installment agreement for payment of taxes. The form is used by IRS to establish a payment plan for taxes owed to the federal government, if appropriate, and to inform taxpayers about the application fee and their financial responsibilities.

*Respondents:* Individuals or households.

*Estimated Number of Respondents:* 760,000.

*Estimated Burden Hours Per Respondent:*

Learning about the law or the form—16 min.

Preparing the form—26 min.

Copying, assembling, and sending the form to the IRS—20 min.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 805,600 hours.

*OMB Number:* 1545-1517.

*Form Number:* IRS Form 1099-MSA.

*Type of Review:* Revision.

*Title:* Distributions from an Archer MSA or Medicare+Choice MSA.

*Description:* This form is used to report distributions from a medical savings account as set forth in section 220(h).

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents:* 10,336.

*Estimated Burden Hours Per Respondent:* 8 minutes.

*Frequency of Response:* Annually.

*Estimated Total Reporting Burden:* 3,618 hours.

OMB Number: 1545-1662.  
Regulation Project Number: REG-121063-97 Final.

Type of Review: Extension.

Title: Averaging of Farm Income.

Description: Code section 1301 allows an individual engaged in a farming business to elect to reduce his or her regular tax liability by treating all or a portion of the current year's farming income as if it had been earned in equal proportions over the prior three years. The regulation provides that the election for averaging farm income is made by filing Schedule J of Form 1040, which is also used to record and total the amount of tax for each year of the four year calculation.

Respondents: Farms, individuals or households.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per

Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411-03, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622-3428.

OMB Reviewer: Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395-7316.

Mary A. Able,

Departmental Reports Management Officer.

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## DEPARTMENT OF THE TREASURY

### Customs Service

#### Receipt of Domestic Interested Party Petition Concerning Tariff Classification of Dairy Protein Blends

**AGENCY:** United States Customs Service, Department of the Treasury.

**ACTION:** Notice of receipt of domestic interested party petition; solicitation of comments.

**SUMMARY:** Customs has received a petition submitted on behalf of a domestic interested party requesting the reclassification under the Harmonized Tariff Schedule of the United States (HTSUS) of certain imported dairy protein blends. The petitioner contends that the imported dairy products are being mischaracterized as milk protein concentrates and have been incorrectly classified in subheading 0404.90.1000 HTSUS, with a general rate of duty of 0.37¢ per kilogram. Petitioner contends that the products are properly

classifiable under various subheadings of heading 0402, HTSUS. This document invites comments with regard to the correctness of the current classification.

**DATES:** Comments must be received on or before November 18, 2002.

**ADDRESSES:** Written comments are to be addressed to the U.S. Customs Service, Office of Regulations & Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. Submitted comments may be inspected at U.S. Customs Service, 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:** Peter T. Lynch, General Classification Branch, 202-572-8778.

#### SUPPLEMENTARY INFORMATION:

##### Background

This document concerns two Customs rulings on the tariff classification of certain imported dairy protein blends. The imported products that are the subject of the rulings are identified as being a "milk protein concentrate" and have, according to the rulings, the following ingredients:

Product 1: Lactose (42.2 percent, +/- 0.5 percent), protein (41.5 percent, +/- 0.5 percent), ash (8.2 percent, +/- 0.5 percent), moisture (4.1 percent, +/- 0.3 percent), and fat (2.5 percent, +/- 0.5 percent).

Product 2: Protein (41 percent), fat (29 percent), minerals (7 percent), and moisture (6 percent).

A petition has been filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of American producers of dairy products that directly compete with the imported dairy blends requesting that Customs reclassify the imported products. Customs has classified these products under subheading 0404.90.1000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for: "Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included: Other: Milk protein concentrates" which has a general duty rate of 0.37 cents per kilogram, and is not subject to a tariff-rate quota. The petition contends that these products are blends, *i.e.*, mixtures of skim milk powder and other dry milk ingredients—such as "milk protein

concentrate"—created, at least in part, to circumvent the tariff rate quotas.

Classification under the HTSUS is determined in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied. The Harmonized Commodity Description and Coding System, Explanatory Notes (EN), represent the official interpretation of the Harmonized System at the international level (for the 4 digit headings and the 6 digit subheadings) and facilitate classification under the HTSUS by offering guidance in understanding the scope of the headings and the GRI. The EN, although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are indicative of the proper interpretation of these headings. See T.D. 89-80, 54 FR 35127, 35128 (August 23, 1989).

Classification of dairy products is essentially based on the composition of the product. In the present case, direction is also provided by Additional U.S. Note 13 to Chapter 4, which states: "For the purposes of subheading 0404.90.10, the term "milk protein concentrate" means any complete milk protein (casein plus lactalbumin) concentrate that is 40 percent or more protein by weight."

In New York Ruling Letter (NY) 800374, dated July 27, 1994 and NY D83787, dated November 13, 1998, Customs classified two dairy products, both identified by the importer as "milk protein concentrates," in subheading 0404.90.1000, HTSUS, as milk protein concentrates. Both products contain over 40 percent milk protein concentrate. Additionally, one product also contains a significantly higher percentage of fat than naturally occurs in milk. Unfortunately, neither ruling contains information about the method(s) used to produce either product, and the original files were lost in the destruction of the New York Customs House at the World Trade Center on September 11, 2001.

Petitioner contends that neither of the products classified in those rulings should be classified in subheading 0404.90.1000, HTSUS. Petitioner contends that the expression "complete milk protein" in Additional U.S. Note 13 requires the presence of both casein and lactalbumin in the same, or very nearly the same proportion, relative to