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TITLE 15--COMMERCE AND FOREIGN TRADE

CHAPTER XX--OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE PART 2011--ALLOCATION OF TARIFF-RATE QUOTA ON IMPORTED SUGARS, SYRUPS AND MOLASSES

Subpart B--Specialty Sugar

Sec. 2011.201 General.

This subpart sets forth the terms and conditions under which certificates will be issued to U.S. importers for importing specialty sugars from specialty sugar source countries. Specialty sugars imported from specialty sugar source countries may not be entered unless accompanied by a specialty sugar certificate. This subpart applies only to the ability to enter specialty sugar at the in-quota tariff rates of the quota (subheadings 1701.11.10, 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS). Nothing in this subpart shall affect the ability to enter articles at the over-quota tariff rate (subheadings 1701.11.50, 1701.12.50, 1701.91.30, 1701.99.50, 1702.90.20, 2106.90.46).

[61 FR 26785, May 29, 1996]

Sec. 2011.202 Definitions.

Unless the context otherwise requires, for the purpose of this subpart, the following terms shall have the meanings assigned below.

(a) Appropriate Customs official means the District or Area Director of Customs, his or her designee, or any other Customs officer of similar authority and responsibility for the Customs district in which the port of entry is located.

(b) Certificate means a specialty sugar certificate issued by the Certifying Authority permitting the entry of specialty sugar.

(c) Certifying Authority means the Team Leader, Import Quota Programs, Foreign Agricultural Service, U.S. Department of Agriculture, or his or her designee.

(d) Date of entry means the date on which the appropriate Customs entry form is properly executed and deposited, together with any estimated duties and special import fees and any related documents required by law or regulation to be filed with such form at the time of entry with the appropriate Customs Officer.

(e) Importer means any person in the United States importing specialty sugar into the United States.

(f) Person means any individual, partnership, corporation, association, estate, trust, or other legal entity, and, wherever applicable, any unit, instrumentality, or agency, of a government, domestic or foreign.

(g) Quota means the tariff-rate quota on imports of sugar provided in additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States.

(h) Secretary means the Secretary of Agriculture or any officer or employee of the Department of Agriculture to whom the Secretary has delegated the authority or to whom the authority hereafter may be delegated to act in his place.

(i) Specialty sugar means brown slab sugar (also known as slab sugar candy), pearl sugar (also known as perl sugar, perle sugar, and nibs sugar), vanilla sugar, rock candy, demerara sugar, dragees for cooking and baking, fondant (a creamy blend of sugar and glucose), ti light sugar (99.2% sugar with the residual comprised of the artificial sweeteners aspartame and acesulfame K), caster sugar, golden syrup, ferdiana granella grossa, golden granulated sugar, muscovado, molasses sugar, sugar decorations, sugar cubes, and other sugars, as determined by the United States Trade Representative, that would be considered specialty sugar products within the normal commerce of the United States, all of which in addition:

(1) Are sugars, syrups, or molasses described in subheading 1701.11.10, 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, or 2106.90.44 of the Harmonized Tariff Schedule of the United States,

(2) Are the product of a specialty sugar source country, and

(j) Specialty sugar source country means any country or area to which the United States Trade Representative has allocated an amount of the quantity reserved for the importation of specialty sugars under additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States.

[55 FR 40648, Oct. 4, 1990, as amended at 61 FR 26785, May 29, 1996]

Sec. 2011.203 Issuance of specialty sugar certificates.

(a) Specialty sugars imported into the United States from specialty sugar source countries may be entered only if such specialty sugars are accompanied by a certificate issued by the Certifying Authority.

(b) A certificate may be issued to an importer who complies with the provisions of this part. The certificate may contain such conditions, limitations or restrictions as the Certifying Authority, in his discretion, deems necessary. The Certifying Authority will issue a certificate if sufficient evidence has been provided to permit the Certifying Authority to make a reasonable determination that the sugar proposed to be imported under the certificate fits the definition of specialty sugars in this subpart.

(c) Subject to quota availability, an unlimited number of complying shipments may enter under a given certificate and a given certificate may cover more than one type of specialty sugar. Issuance of a certificate does not guarantee the entry of any specific shipment of specialty sugar,

but only permits entry of such sugar if the amount allocated to the specialty sugar source country is not already filled.

[55 FR 40648, Oct. 4, 1990, as amended at 61 FR 26785, May 29, 1996]

Sec. 2011.204 Entry of specialty sugars.

An importer or the importer's agent must present a certificate to the appropriate customs official at the date of entry of specialty sugars. Entry of specialty sugars shall be allowed only in conformity with the description of sugars and other conditions, if any, stated in the certificate.

[61 FR 26785, May 29, 1996]

Sec. 2011.205 Application for a specialty sugar certificate.

Applicants for certificates for the import of specialty sugars must apply in writing to the Certifying Authority. Such letter of application shall contain the following information:

- (a) The name and address of the applicant;
- (b) A statement of the anticipated quantity of specialty sugars to be imported, if known;
- (c) The appropriate six digit HTS subheading number;
- (d) A description of the specialty sugar the importer expects to import during the period of the certificate, including the manufacturer's or exporter's usual trade name or designation and use of such specialty sugar, and the importer's use of such specialty sugar;
- (e) Sufficient evidence to permit the Certifying Authority to make a reasonable determination that such sugars are specialty sugars within the definition of specialty sugars in this subpart;
- (f) The name of the anticipated consumer of the specialty sugars, if known at time of application; and
- (g) The anticipated date of entry, if known at time of application.

The Certifying Authority may waive any provision of this section for good cause if he or she determines that such a waiver will not adversely affect the implementation of this subpart.

Sec. 2011.206 Suspension or revocation of individual certificates.

(a) Suspension or revocation. The Certifying Authority may suspend, revoke, modify or add limitations to any certificate which has been issued if he or she determines that such action or actions is necessary to ensure the effective operation of the quota for specialty sugars or determines that the importer has failed to comply with the requirements of this subpart.

(b) Reinstatement. The Certifying Authority may reinstate or restore any certificate which was previously suspended, revoked, modified or otherwise limited under the authority of this section.

(c) The determination of the Certifying Authority under paragraph (a) that the importer has failed to comply with the requirements of this subpart may be appealed to the Director, Import Policy and Trade Analysis Division, Foreign Agricultural Service (FAS), U.S. Department of Agriculture, Washington, DC 20250, within 30 days from the date of suspension or revocation. The request for reconsideration shall be presented in writing and shall specifically state the reason or reasons why such determination should not stand. The Director shall provide such person with an opportunity for an informal hearing on such matter. A further appeal may be

made to the Administrator, FAS, U.S. Department of Agriculture, Washington, DC 20250, within five working days of receipt of the notification of the Director's decision. The Certifying Authority may take action under paragraph (b) during the pendency of any appeal.

[55 FR 40648, Oct. 4, 1990, as amended at 61 FR 26785, May 29, 1996]

Sec. 2011.207 Suspension of the certificate system.

(a) Suspension. The U.S. Trade Representative may suspend the provisions of this subpart whenever he or she determines that the quota is no longer in force or that this subpart is no longer necessary to implement the quota. Notice of such suspension and the effective date thereof shall be published in the Federal Register.

(b) Reinstatement. The U.S. Trade Representative may at any time reinstate the operation of this subpart if he or she finds that the conditions set forth in paragraph (a) of this section no longer apply. Notice of such reinstatement and the effective date thereof shall be published in the Federal Register.

(c) Transitional provisions. In the case of any suspension or reinstatement of the certificate system established by this subpart, the Certifying Authority may prescribe such additional guidelines, instructions, and limitations which shall be applied or implemented by appropriate Customs officials in order to ensure an orderly transition.

[55 FR 40648, Oct. 4, 1990, as amended at 61 FR 26785, May 29, 1996]

Sec. 2011.208 Paperwork Reduction Act assigned number.

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the regulations in this subpart in accordance with 44 U.S.C. Chapter 25 and OMB control number 0551-0014 has been assigned with corresponding clearance effective through April 30, 1997.

[61 FR 26785, May 29, 1996]