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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1471

RIN 0551-AA90

Pima Agriculture Cotton Trust Fund and Agriculture Wool Apparel Manufacturers Trust Fund

AGENCY: Foreign Agricultural Service and Commodity Credit Corporation (CCC),
USDA.

ACTION: Final rule.

SUMMARY: This final rule makes amendments to the final rule, with request for comments, published in the Federal Register on March 9, 2015, that established regulations for the Pima Agriculture Cotton Trust Fund (Agriculture Pima Trust) and the Agriculture Wool Apparel Manufacturers Trust Fund (Agriculture Wool Trust) programs. This final rule is amended based on comments received and to add details for the Refund of Duties Paid on Imports of Certain Wool Products (Wool Duty Refund) payment. The administration of the Wool Duty Refund payment was transferred to the United States Department of Agriculture (USDA) beginning in calendar year (CY) 2016 and assigned to the Foreign Agricultural Service (FAS). It was previously administered by the Customs and Border Protection Agency of the Department of Homeland Security.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Peter W. Burr, Import Policies and

Export Reporting Division, Office of Trade Programs, Foreign Agricultural Service, USDA; email: pimawool@fas.usda.gov, 202-720-3274.

SUPPLEMENTARY INFORMATION:

Background

On March 9, 2015, FAS published a final rule, with request for comments, in the Federal Register (80 FR 12321) for the Agriculture Pima Trust and the Agriculture Wool Trust programs. The final rule, with request for comments, was published under RIN 0551-AA86. The final rule, with request for comments, established regulations and sought comments for the Agriculture Pima Trust program and for three of the four payments under the Agriculture Wool Trust program. The Agriculture Pima Trust and Agriculture Wool Trust programs were established in the Agricultural Act of 2014 (Farm Bill). The Farm Bill transferred to USDA the responsibility for administering the Agriculture Pima Trust and three of the four payments under the Agriculture Wool Trust beginning in 2015, but transferred the fourth payment, the Wool Duty Refund, beginning in 2016.

Discussion of Comments

The following is a summary and discussion of the comments received relative to the Agriculture Pima Trust and the Agriculture Wool Trust programs along with the reasoning for the revisions made.

General

A commenter suggested that applicants not be required as noted in §1471.1(b)(3)(iii), §1471.1(b)(4), §1471.10(b)(3)(iii), and §1471.10(b)(4), to annually file IRS forms W-9 (U.S. person or resident alien) or the 1199A (direct deposit) with an

application for either the Agriculture Pima Trust or Agriculture Wool Trust programs unless a change in the applicant's W-9 or 1199A information had occurred when compared to their previous year's application. This was deemed to be reasonable. Beginning in 2017, IRS forms W-9 and 1199A will only need to be filed if changes in the information have occurred.

A commenter noted that a technical correction is necessary in paragraphs (1) and (2) of §1471.2(c) by closing the parentheses after the word "insurance." This correction will be made.

Payments to Manufacturers of Certain Worsted Wool Fabrics

A commenter identified an error common to paragraphs (b)(1)(ii) and (b)(2)(ii) of § 1471.11, Payments to manufacturers of certain worsted wool fabrics. The payment formula for payments to eligible persons is provided for under this section. The payment formula mistakenly states in paragraph (ii) that payments will be calculated based on the eligible person's production in the preceding year. However, the payments are actually based on the eligible person's production of qualifying worsted wool fabric during calendar years 1999, 2000, and 2001. This correction will be made.

Free Trade Zones

A commenter suggested that the scope of the monetization of the wool tariff rate quota payment as noted under § 1471.13(a)(2)(i) be expanded to include eligible entities, that are manufacturers and would otherwise be eligible for monetization payments, that import qualifying worsted wool into a free trade zone (FTZ), cut the wool and use it to make worsted wool suits for men and boys within the FTZ.

The monetization payment requires that the eligible entities receiving a

monetization payment (1) import into the Customs territory of the United States the qualifying worsted wool directly or indirectly; (2) manufacture in the United States the qualifying worsted wool into worsted wool suits for men and boys; and (3) own the worsted wool at the time it's cut and manufactured.

An entity that manufactures the suits in an FTZ and does not export from the FTZ into the Customs territory of the United States the qualifying worsted wool directly or indirectly, does not qualify for this benefit because by definition the entity avoided paying the import duty on the qualifying worsted wool. However, an eligible entity that manufactures the suits in an FTZ and exports into the Customs territory of the United States the qualifying worsted wool directly or indirectly and thus pays the import duty on the qualifying worsted wool, does qualify for this benefit. For the purpose of the monetization payment, the worsted wool suits for men and boys are manufactured in the U.S. and all environmental, worker safety, and wage protection laws, etc., would apply to this manufacturer.

USDA will also broaden the scope of eligible entities as it pertains to the wool yarn, wool fiber, and wool top compensation payment found at § 1471.14(a)(2)(i) to include those operating within a FTZ.

Definition of Eligible Person

A commenter suggested that the definition of an eligible person found at § 1471.13(a)(2)(i) in the monetization of the wool tariff rate quota payment be modified to allow an eligible person to claim the annual dollar value and quantity of imported qualifying worsted wool fabric cut and sewn if the eligible person owned the wool at the time it was cut and sewn, whether the person actually cut and sewed the imported

qualifying worsted wool or another person cut and sewed the wool on behalf of the eligible person. This was deemed reasonable and is already allowed under §1471.13(d)(3)(i)(A) and (d)(3)(ii)(A).

USDA will also make this change as it pertains to the wool yarn, wool fiber, and wool top duty compensation payment found at § 1471.14 (a)(2)(i).

Reporting of Direct Imports

A commenter suggested that applicants for the monetization of the wool tariff rate quota payment not be required to include direct imports on their annual application for this payment. The commenter's suggestion was based on their observance that countries of origin of imported qualifying worsted wool by direct importers is included on the Customs and Border Protection (CBP) form #7501, which is provided to the Secretary of Treasury every year, and thus it was redundant to also require this information to be included on the affirmation part of the annual application. Even though this information is provided to CBP each year, USDA will maintain the requirement as found at § 1471.13(d)(2)(iii)(A) and (B) that applicants for the monetization of the wool tariff rate quota payment include their direct and indirect imports on their annual application. Including direct and indirect imports on the application for this payment will make it easier for USDA to process the annual payments and to distribute them in a timely manner.

Importers versus Manufacturers

Regarding the monetization of the wool tariff rate quota payment, found at §1471.13(a)(2), a commenter suggested that the definitions of eligible person and qualifying worsted wool, a provision eliciting specific business information, and the

scope of the affirmation, be expanded to include all importers of qualifying worsted wool suitable for worsted wool suits, as opposed to importers of qualifying worsted wool that actually used the wool to make suits for men or boys. To support the commenter's position, the commenter cited statutory references to types of worsted wool fabrics categorized under the harmonized tariff schedule (HTS). However the commenter conflates statutory provisions authorizing the tariffs for HTS categories of worsted wool suitable for wool suits with defining the universe of eligible manufacturers who import qualifying worsted wool and are eligible for payments under this program. The wool tariff rate quota administered by the Secretary of Commerce, until its statutory sunset in 2014, in fact required that to benefit from the tariff reduction, the worsted wool had to be actually used for worsted wool suits. This monetization program provides payments to manufacturers who formerly benefitted from the tariff reduction. The requirement in the monetization payment that the qualifying worsted wool must be used by the manufacturer receiving the payment to make suits for men and boys will remain unchanged.

A commenter made a suggestion regarding the wool yarn, wool fiber, and wool top duty compensation payment found at § 1471.14(a)(2) that is similar to the comment above. The commenter suggested that the definitions of eligible person and qualifying wool, a provision eliciting specific business information, and the scope of the affirmation, be expanded from manufacturers that directly or indirectly imported qualifying wool and manufactured the qualifying wool, to include all importers of qualifying wool (whether or not the importer was also the manufacturer of the wool). To support this position, the commenter referred to statutory authority that did not require importers of qualifying wool to also be manufacturers of the qualifying wool. The commenter further stated that

the wool duty refund program, of which only manufacturers of qualifying wool have participated, did not impose the requirement that the entity actually manufacture the qualifying wool. However the commenter is incorrect about what the statutory authority actually provides, and conflates extension of the duty suspension (that was applicable to all importers, regardless of whether they also manufactured men's and boy's wool suits) in section 5102 of the Trade Act of 2002, Pub. L. 107-210 and the wool duty refund payment program (that applied only to manufacturers of men's and boy's wool suits) in section 5101 of the Trade Act of 2002. The duty refund program administered by the U.S. Customs Service and by Customs and Border Protection in the Department of Homeland Security from 2002-2014 required that the importer must also be the manufacturer of the qualifying wool. The requirements in the wool yarn, wool fiber, and wool top duty compensation payment that the qualifying wool must be imported and must also be used for further manufacturing by the importing manufacturer will remain unchanged.

Refund of Duties Paid on Imports of Certain Wool Products

The Wool Duty Refund payment found at § 1471.12 was administered by the Department of Homeland Security's Customs and Border Protection (CBP) through 2015. In the Farm Bill, the Wool Duty Refund payment was established for the year 2016 through 2019 and was transferred to USDA. The Wool Duty Refund payment is open to U.S. entities that manufactured certain wool articles made with certain imported wool products during calendar years 2000, 2001 and 2002; received a 2005 payment under section 505 of the Trade and Development Act of 2000; and as of January 1st of the payment year, continues to be a manufacturer in the U.S. as provided for in Section

505(a) of the Trade and Development Act of 2000. FAS will administer the Wool Duty Refund payment for 2016-2019 exactly the same as it was administered by CBP.

Executive Order 12630

This Executive Order requires careful evaluation of governmental actions that interfere with constitutionally protected property rights. This rule does not interfere with any property rights and, therefore, does not need to be evaluated on the basis of the criteria outlined in Executive Order 12630.

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and Administrative Procedure Act (5 U.S.C. 553). It has been determined to be not significant for the purposes of Executive Order 12866 and was not reviewed by OMB for this purpose. A cost-benefit assessment of this rule was not completed.

Executive Order 12372

This final rule is not subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988. This rule would not preempt State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This rule would not be retroactive.

Executive Order 13132

This final rule has been reviewed under Executive order 13132, “Federalism.” The policies contained in this final rule do not have any substantial direct effect on States,

on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government, nor does this final rule impose substantial direct compliance costs on State and local governments.

Therefore, consultation with the States is not required.

Executive Order 13175

This final rule has been reviewed for compliance with E.O. 13175. The policies contained in this final rule do not have tribal implications that preempt tribal law.

Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this final rule because FAS is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking with respect to the subject matter of this final rule.

Civil Rights Impact Statement

No major civil rights impact is likely to result from the announcement of this final rule. It will not have a negative civil rights impact on very-low income, low income, moderate income, and minority populations.

Environmental Assessment

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321-4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and FAS regulations for compliance with NEPA (7 CFR part 799). FAS has determined that NEPA does not apply to this final rule and that no environmental assessment or environmental impact statement will be prepared.

Unfunded Mandates Reform Act

This final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA). Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

E-Government Act Compliance

FAS is committed to complying with the E-Government Act to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information, services, and for other purposes. The forms, regulations, and other information collection activities required to be utilized by a person subject to this final rule are available at: <http://www.fas.usda.gov>.

List of Subjects in 7 CFR Part 1471

Agricultural commodities, imports.

Accordingly, 7 CFR part 1471 is amended as follows:

PART 1471 —PIMA AGRICULTURE COTTON TRUST FUND (AGRICULTURE PIMA TRUST) AND AGRICULTURE WOOL APPAREL MANUFACTURERS TRUST FUND (AGRICULTURE WOOL TRUST)

1. The authority citation for part 1471 continues to read as follows:

Authority: Sections 501-506, Pub. L. 106-200, (114 Stat. 299-304); Section 4002, Pub. L. 108-429 (7 U.S.C. 7101 note); Section 1633, Pub. L.109-280 (120 Stat. 1166); Section 325, Pub. L. 110-343 (122 Stat. 3875); Sections 12314 and 12315, Pub. L. 113-79 (7 U.S.C. 2101 note and 7101 note).

Subpart A — Agriculture Pima Trust

2. Amend § 1471.1 to revise paragraphs (b)(3)(iii) and (b)(4) to read as follows:

§ 1471.1 Provisions common to this subpart.

(b)***

(3)***

(iii) A W-9 providing the Federal tax identification number of the person (if the information required by Form W-9 has changed since the previous application).

(4) Standard Form 1199A. Every person claiming a payment must provide Standard Form 1199A, a direct deposit sign-up form, to facilitate any transfer of funds (if the information required by Form 1199A has changed since the previous application).

§ 1471.2 [Amended]

3. Amend § 1471.2(c)(1) and (2) by removing “(excluding duty, shipping, and insurance” and adding in its place “(excluding duty, shipping, and insurance)”.

4. Revise § 1471.5 to read as follows.

§ 1471.5 Affidavit of pima cotton trade associations.

In addition to applicable information requirements in § 1471.1, trade associations filing a claim for a payment must electronically provide a statement which states that during the calendar year immediately preceding the payment they were, as determined by the Secretary, a domestic nationally recognized association established and operating for the promotion of pima cotton for domestic use in textile and apparel goods.

Subpart B—Agriculture Wool Trust

5. Amend § 1471.10 to revise paragraphs (b)(3)(iii) and (b)(4) to read as follows:

§ 1471.10 Provisions common to this subpart.

(b)***

(3)***

(iii) A W-9 providing the Federal tax identification number of the person (if the information required by Form W-9 has changed since the previous application).

(4) Every person claiming a payment must provide Standard Form 1199A, a direct deposit sign-up form, to facilitate any transfer of funds (if the information required by Form 1199A has changed since the previous application).

6. Amend § 1471.11 to revise paragraphs (b)(1)(ii) and (b)(2)(ii) to read as follows:

§ 1471.11 Payments to manufacturers of certain worsted wool fabrics.

(b)***

(1)***

(ii) *Payment amounts.* A total of \$2,666,000 will be allocated annually among eligible persons covered by this paragraph on the basis of the percentage of each eligible person's total production (actual production, not estimates) of qualifying worsted wool fabric described in paragraph (b)(1)(i) of this section for each of the calendar years 1999, 2000, and 2001 in relation to the total production of such fabric by all eligible persons who qualify for payments under this paragraph for each of the calendar years 1999, 2000, and 2001.

(2)***

(ii) *Payment amounts.* A total of \$2,666,000 will be allocated annually among eligible persons covered by this paragraph on the basis of the percentage of each eligible person's total production (actual production, not estimates) of qualifying worsted wool fabric described in paragraph (b)(2)(i) of this section for each of the calendar years 1999, 2000, and 2001 in relation to the total production of such fabric by all eligible persons who qualify for payments under this paragraph for each of the calendar years 1999, 2000, and 2001.

7. Add § 1471.12 to read as follows:

§ 1471.12 Refund of duties paid on imports of certain wool products.

(a) *Eligible wool.* Eligible wool under the Duty Refund program means imported wool yarn of the kind described in section 505 of the Trade and Development Act of 2000 Pub. L. 106-200 (May 18, 2000)

(b) *Payments—(1) Eligibility.* Persons eligible for a Duty Refund payment are manufacturers who, in the year immediately preceding the payment, were actively engaged in manufacturing wool (as determined by FAS), and in calendar years 2000, 2001, and 2002-

- (i) Imported eligible wool directly or indirectly; and
- (ii) Used the imported wool to make men's or boy's suits; or
- (iii) Further manufactured the eligible imported wool.

(2) *Payment amount.* Persons eligible for a Duty Refund payment shall be paid the same amounts that were made to the persons by CBP through FY 2015.

8. Amend § 1471.13 to revise paragraphs (a)(2)(i), (d)(3)(i)(A), and (d)(3)(ii)(A) to read as follows:

§ 1471.13 Monetization of the wool tariff rate quota.

(a)***

(2)***

(i) *In general.* The term “eligible person” means a manufacturer (or a successor-in-interest to the manufacturer) in the U.S. or in a Foreign-Trade Zone authorized under the Foreign-Trade Zones Act of 1934 (19 U.S.C. 81a-81u) during the calendar year immediately preceding the payment that:

(A) Imported qualifying worsted wool fabric; and

(B) Used the imported qualifying worsted wool fabric directly or had another person use the qualifying worsted wool fabric providing the eligible person owned the qualifying worsted wool fabric at the time it was used:

(1) In the case of wool of the kind described in subheadings 9902.51.11 or 9902.51.15 of the 2014 HTS, to produce worsted wool suits, suit-type jackets and trousers for men and boys; or

(2) In the case of wool fabric of the kind described in subheading 9902.51.16 of the 2014 HTS, used such wool fabric in manufacturing.

(d)***

(3)***

(i)***

(A) *In general.* When reporting the annual dollar value and quantity of imported qualifying worsted wool fabric, an eligible person may either have cut and sewn the wool on its own behalf or had another person cut and sew the wool on behalf of the eligible person, provided the eligible person owned the wool at the time it was cut and sewn.

(ii)***

(A) *In general.* When reporting the annual dollar value and quantity of imported qualifying worsted wool fabric, an eligible person may either have manufactured the wool on its own behalf or had another person manufacture the wool on behalf of the eligible person, provided the eligible person owned the wool at the time of manufacture.

9. Amend § 1471.14 to revise paragraph (a)(2)(i) to read as follows:

§ 1471.14 Wool yarn, wool fiber, and wool top duty compensation payment.

(a)***

(2)***

(i) *In general.* The term “eligible person” means a manufacturer (or a successor-in-interest to the manufacturer) in the U.S. or in a Foreign-Trade Zone authorized under the Foreign-Trade Zones Act of 1934 (19 U.S.C. 81a-81u) during the calendar year immediately preceding the payment that

(A) Imported qualifying wool; and

(B) Manufactured the qualifying wool directly or had another person manufacture the qualifying wool providing the eligible person owned the qualifying wool at the time it was manufactured.

Philip C. Karsting
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November 2, 2016
Date

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