

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

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Worsted Wool Suits, Worsted Wool Suit-Type Jackets, and Worsted Wool Trousers to modify the limitations on the quantity of imports of fabrics of worsted wool under the Tariff Rate Quotas. Requests must be received, or postmarked, on a date no later than 15 calendar days after the date of the FEDERAL REGISTER notice.

(b) A request shall include:

(1) The name, address, telephone number, fax number, and Internal Revenue Service number of the requester;

(2) The relevant worsted wool apparel product(s) manufactured by the person(s), that is, Worsted Wool Suits, Worsted Wool Suit-Type Jackets, or Worsted Wool Trousers;

(3) The modification requested, including the amount of the modification and the limitation that is the subject of the request (HTS heading 9902.51.11 and/or 9902.51.12); and

(4) A statement of the basis for the request, including all relevant facts and circumstances.

(c) A request should include the following information for each limitation that is the subject of the request, to the extent available:

(1) A list of suppliers from which the requester purchased domestically produced Worsted Wool Fabric during the 12 months preceding the request, the dates of such purchases, the quantity purchased, the quantity of imported Worsted Wool Fabric purchased, the countries of origin of the imported Worsted Wool Fabric purchased, the average price paid per square meter of the domestically produced Worsted Wool Fabric purchased, and the average price paid per square meter of the imported Worsted Wool Fabric purchased;

(2) A list of domestic Worsted Wool Fabric producers that declined, on request, to sell Worsted Wool Fabric to the requester during the 12 months preceding the request, indicating the product requested, the date of the order, the price quoted, and the reason for the refusal;

(3) The requester's domestic production and sales for the most recent six month period for which such data is available and the comparable six month period in the previous year, for each of the following products: Worsted

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Wool Suits, Worsted Wool Suit-Type Jackets, or Worsted Wool Trousers;

(4) Evidence that the requester lost production or sales due to an inadequate supply of domestically-produced Worsted Wool Fabric on a cost competitive basis; and

(5) Other evidence of the inability of domestic producers of Worsted Wool Fabric to supply domestically produced Worsted Wool Fabric to the requester.

### § 340.4 Comments regarding requested modification.

(a) If the Department receives a request or requests from a U.S. manufacturer under § 340.3, the Department will cause to be published in the FEDERAL REGISTER a notice summarizing the request or requests and soliciting comments from any interested person, including U.S. manufacturers of Worsted Wool Fabric, wool yarn, wool top and wool fiber, regarding the requested modification. Comments must be received, or postmarked, on a date not later than 20 calendar days after the date of the FEDERAL REGISTER notice.

(b) If the person submitting comments is a domestic producer of Worsted Wool Fabric, comments should include, to the extent available, the following information for each limitation with respect to which comments are being made:

(1) A list of domestic manufacturers of Worsted Wool Suits, Suit-Type Jackets, or Trousers for whom orders were filled during the twelve months prior to the submission of the comments, the date of such orders, the total quantity ordered and supplied in square meters of domestically produced Worsted Wool Fabric and of imported Worsted Wool Fabric, and the average price received per square meter of domestically produced Worsted Wool Fabric and of imported Worsted Wool Fabric for such orders.

(2) A list of all requests to purchase Worsted Wool Fabric during the twelve months prior to the submission of the comments that were rejected by the person submitting the comments, indicating the dates of the requests, the quantity requested, the price quoted, and the reasons why the request was rejected;