

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 or more 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.

[66 FR 6461, Jan. 22, 2001, as amended at 70 FR 25777, May 16, 2005]

PART 336— IMPORTS OF COTTON WOVEN FABRIC

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AUTHORITY: Section 406 Public Law 109-434, Tax Relief and Health Care Act of 2006. December 9, 2006.

SOURCE: 72 FR 40237, July 24, 2007, unless otherwise noted.

§ 336.1 Purpose.

This part sets forth regulations regarding the issuance and effect of licenses for allocation of Cotton Woven Fabric under the Tariff Rate Quota established by Section 406 of the Act.

§ 336.2 Definitions.

For purposes of these regulations:

Act means the Tax Relief and Health Care Act of 2006 (Public Law 109-434).

Cotton Shirts means men's and boys' cotton shirts made from woven fabric containing 85 percent or more by weight of cotton.

Cotton Woven Fabric means woven fabrics of cotton containing 85 percent or more by weight of cotton.

Department means the United States Department of Commerce.

HTS means the Harmonized Tariff Schedule of the United States.

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

Licensee means applicant for an allocation of the Tariff Rate Quota that receives an allocation and a license.

Manufacturer means a person or entity that cuts and sews men's and boys' cotton woven shirts in the United States.

Tariff Rate Quota or Quotas means the temporary duty reduction provided under Section 406 of the Act for limited quantities of cotton woven fabrics entered under HTS headings 9902.52.08 through 9902.52.19 suitable for use in making men's and boys' cotton woven shirts.

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

§ 336.3 Eligibility criteria and application requirements to receive allocation.

(a) In each year prior to the Tariff Rate Quota Year, the Department will cause to be published a FEDERAL REGISTER notice soliciting applications to receive an allocation of the Tariff Rate Quotas.

(b) An application for a Tariff Rate Quota must be received, or postmarked by the U.S. Postal Service, within 30 calendar days after the date of publication of the FEDERAL REGISTER notice soliciting applications.

(c) *Eligibility*. The TRQ is available to manufacturers that during the calendar year of the date of application, have cut and sewed men's and boys' cotton woven shirts in the United States. Furthermore, an applicant must have, during calendar year 2000, cut and sewed men's and boys' cotton shirts in the United States from imported woven fabrics of cotton containing 85 percent or more by weight of cotton of the kind described in HTS headings 9902.52.08 through 9902.52.19

purchased by such manufacturer during calendar year 2000. The applicant may have cut or sewn these cotton shirts on its own behalf or had another person cut and sew the cotton shirts on the applicant's behalf, provided the applicant owned the fabric at the time it was cut and sewn. Any manufacturer who becomes a successor-of-interest to a manufacturer of the cotton shirts described in HTS headings 9902.52.08 through 9902.52.19 during 2000 because of a reorganization or otherwise, shall be eligible to apply for a TRQ.

(d) *Application requirements.* To receive consideration for a TRQ, an applicant must submit ITA Form ITA-4156P providing the following information:

(1) *Identification.* Company name, address, contact telephone number, e-mail address, federal tax identification number, name of person submitting the application, and title, or capacity in which the person is acting for the applicant.

(2) *Manufacturing Facilities.* The name and address of each plant or location in the United States where men's and boy's cotton shirts of imported woven fabric of the kind described in HTS headings 9902.52.08 through 9902.52.19 was cut and sewn in calendar year 2000.

(3) *Date of purchase.* The date of purchase shall be (a) the invoice date if the manufacturer is not the importer of record; and (b) the date of entry if the manufacturer is the importer of record.

(4) *Quantity of fabric.* The quantity of imported woven fabrics of cotton containing 85 percent or more by weight of cotton purchased during calendar year 2000 for use in the cutting and sewing of men's and boys' shirts in the United States.

(5) *Affidavit.* At the conclusion of the application an officer of the manufacturer must certify that the manufacturer is eligible to receive a license and stating the quantity of imported woven fabrics of cotton containing 85 percent or more by weight of cotton purchased during calendar year 2000 for use in the cutting and sewing of men's and boys' shirts in the United States and attest that all information contained in the application is complete and correct and no false claims, statements or rep-

resentations have been made. Applicants should be aware that, generally, pursuant to 31 U.S.C. 3729 persons providing false or fraudulent claims, and pursuant to 18 U.S.C. 101, persons making materially false statement to representations, are subject to civil or criminal penalties, respectively.

(6) *Notarization.* All application must be notarized by a licensed public notary.

(e) *Confidentiality.* Any business confidential information provided pursuant to this section that is marked "business confidential" will be kept confidential and protected from disclosure to the full extent permitted by law.

(f) *Record retention.* The applicant shall retain records substantiating the information provided in § 336.3(d)(2), and (3), and (4) for a period of 3 years and the records must be made available upon request by an appropriate government official.

§ 336.4 Allocation.

(a) The Tariff Rate Quota licenses will be issued to eligible manufacturers on the basis of the percentage of each manufacturer's quantity of imported woven fabrics described under HTS headings 9902.52.08 through 9902.52.19 during calendar year 2000, compared to the imports of such fabric by all manufacturers that qualify for a Tariff Rate Quota license.

(b) The Department will cause to be published in the FEDERAL REGISTER its determination to allocate Tariff Rate Quotas and issue licenses to manufacturers within 60 days after the manufacturers file an application with the Department.

§ 336.5 Licenses.

(a) Each Licensee will receive a license, which will include a unique control number.

(b) A license may be exercised only for fabric entered for consumption, or withdrawn from warehouse for consumption, during the Tariff Rate Quota Year specified in the license. A licensee will be debited on the basis of date of entry for consumption or withdrawal from warehouse for consumption.

(c) A Licensee may import fabric certified by the importer as suitable for

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use in making men's and boys' cotton shirts under the Tariff Rate Quota as specified in the license 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 Quota and to receive the Tariff Rate Quota duty rate.

(d) The term of the 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 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 a unique number of the license, must specifically cover the type of fabric imported, and must be in 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. The authorization also must include the unique PIN assigned by the licensee to the importer. A copy of the authorization and PIN assigned to each importer must be provided to the Department by fax (202) 482-0667 or by mail to the Office of Textiles and Apparel, Room 3001, United States Department of Commerce, Washington, D.C. 20230 . The licensee also must advise the Department of each authorized importer's Importer of Record Identification Number.

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

(i) The licensee should inform its authorized importers that if they enter an amount less than the exact amount requested and authorized by the Import Approval, the importer must annotate the Import Approval form and send a copy to the Department and to the licensee. This annotation will be used to correct the record of use of the license. Failure to provide such information could disrupt the orderly use of the license. Imports in excess of amount of import approval are not authorized.