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DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 6

Dairy Tariff-Rate Import Quota Licensing

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule; technical corrections to import regulation 1, revision 7.

SUMMARY: Import Regulation 1, Revision 7 ("Revision 7") governs the administration of the import licensing system for certain dairy products. A license qualifies imports of certain dairy products for entry at the in-quota tariff rates established in the Harmonized Tariff Schedule of the United States (HTS). This document sets forth technical corrections to Appendix 3 of Revision 7 with respect to the in-quota quantities that may enter under supplementary license to be issued for certain cheeses from Poland and Hungary for quota year 1996.

EFFECTIVE DATE: February 20, 1996.

FOR FURTHER INFORMATION CONTACT: Richard Warsack, Import Programs Group, Import Policies and Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture, AG BOX 1021, Washington, DC 20250-1021, or telephone (202) 720-2916.

SUPPLEMENTARY INFORMATION:

Background

The Department of Agriculture (USDA) began to implement its Uruguay Round Agreement commitments for certain dairy articles when it published an interim rule on January 6, 1995 (60 FR 1989-1996) amending Revision 7. That interim rule added a new Appendix 3 which specified the quantities of articles of dairy products that, effective January 1, 1995, had become available for supplementary

licenses during quota year 1995. The quantities specified reflected U.S. commitments to those countries which implemented their own Uruguay Round access commitments on January 1, 1995. On May 2, 1995, USDA published a second interim rule (60 FR 21425-21428) which again amended Revision 7 by revising Appendix 3 to reflect additional amounts of cheese and cheese products that became available, effective July 1, 1995, for supplementary licenses. These increases implemented U.S. access commitments to the six countries which began to implement their respective access commitments effective July 1, 1995. These countries included Poland and Hungary. That interim rule also added a footnote to Appendix 3 which clarified that the in-quota quantity allocated to Poland for Italian-type cheese was conditioned on the results of a bilateral agreement being negotiated between the Governments of the United States and Poland. On September 13, 1995, USDA published a third interim rule (60 FR 47453-47455) which again amended Revision 7 by amending Appendix 3 to reflect additional quantities of dairy articles that will be eligible, effective January 1, 1996, for supplementary licenses. These increases reflect the additional amounts of articles of dairy products available for supplementary licenses required to fulfill the second year of the six-year Uruguay Round access commitment. That interim rule inadvertently omitted the footnote regarding the in-quota quantity of Italian-type cheese for Poland and the in-quota quantity of Swiss cheese for Hungary.

Subsequent to the publication of the third interim rule, the United States and Poland signed a Record of Understanding between Poland and the United States of America on Agricultural Items which provides that the in-quota quantity for Italian-type cheese be increased. Presidential Proclamation 6859 of December 13, 1995 implemented this commitment by amending Additional U.S. Note 21 of chapter 4 of the HTS to increase the in-quota quantity of Italian-type cheese for Poland from 1,100,000 kilograms to 1,325,000 kilograms.

List of Subjects in 7 CFR Part 6

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

Technical Correction

Accordingly, 7 CFR Part 6, Subpart—Tariff-Rate Quotas is amended as follows:

PART 6—[AMENDED]

1. The authority citation for Subpart—Tariff-Rate Quotas 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 and 4959 (19 U.S.C. 3513 and 3601).

2. Appendix 3 is amended by revising the entry for Poland under "Italian-Type cheeses" and by adding an entry for Hungary preceding Sweden under "Swiss and Emmenthaler cheese with eye formation" to read as follows:

Appendix 3—Articles Subject to the Supplementary Licensing Provisions of Import Regulation 1, Revision 7, and Respective Annual Tariff-Rate Import Quotas for the 1996 Quota Year

Article by HTS note No.	Annual supplementary quota (kilograms)
* * * * *	
Italian-Type cheeses, made from cow's milk (Romano made from cow's milk, Reggiano, Parmesan, Provolone, Provoletti, Sbrinz, and Goya not in original loaves) and cheese and substitutes for cheese containing, or processed from, such Italian-Type cheeses, whether or not in original loaves:	
(Note 21)	4,765,000
Argentina	1,890,000
EC	233,333
Uruguay	750,000
Hungary	400,000
Poland	1,325,000
Romania	166,667
* * * * *	
Swiss and Emmenthaler cheese with eye formation:	
(Note 25)	1,873,333
Austria	73,333
EC	233,333
Hungary	400,000
Sweden	300,000
Switzerland	66,667
Czech Republic	400,000

Signed at Washington, DC, on February 8, 1996.

Timothy J. Galvin,

Acting Administrator, Foreign Agriculture Service

[FR Doc. 96-3528 Filed 2-16-96; 8:45 am]

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Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV96-932-11FR]

Expenses and Assessment Rate for Marketing Order Covering Olives Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenses and establishes an assessment rate for the California Olive Committee (Committee) under Marketing Order No. 932 for the 1996 fiscal year. The Committee is responsible for local administration of the marketing order which regulates the handling of California olives. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning January 1, 1996, through December 31, 1996. Comments received by March 21, 1996, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, Fax # (202) 720-5698. 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.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, telephone 209-487-5901; or Caroline C. Thorpe, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; telephone 202-720-5127.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Order No. 932 (7 CFR part 932), as amended, regulating the handling of olives grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, olives grown in California are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable olives during the 1996 fiscal year, beginning January 1, 1996, through December 31, 1996. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own

behalf. Thus, both statutes have small entity orientation and compatibility.

There are 5 handlers of olives grown in California who are subject to regulation under the order and approximately 1,350 producers of olives in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. None of the olive handlers may be classified as small entities, while the majority of olive producers may be classified as small entities.

The order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable olives handled during the appropriate crop year, which for this season is August 1, 1995, through July 31, 1996. The budget of expenses for the 1996 fiscal year was prepared by the Committee and submitted to the Department for approval. The Committee consists of handlers and producers. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by actual receipts of olives by handlers during the crop year. Because that rate is applied to actual receipts, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses.

The recommended budget and rate of assessment is usually acted upon by the Committee after the crop year begins and before the fiscal year starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Committee will have funds to pay its expenses.

The Committee met on December 14, 1995, and recommended 1996 marketing order expenditures of \$2,600,785 for its budget. This is \$280,865 less in expenses than the previous year. The major budget categories for the 1996 fiscal year include administration (\$388,350), research (\$213,000), and market development (\$1,999,435).

The Committee also recommended an assessment rate of \$28.26 per ton