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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 6

#### Dairy Tariff-Rate Import Quota Licensing

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Interim rule.

**SUMMARY:** This rule amends Import Regulation 1, Revision 7 which governs the administration of the import licensing system for certain dairy products which will be subject to in-quota tariff rates established in the Harmonized Tariff Schedule of the United States resulting from the entry into force of certain provisions in the Uruguay Round Agreement on July 1, 1995, and with respect to the licensing for certain dairy product shipments denied entry during January 1–3, 1995.

**DATES:** This interim rule will be effective upon May 2, 1995. Comments should be submitted on or before June 16, 1995, to be assured of consideration.

**ADDRESSES:** Comments should be sent to Richard Warsack, Dairy Import Quota Manager, Import Policies and Programs Division, Room 5531–S, Foreign Agricultural Service, U.S. Department of Agriculture, 14th and Independence Avenue, S.W., Agricultural Box 1025, Washington, D.C. 20250–1025. All comments received will be available for public inspection in room 5541–S at the above address.

**FOR FURTHER INFORMATION CONTACT:** Diana Wanamaker, Group Leader, Import Programs Group, Import Policies and Programs Division, Room 5531–S, Foreign Agricultural Service, U.S. Department of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C. 20250, or telephone (202) 720–2916.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This supplement to the interim rule is issued in conformance with Executive Order 12866. It has been determined to be significant for the purposes of E.O. 12866 and, therefore, has been reviewed by the Office of Management and Budget (OMB).

##### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule relating to foreign affairs since the Office of the Secretary is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

##### Executive Order 12372

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

##### Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

##### Paperwork Reduction Act

This interim rule amends the existing information collection as approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), under OMB control number 0551–0001, expiring June 30, 1997.

Due to the time constraints of implementing this interim rule, the agency has requested emergency clearance of this addendum from OMB. Comments on the information collection may be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, NEOB, Washington, D.C. 20503. Attention: Desk Officer for USDA.

##### Executive Order 12778

This interim rule has been reviewed under Executive Order 12778. The provisions of this supplement to the

interim rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The interim rule would not have retroactive effect.

##### Background

This interim rule amends Import Regulation 1, Revision 7 which governs the administration of the import licensing system for certain dairy products which are subject to in-quota tariff rates proclaimed in the Harmonized Tariff Schedule of the United States (HTS). Imports of certain cheese and non-cheese dairy products are subject to tariff-rate quotas proclaimed in the HTS as a result of the entry into force of the Uruguay Round Agreement.

These amendments to the Import Regulation are being published as an interim rule because the Uruguay Round commitments taking effect on July 1, 1995, were not finalized pursuant to bilateral agreements until recently and it is necessary to provide an application period as soon as possible in order to issue licenses prior to the effective date. With respect to certain dairy product shipments denied entry during January 1–3, 1995, these licenses must also be issued as soon as possible to fulfill our Uruguay Round commitments. Therefore, good cause is shown to publish this rule as interim without prior public participation.

This interim rule is issued under the authority of section 103 and 404 of the Uruguay Round Agreements Act and the notes to Chapter 4 and General Note 15 of the HTS. It completes the Uruguay Round implementation process for the 1995 quota year by establishing the import licensing system for the quantities of cheese and non-cheese dairy products subject to in-quota tariff rates in the HTS effective July 1, 1995.

The following changes made by this interim rule are intended to fulfill the Uruguay Round obligations of the United States and to facilitate the administration of the tariff-rate import quota licensing system for 1995.

1. The Import Regulation is amended to: (1) Administer Uruguay Round tariff-rate quotas for those countries whose Uruguay Round schedules of concessions will take effect on July 1, 1995; (2) establish Appendix 3 supplementary licenses for such

countries and the respective in-quota tariff-rate quota quantities of cheese, and (3) provide for an application period for such licenses.

2. The Import Regulation is amended to permit the European Community (EC) to endorse in writing eligible applicants for the increments in quantities of cheese subject to the in-quota tariff rate as provided for in the Uruguay Round Agreement.

3. The Import Regulation is also amended to ensure that the orderly marketing of trade in the United States is not disrupted for articles for which entry was attempted into the United States after January 1, 1995, without prior knowledge that an unlicensed article would be made subject to licensing as of January 1, 1995. This interim rule provides a very limited exclusion from license-size limitations for certain shipments which were denied entry into the United States by the U.S. Customs Service during a brief period the Department considers licensing to have been unanticipated. This exclusion applies only to that part of the in-quota tariff-rate quantity which had been unlicensed prior to January 1, 1995 and will be prorated among licensees as necessary.

An Advance Notice of Proposed Rulemaking (ANPR) was published in the **Federal Register** on June 2, 1994, seeking comments on methods for allocating articles that would be subject to the in-quota tariff rate proclaimed in the HTS on January 1, 1995, and suggestions on other changes intended to update and make more enforceable the provisions of the Import Regulation. A proposed rule embodying fundamental changes to the Import Regulation as envisaged in the ANPR will be published in the near future.

An interim rule was published in the **Federal Register** on January 6, 1995, which amended the Import Regulation to the extent necessary to implement the Uruguay Round commitments which became effective on January 1, 1995. The interim rule established an import licensing system for in-quota tariff-rate quota quantities of cheese and certain other non-cheese dairy products subject to in-quota tariff rates in the HTS. These quantities included both the quantities which were previously subject to absolute quotas under section 22 of the Agricultural Adjustment Act of 1933, as amended, and additional quantities of cheese and certain non-cheese dairy articles negotiated under the Uruguay Round of multilateral trade negotiations for those countries which implemented their Uruguay Round commitments on January 1, 1995. The interim rule provided for a 30-day public comment

period ending on February 21, 1995. Written comments were received from seven different entities.

In addition to amending the Import Regulation to implement the changes to the HTS effective on July 1, 1995, this interim rule amends the Import Regulation in accordance with certain comments on the interim rule published on January 6, 1995, recommending changes deemed both administratively possible or necessary to implement during the remainder of the 1995 quota year. Other comments on the January 6 interim rule will be considered for inclusion in the proposed rule as envisaged in the ANPR.

The comment reflected herein requested entry for that quantity of butter substitutes being detained which was previously subject to an unlicensed global quota. The interim rule provides for a very limited and strict license size exclusion to enter certain butter substitutes. Another comment recommended clarifying the minimum license size of supplementary quota shares and certain article descriptions in Appendix 1 and Appendix 2 of the interim rule. This interim rule makes these technical corrections.

**List of Subjects in 7 CFR Part 6**

Agricultural commodities, Cheese, Dairy products, Imports, and Reporting and record keeping requirements.

**Interim Rule**

**PART 6—[AMENDED]**

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

1. Section 6.25 is revised by revising the first sentence of paragraph (c)(2) to read as follows:

**§ 6.25 Eligibility.**

\* \* \* \* \*

(c) \* \* \*  
 (2) Notwithstanding paragraph (b)(4) of this section, certification required to establish supplementary eligibility for license for articles under Appendix 3 of this subpart must be postmarked no earlier than January 30, 1995 and no later than February 20, 1995 for those licenses issued for in-quota tariff-rate quota quantities which became effective on January 1, 1995, and no earlier than May 10, 1995 and no later than May 19, 1995 for those licenses that will be issued for in-quota tariff-rate quota quantities that will become effective on July 1, 1995. \* \* \*

\* \* \* \* \*

2. Section 6.26 is amended by revising the second sentence of paragraph (c)(3)(ii), revising paragraph (d)(2), and

revising paragraph (d)(3) (i) and (ii) to read as follows:

**§ 6.26 Allocation of annual quota and issuance of licenses.**

\* \* \* \* \*

(c) \* \* \*  
 (3) \* \* \*

(ii) \* \* \* If eligible applicants whose applications have been endorsed by the government of the supplying country as set forth in (c)(3)(i) of this section request an aggregate amount of a specific quota from a specific country (not the EC, except for those additional quantities of cheese made subject to the in-quota tariff rate in the Uruguay Round Agreement) smaller than is available for allocation, or if no endorsement is made, the Licensing Authority shall allocate remaining portions among applicants who have not been endorsed, following a procedure identical to that set forth in paragraph (c)(2) of this section for the EC, replacing, for this purpose, the words "the EC" wherever they appear with "a particular non-EC country".

\* \* \* \* \*

(d) \* \* \*

(2) The size of a supplementary quota share issued to an eligible applicant shall not exceed 57,000 kilograms, except that this maximum share provided for in (d)(ii) above shall not be applicable to that quantity of an in-quota tariff-rate quota which was not subject to licensing prior to January 1, 1995 when the import of such product was offered for entry and denied entry into the United States by U.S. Customs during January 1–3, 1995. Not later than June 1, 1995, an applicant must submit with its application, an invoice, bill of lading, and other relevant documentation to the Licensing Authority for his determination that there is sufficient documentary evidence that such import was offered for entry during January 1–3, 1995. If the Licensing Authority determines that a quantity greater than that available is requested by eligible applicants, the quantity available will be prorated among the licensees.

(3) \* \* \*

(i) 19,000 kilograms where the total amount available for allocation is 550,000 kilograms or less;

(ii) 38,000 kilograms where the total amount available for allocation is greater than 550,000 kilograms.

3. In Appendix 1, the article description for Edam and Gouda in Group II(a) and the article description for Italian-type cheese in Group IV(a) are revised as follows:

**Appendix 1—Articles Subject to the Historical and Nonhistorical Licensing Provisions of Import Regulation 1, Revision 7, and Respective Annual Import Quotas for Each Quota Year**

\* \* \* \* \*

**Group II**

(a) Edam and Gouda cheese, and cheese and substitutes for cheese containing, or processed from Edam and Gouda cheese (Note 20) \* \* \*

\* \* \* \* \*

**Group IV**

(a) Italian-type cheese made from cow's milk (Romano made from cow's milk, Reggiano, Parmesano, Provolone, Provolette,

Sbrinz, and Goya not in original loaves), and cheeses and substitutes for cheese containing, or processed from, such Italian-type cheeses, whether or not in original loaves (Note 21) \* \* \*

\* \* \* \* \*

4. In Appendix 2, the article description for Italian-type cheese in Group IV (a) is revised as follows:

**Appendix 2—Articles Subject to the Historical and Nonhistorical Licensing Provisions of Import Regulation 1, Revision 7, and Respective Annual Import Quotas for Each Quota Year**

\* \* \* \* \*

**Group IV**

(a) Italian-type cheese made from cow's milk (Romano made from cow's milk, Reggiano, Parmesano, Provolone, Provolette, Sbrinz, and Goya not in original loaves), and cheeses and substitutes for cheese containing, or processed from, such Italian-type cheeses, whether or not in original loaves (Note 21) \* \* \*

\* \* \* \* \*

5. Appendix 3 is revised to read as follows:

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

Article by HTS note number	Annual supplementary quota (kilograms)
Butter (Note 6) .....	3,656,311
Dried Skim Milk (Note 7) .....	441,359
Dried Whole Milk (Note 8) .....	368,125
Butter Substitutes Containing over 45% by weight of butterfat and butteroil (Note 14) .....	3,480,500
Cheese and substitutes for cheese (except cheese not containing cow's milk and soft ripened cow's milk cheese, cheese (except cottage cheese) containing 0.5 percent or less by weight of butterfat, and articles within the scope of other tariff-rate quotas provided for in this subchapter) (Note 16) .....	2,978,834
Australia .....	291,667
Austria .....	45,500
Costa Rica .....	1,000,000
Czech Republic .....	200,000
EC .....	150,000
Poland* .....	300,000
Slovak Republic .....	600,000
Switzerland .....	41,667
Uruguay .....	250,000
Any Country .....	100,000
Blue-mold cheese (except Stilton produced in the United Kingdom) and cheese and substitutes for cheese containing, or processed from, blue-mold cheese (Note 17) .....	88,333
Chile .....	13,333
Czech Republic .....	50,000
EC .....	25,000
Cheddar cheese, and cheese and substitutes for cheese containing, or processed from, Cheddar cheese (Note 18) .....	1,328,333
Australia .....	208,333
EC .....	83,333
Chile .....	36,667
Czech Republic .....	50,000
New Zealand .....	850,000
Any Country .....	100,000
American-type cheese, including Colby, washed curd, and granular cheese (but not including cheddar) and cheese and substitutes for cheese containing or processed from such American-type cheese (Note 19) .....	8,333
EC .....	8,333
Edam and Gouda cheese, and cheese and substitutes for cheese containing, or processed from, Edam and Gouda Cheese (Note 20) .....	293,333
Argentina .....	110,000
Austria .....	33,333
EC .....	50,000
Czech Republic .....	100,000
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) .....	4,281,666
Argentina .....	1,890,000
EC .....	58,333
Uruguay .....	750,000
Hungary .....	400,000
Poland* .....	1,100,000
Romania .....	83,333
Swiss and Emmenthaler cheese other than with eye formation Gruyere-process, and cheese and substitutes for cheese containing, or processed from such cheese (Note 22) .....	31,666
Austria .....	6,666
EC .....	25,000
Swiss and Emmenthaler cheese with eye formation (Note 25) .....	1,043,332

Article by HTS note number	Annual supplementary quota (kilograms)
Austria .....	18,333
EC .....	58,333
Sweden .....	150,000
Switzerland .....	16,666
Czech Republic .....	400,000
Hungary .....	400,000

\*Issuance of licenses and quota quantities are conditioned on completion of a bilateral memorandum of understanding between the Governments of the United States and Poland.

Signed at Washington, D.C., on April 21, 1995.  
**Richard E. Rominger,**  
*Acting Secretary of Agriculture.*  
 [FR Doc. 95-10712 Filed 4-27-95; 12:36 pm]  
 BILLING CODE 3410-02-P

**Animal and Plant Health Inspection Service**

**9 CFR Part 94**

[Docket No. 94-107-2]

**Switzerland; Change in Disease Status**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.  
**ACTION:** Final rule.

**SUMMARY:** We are declaring Switzerland free of rinderpest, foot-and-mouth disease, and Exotic Newcastle disease (VVND). As part of this action, we are adding Switzerland to the lists of countries that, although declared free of rinderpest, foot-and-mouth disease, and VVND, are subject to restrictions on meat and other animal products offered for importation into the United States. This rule removes the prohibition on the importation of ruminants and fresh, chilled, and frozen meat of ruminants into the United States from Switzerland, although those importations will be subject to certain restrictions. This rule also relieves certain prohibitions and restrictions on the importation, from Switzerland, of milk and milk products of ruminants and of certain poultry and poultry products.

**EFFECTIVE DATE:** May 17, 1995.

**FOR FURTHER INFORMATION CONTACT:** Dr. Kathleen Akin, Senior Staff Veterinarian, Import/Export Products, National Center for Import and Export, VS, APHIS, Suite 3B05, 4700 River Road Unit 40, Riverdale, MD 20737-1231, (301) 734-7830.

**SUPPLEMENTARY INFORMATION:**

**Background**

The regulations in 9 CFR part 94 (referred to below as the regulations)

govern the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various animal diseases, including rinderpest, foot-and-mouth disease (FMD), and Exotic Newcastle disease (VVND). FMD and rinderpest are dangerous and destructive communicable diseases of ruminants and swine. VVND is a contagious, infectious, and communicable disease of poultry.

On February 2, 1995, we published in the **Federal Register** (60 FR 6454-6456, Docket No. 94-107-1) a proposal to amend the regulations by adding Switzerland to the list in § 94.1(a)(2) of countries declared free of both rinderpest and FMD and to the list in § 94.6(a)(2) of countries declared free of VVND. In that document, we also proposed to add Switzerland to the list in § 94.11(a) of countries that, although declared free of rinderpest and FMD, are subject to special restrictions on the importation of their meat and other animal products into the United States.

We solicited comments concerning our proposal for 60 days ending April 3, 1995. We did not receive any comments. The facts presented in the proposed rule still provide the basis for this final rule.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change.

**Effective Date**

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

This rule removes the prohibition on the importation of ruminants and fresh, chilled, and frozen meat of ruminants into the United States from Switzerland and relieves restrictions on the importation from Switzerland of milk and milk products of ruminants and certain poultry and poultry products. We have determined that approximately 2 weeks are needed to ensure that Animal and Plant Health Inspection

Service personnel at ports of entry receive official notice of this change in the regulations. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be made effective 15 days after publication in the **Federal Register**.

**Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This final rule amends the regulations in part 94 by adding Switzerland to the list of countries declared free of rinderpest and FMD and to the list of countries declared free of VVND. This action will remove the prohibition on the importation of ruminants and fresh, chilled, and frozen meat of ruminants into the United States from Switzerland, although those importations will be subject to certain restrictions. This revision will also relieve restrictions on the importation from Switzerland of milk and milk products of ruminants and certain poultry and poultry products. This action will not relieve certain restrictions on the importation of live swine and fresh, chilled, and frozen meat of swine from Switzerland because Switzerland is still considered to be affected with hog cholera. Similarly, this action will not relieve certain restrictions on the importation from Switzerland, of ruminant meat and edible products from ruminants because bovine spongiform encephalopathy (BSE) exists in Switzerland.

Based on available information, the Department does not anticipate a major increase in exports of ruminants and fresh, chilled, or frozen meat of ruminants or poultry from Switzerland into the United States as a result of this final rule.

The primary effects due of this change in the regulations will be limited to bovine meat and prepared products, since swine and swine products are excluded because of restrictions due to