

§ 335.6

for fabric of worsted wool with average fiber diameters greater than 18.5 micron or the Tariff Rate Quota for fabric of worsted wool with average fiber diameters of 18.5 micron or less) up to the quantity specified in the license subject to the Tariff Rate Quota duty rate. Only a Licensee or an importer authorized by a Licensee will be permitted to import fabric under the Tariff Rate Quotas and to receive the Tariff Rate Quota duty rate.

(d) The term of a license shall be the Tariff Rate Quota Year for which it is issued. Fabric may be entered or withdrawn from warehouse for consumption under a license only during the term of that license. The license cannot be used for fabric entered or withdrawn from warehouse for consumption after December 31 of the year of the term of the license.

(e) The importer of record of fabric entered or withdrawn from warehouse for consumption under a license must be the Licensee or an importer authorized by the Licensee to act on its behalf. If the importer of record is the Licensee, the importer must possess the license at the time of filing the entry summary or warehouse withdrawal for consumption (Customs Form 7501).

(f) A Licensee may only authorize an importer to import fabric under the license on its behalf by making such an authorization in writing or by electronic notice to the importer and providing a copy of such authorization to the Department. A Licensee may only withdraw authorization from an importer by notifying the importer, in writing or by electronic notice, and providing a copy to the Department.

(g) The written authorization must include the unique number of the license, must specifically cover the type of fabric imported, and must be in the possession of the importer at the time of filing the entry summary or warehouse withdrawal for consumption (Customs Form 7501), or its electronic equivalent, in order for the importer to obtain the applicable Tariff Rate Quota duty rate.

(h) It is the responsibility of the Licensee to safeguard the use of the license issued. The Department and the U.S. Customs Service will not be liable

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for any unauthorized or improper use of the license.

§ 335.6 Surrender, reallocation and license utilization requirement.

(a) Not later than September 30 of each Tariff Rate Quota Year, a Licensee that will not import the full quantity granted in a license during the Tariff Rate Quota Year shall surrender the allocation that will not be used to the Department for purposes of reallocation through a written or electronic notice to the Department, including the license control number and the amount being surrendered. The surrender shall be final, and shall apply only to that Tariff Rate Quota Year.

(b) For purposes of this section, "unused allocation" means the amount by which the quantity set forth in a license, including any additional amount received pursuant to paragraph (d) of this section, exceeds the quantity entered under the license, excluding any amount surrendered pursuant to paragraph (a) of this section.

(c) The Department will notify Licensees of any amount surrendered and the application period for requests for reallocation. A Licensee that has imported, or intends to import, a quantity of Worsted Wool Fabric exceeding the quantity set forth in its license may apply to receive additional allocation from the amount to be reallocated. The application shall state the maximum amount of additional allocation the applicant will be able to use.

(d) The amount surrendered will be reallocated to Licensees that have applied for reallocation. The entire amount surrendered will be reallocated pro-rata among applicants based on the applicant's share of the annual allocation, but will not exceed the amount set forth in the reallocation application as the maximum amount able to be used.

(e) A Licensee whose unused allocation in a Tariff Rate Quota Year exceeds five percent of the quantity set forth in its license shall be subject to having its allocation reduced in the subsequent Tariff Rate Quota Year. The subsequent Tariff Rate Quota Year allocation will be reduced from the quantity such Licensee would otherwise have received by a quantity equal

to 25 percent of its unused allocation from the prior year. A Licensee whose unused allocation in two consecutive Tariff Rate Quota Years exceeds five percent of the quantity set forth in its license shall have its allocation reduced in the subsequent Tariff Rate Quota Year by a quantity equal to 50 percent of its unused allocation from the prior year.

(f) No penalty will be imposed under paragraph (e) of this section if the Licensee demonstrates to the satisfaction of the Department that the unused allocation resulted from breach by a carrier of its contract of carriage, breach by a supplier of its contract to supply the fabric, act of God, or force majeure.

§ 335.7 Modifications of the limitation.

In the event the limitation on the quantity of imports of Worsted Wool Fabric under the Tariff Rate Quotas is increased, the increase will be allocated on the same basis as the rest of the Tariff Rate Quotas. Licenses will be issued or adjusted accordingly.

PART 340—MODIFICATION OF THE TARIFF RATE QUOTA LIMITATION ON WORSTED WOOL FABRIC IMPORTS

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AUTHORITY: Pub. L. 106-200, 114 Stat. 299; Presidential Proclamation 7383 (December 1, 2000).

SOURCE: 66 FR 6463, Jan. 22, 2001, unless otherwise noted.

§ 340.1 Purpose.

This part sets forth regulations regarding the procedures for considering requests to modify the limitations on the quantity of imports of fabrics of worsted wool under the Tariff Rate Quotas established by Section 501 of the Act. Section 504 of the Act requires annual consideration of such requests made by U.S. manufacturers of certain

apparel products made of Worsted Wool Fabrics and grants the authority to modify the limitations.

§ 340.2 Definitions.

For purposes of these regulations and the forms used to implement them:

The Act means the Trade and Development Act of 2000 (Public Law No. 106-200, 114 Stat 251).

The Department means the United States Department of Commerce.

HTS means the Harmonized Tariff Schedule of the United States.

Imports subject to Tariff Rate Quotas are defined by date of presentation as defined in 19 CFR 132.1(d) and 19 CFR 132.11(a).

Production means cutting and sewing garments in the United States.

Tariff Rate Quota or Quotas means the temporary duty reduction provided under Section 501 of the Act for limited quantities of fabrics of worsted wool with average diameters greater than 18.5 micron, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (HTS heading 9902.51.11), and for limited quantities of fabrics of worsted wool with average diameters of 18.5 microns or less, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (HTS heading 9902.51.12).

Tariff Rate Quota Year means a calendar year for which the Tariff Rate Quotas are in effect.

Worsted Wool Fabric means fabric containing at least 85 percent by weight worsted wool.

Worsted Wool Suits means men's and boys' worsted wool suits, containing at least 85 percent by weight worsted wool fabric.

Worsted Wool Suit-Type Jackets mean men's and boys' worsted wool suit-type jackets, containing at least 85 percent by weight worsted wool fabric.

Worsted Wool Trousers means men's and boys' worsted wool trousers, containing at least 85 percent by weight worsted wool fabric.

§ 340.3 Requests for modification.

(a) On an annual basis, the Department will cause to be published a FEDERAL REGISTER notice soliciting requests from U.S. manufacturers of