

# 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-AA65

#### 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 ongoing changes in the markets for cheese and other dairy products subject to import licensing requirements.

**DATES:** Submit comments on or before November 12, 2010.

**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., Stop 1021, Washington, DC 20250-1021; e-mail [Ronald.Lord@fas.usda.gov](mailto:Ronald.Lord@fas.usda.gov); telephone (202) 720-6939; or fax (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:** Ron Lord, Branch Chief, Sugar and Dairy Branch, Import and Trade Support Programs Division, Foreign Agricultural Service, 1400 Independence Avenue, SW., Stop 1021, Washington, DC 20250-1021; e-mail [Ronald.Lord@fas.usda.gov](mailto:Ronald.Lord@fas.usda.gov); telephone (202) 720-6939; or fax (202) 720-0876.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

The proposed rule has been determined to be not 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 a 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

Foreign Agricultural Service (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 by suspending, for a period of 5 years, 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 (TRQ) 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 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 at least 3 out of 5 consecutive years. Section 6.25(b)(1)(i) provides that beginning with the quota year 2011, if a licensee surrenders more than 50 percent of a historical license in at least 3 out of the 5 prior years, that license will be permanently reduced to the average amount entered during those 5 years. These provisions are intended to provide a strong incentive for companies with historical licenses to utilize their licenses.

In 2008, the regulations were revised to suspend these provisions for the 2009 and 2010 quota years, thereby delaying their implementation until 2011. The following background statement was

included: "Market conditions are always subject to fluctuation and change, and it is incumbent upon all license holders to adjust to these changing conditions. Nonetheless, to allow additional time to adjust to changes in EU's supply and demand, due to its long-term dairy policy changes, the Department will temporarily suspend the historical license reduction provisions for a period of 2 years, commencing in 2009. Historical license reductions will again be implemented beginning 2011, rather than in 2012 or 2014, as in the proposed rule."

As the circumstances that prompted the previous suspension continue, an additional temporary suspension is proposed to improve program administration and reflect ongoing 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, 7 CFR part 6 is proposed to be amended as follows:

### PART 6—IMPORT QUOTAS AND FEES

#### Subpart—Dairy Tariff—Rate Import Quota Licensing

1. The authority citation of part 6 subpart—Dairy Tariff—Rate Import Quota Licensing, continues to read as follows:

**Authority:** Additional U.S. Notes 6, 7, 8, 12, 14, 16–23 and 25 to Chapter 4 and General Note 15 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), Pub. L. 97–258, 96 Stat. 1051, as amended (31 U.S.C. 9701), and secs. 103 and 404, Pub. L. 103–465, 108 Stat. 4819 (19 U.S.C. 3513 and 3601).

2. Section 6.25 (b)(1) is revised to read as follows:

#### § 6.25 Allocation of licenses.

\* \* \* \* \*

(b) *Historical licenses for the 2011 and subsequent quota years (Appendix 1).* (1) A person issued a historical license for the 2010 quota year will be issued a historical license in the same amount for the same article from the same country for the 2011 quota year and for each subsequent quota year except that:

(i) Beginning with the quota year 2016, 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.

(ii) [Reserved]

\* \* \* \* \*

Dated: October 5, 2010.

**Suzanne Hale,**

*Administrator, Foreign Agricultural Service.*

[FR Doc. 2010–25651 Filed 10–12–10; 8:45 am]

**BILLING CODE 3410–10–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 205

[Doc. #AMS–NOP–10–0048; NOP–10–05]

#### National Organic Program: Notice of Draft Guidance for Accredited Certifying Agents and Certified Operations

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice of availability with request for comments.

**SUMMARY:** The National Organic Program (NOP) is announcing the availability of five draft guidance documents intended for use by accredited certifying agents and certified operations. The five draft guidance documents are entitled as follows: Compost and Vermicompost in Organic Crop Production (NOP 5021); Wild Crop Harvesting (NOP 5022); Outdoor Access for Organic Poultry (NOP 5024); Commingling and Contamination Prevention in Organic Production and Handling (NOP 5025); and The Use of Chlorine Materials in Organic Production and Handling (NOP 5026). These draft guidance documents are intended to inform the public of NOP's current thinking on these topics. The NOP is seeking comments on the five draft guidance documents. A notice of availability of final guidance on these topics will be issued upon their final approval. Once finalized, these guidance documents will be available from the NOP through "The Program Handbook: Guidance and Instructions for Accredited Certifying Agents (ACAs) and Certified Operations". This Handbook provides those who own, manage, or certify organic operations with guidance and instructions that can assist them in complying with the National Organic Program (NOP)

regulations. The current edition of the Program Handbook is available online at <http://www.ams.usda.gov/nop> or in print upon request.

**DATES:** To ensure that NOP considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written comments on the draft guidance by December 13, 2010.

**ADDRESSES:** Submit written requests for hard copies of these draft guidance documents to Toni Strother, Agricultural Marketing Specialist, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave., SW., Room 2646 So., Ag Stop 0268, Washington, DC 20250–0268. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance documents.

Interested persons may comment on these five draft guidance documents using the following procedures:

*Internet:* <http://www.regulations.gov>.

*Mail:* Comments may be submitted by mail to: Toni Strother, Agricultural Marketing Specialist, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave., SW., Room 2646 So., Ag Stop 0268, Washington, DC 20250–0268.

Written comments responding to this request should be identified with the document number AMS–NOP–10–0048; NOP–10–05. You should clearly indicate your position and the reasons for your position. You should clearly indicate which guidance document you are commenting on, especially if you choose to comment on more than one draft guidance document. If you are suggesting changes to a draft guidance document, you should include recommended language changes, as appropriate, along with any relevant supporting documentation.

USDA intends to make available all comments, including names and addresses when provided, regardless of submission procedure used, on <http://www.regulations.gov> and at USDA—AMS, NOP, Room 2646—South building, 1400 Independence Ave., SW., Washington, DC, from 9 a.m. to noon and from 1 to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South building to view comments from the public to this notice are requested to make an appointment by calling (202) 720–3252.

**FOR FURTHER INFORMATION CONTACT:** Toni Strother, Agricultural Marketing Specialist, National Organic Program (NOP), (202) 720–3252, [NOP.guidance@ams.usda.gov](mailto:NOP.guidance@ams.usda.gov), or visit