Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

RIN 0551–AA70

The Dairy Import Licensing Program

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would suspend the historical license reduction provisions of the dairy import licensing program, 7 CFR part 6, for a period of 5 years. This temporary suspension is intended to improve program administration and reflect changes in the markets for cheese and other dairy products subject to import licensing requirements.

DATES: Submit comments on or before November 5, 2007.

ADDRESSES: Address all comments concerning this proposed rule to Ron Lord, Branch Chief, Sugar and Dairy Branch, Import and Trade Support Programs Division, Foreign Agricultural Service, 1400 Independence Avenue, SW., Washington, DC 20250, Room 5531–S, STOP 1021, e-mail at *Ronald.Lord@usda.gov*, telephone (202) 720–2916, or fax at (202) 720–0876. Persons with disabilities who require an alternative means for communication of information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TDD).

FOR FURTHER INFORMATION CONTACT: Contact Ron Lord, Branch Chief, Sugar and Dairy Branch, Import and Trade Support Programs Division, Foreign Agricultural Service, 1400 Independence Avenue, SW., Washington, DC 20250, Room 5531–S, STOP 1021, e-mail at *Ronald.Lord@usda.gov*, telephone (202) 720–2916, or fax at (202) 720–0876.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The proposed rule has been determined to be non-significant under E.O. 12866 and has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act ensures that regulatory and information requirements are tailored to the size and nature of small businesses, small organizations, and small governmental jurisdictions. This proposed rule will not have a significant economic impact on small businesses participating in the program.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988. The provisions of this proposed rule would not have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with such provision or which otherwise impede their full implementation. The proposed rule would not have a retroactive effect. Before any judicial action may be brought forward regarding this proposed rule, all administrative remedies must be exhausted.

National Environmental Policy Act

The Administrator has determined that this action will not have a significant effect on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is necessary for this proposed rule.

Unfunded Mandates Reform Act (Pub. L. 104–4)

Public Law 104–4 requires consultation with State and local officials and Indian tribal governments. This proposed rule does not impose an unfunded mandate or any other requirement on State, local, or tribal governments. Accordingly, these programs are not subject to the provisions of the Unfunded Mandates Reform Act.

Executive Order 12630

This Order requires careful evaluation of governmental actions that interfere with constitutionally protected property rights. This proposed rule would 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.

Government Paperwork Elimination Act

FAS is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Background

The proposed rule at 7 CFR part 6 would revise the Dairy Tariff-Rate Import Quota Licensing regulation in effect since October 9, 1996, by suspending the provisions with respect to the reduction of historical licenses based on surrenders of unused amounts.

Import licensing is one of the tools the U.S. Department of Agriculture (USDA) uses to administer the tariff-rate quota (TRA) system for U.S. imports of dairy products. TRQs replaced strictly quantitative import quotas for dairy products on January 1, 1995, as a result of the Uruguay Round Agreement on Agriculture and the Uruguay Round Agreements Act.

Under these TRQs, a low tariff rate, called the in-quota rate, applies to imports up to a specified quantity. A higher tariff rate called the over-quota rate, applies to any imports in excess of that amount. TRQ rates and quantities vary by product.

For dairy products subject to TRQs, a license issued by the Foreign Agricultural Service (FAS) is generally required to import products at the in-quota rate. No license is required to import products at the over-quota rate.

Under the historical license reductions provisions, the amount of the license issued by FAS is reduced if the importer surrenders more than 50 percent of the license during either three consecutive years or at least three out of five consecutive years. Specifically, section 6.25(b)(1)(i) provides that beginning with the 1999 quota year, if a licensee has surrendered more than 50 percent of a historical license in each of the three prior years, that license will be permanently reduced to the average amount entered during those three years. Section 6.25(b)(1)(ii) provides that beginning with the quota year 2001, if a licensee surrenders more than 50 percent of a historical license in at least three out of the five prior years, that license will be permanently reduced to the average amount entered during those five years. These provisions are intended to provide a strong incentive for companies with historical licenses to utilize their licenses.

The current regulation permitted the Secretary of Agriculture to suspend the historical license reduction provisions applicable prior to 1999. In 1998, the Secretary published a notice in the **Federal Register** suspending these provisions for five years, thereby delaying their implementation until 2004. The provisions were suspended in order to ''provide adequate time for historical licensees of European Union (EU) cheeses to adjust to changing market conditions; to find alternative suppliers of cheese in the EU; and to develop new markets to enable importers to fully utilize their historical licenses for EU cheese.'' FAS also noted: ''The suspension is consistent with the intent of the U.S.-EU Uruguay Round bilateral agreement on maximizing utilization of U.S. licenses for EU cheese.''

However, current market conditions have again prompted the need for a temporary suspension of the historical license reduction provisions. The production of certain cheeses in the EU, particularly Swiss cheese, has declined primarily due to a reduction in subsidies. Other cheeses, particularly processed Gruyere cheese, have declined in production primarily due to a change in consumer preferences and market demand. And finally, production of industrial grade low-fat cheeses has declined precipitously due to a switch to more profitable, consumer-oriented cheeses. Additionally, the expansion of the EU from 15 to 27 countries has diminished the availability of milk for cheese production and reduced availability of cheese for export.

This temporary suspension is intended to improve program administration and reflect changes in the markets for cheese and other dairy products subject to import licensing requirements. The historical licenses provide for orderly importation of a wide variety of cheeses and permit companies to invest in market development with some assurance of future ability to provide specific types of cheese.

List of Subjects in 7 CFR Part 6

Agricultural commodities, Cheese, Dairy products, Imports, Reporting and recordkeeping requirements.

For the reasons described in the preamble, the Department of Agriculture proposes to amend 7 CFR part 6 as follows:

PART 6—IMPORT QUOTAS AND FEES

1. The authority citation for part 6 continues to read as follows:

Authority: Sec. 8, 65 Stat. 75; 19 U.S.C. 1365.

2. Section 6.25 is amended by revising paragraphs (b)(1)(i) and (ii) to read as follows:

§ 6.25 Allocation of Licenses

* * * * *

(b) * * *

(1) * * *

(i) Beginning with the 2012 quota year, a person who has surrendered more than 50 percent of such historical license in each of the prior three quota years will thereafter be issued a license in an amount equal to the average annual quantity entered during those three quota years; and

(ii) Beginning with the 2014 quota year, a person who has surrendered more than 50 percent of such historical license in at least three of the prior five quota years will thereafter be issued a license in an amount equal to the average annual quantity entered during those five quota years.

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Dated: September 14, 2007.

Michael W. Yost,

Administrator, Foreign Agricultural Service.

[FR Doc. 07–4780 Filed 10–1–07; 2:37 pm]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 962

[Docket No. AMS–FV–07–0090; FV07–962–1 AN]

Handling Regulations for Leafy Greens Under the Agricultural Marketing Agreement Act of 1937

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Agricultural Marketing Service (AMS) is issuing this advance notice of proposed rulemaking in response to industry interest in the establishment of a marketing program to address the handling of fresh and fresh-cut leafy green vegetables. The program would allow packers, processors, shippers, and marketers (collectively referred to as handlers) to maintain the quality of their products by reducing the risk of pathogenic contamination during the production and handling of leafy greens. Authorities and regulations under the program would not supplant those of the Food and Drug Administration (FDA), which is responsible for ensuring that foods are safe, wholesome, and sanitary. Comments are being sought from the public, particularly from growers, handlers, buyers, and sellers of leafy green commodities, regarding whether to issue such regulations under an AMS marketing program and if so, the possible substance and implementation of the program.

DATES: Comments must be received by December 3, 2007.

ADDRESSES: Interested persons are invited to submit written comments concerning the issues contained in this notice. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938 or Internet: *http://www.regulations.gov*. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Laurel May or Kathleen Finn, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *laurel.may@usda.gov or kathy.finn@usda.gov*.

SUPPLEMENTARY INFORMATION: This advance notice of proposed rulemaking invites comments on a potential regulatory program intended to maintain the quality of leafy green commodities by reducing the risk of pathogenic contamination during their production and handling. AMS is considering implementation of a marketing agreement (agreement) in response to heightened public and industry concern about the safe production and handling of leafy greens.

Under the program being considered, handlers could voluntarily enter into the agreement, but signatories would then be required to comply with the agreement's regulations, which would specify Best Practices for minimizing the risk of pathogenic contamination of leafy greens. The Best Practices could include commodity-specific production and handling guidelines that would be developed in cooperation with the