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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 6

#### Adjustment of Appendices to the Dairy Tariff-Rate Import Quota Licensing Regulation for the 2012 Tariff-Rate Quota Year

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

**ACTION:** Final rule.

**SUMMARY:** This document sets forth the revised appendices to the Dairy Tariff-Rate Import Quota Licensing Regulation for the 2012 quota year reflecting the cumulative annual transfers from Appendix 1 to Appendix 2 for certain dairy product import licenses permanently surrendered by licensees or revoked by the Licensing Authority.

**DATES:** *Effective Date:* August 27, 2012.

**FOR FURTHER INFORMATION CONTACT:**

Abdelsalam El-Farra, Dairy Import Licensing Program, Import Policies and Export Reporting Division, U.S. Department of Agriculture, 1400

Independence Avenue SW., Stop 1021, Washington, DC 20250-1021; or by telephone at (202) 720-9439; or by email at: *abdelsalam.el-farra@fas.usda.gov*.

**SUPPLEMENTARY INFORMATION:** The Foreign Agricultural Service, under a delegation of authority from the Secretary of Agriculture, administers the Dairy Tariff-Rate Import Quota Licensing Regulation codified at 7 CFR 6.20-6.37 that provides for the issuance of licenses to import certain dairy articles under tariff-rate quotas (TRQs) as set forth in the Harmonized Tariff Schedule of the United States. These dairy articles may only be entered into the United States at the low-tier tariff by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of the regulation.

Licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country of origin. The Import Policies and Export Reporting Division, Foreign Agricultural Service, U.S. Department of Agriculture, issues these licenses and, in conjunction with U.S. Customs and Border Protection, U.S. Department of Homeland Security, monitors their use.

The regulation at 7 CFR 6.34(a) states: “Whenever a historical license (Appendix 1) is not issued to an applicant pursuant to the provisions of § 6.23, is permanently surrendered or is revoked by the Licensing Authority, the

amount of such license will be transferred to Appendix 2.” Section 6.34(b) provides that the cumulative annual transfers will be published in the **Federal Register**. Accordingly, this document sets forth the revised Appendices for the 2012 tariff-rate quota year.

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

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

Issued at Washington, DC, the 13th day of July, 2012.

**Ronald Lord,**

*Licensing Authority.*

Accordingly, 7 CFR part 6 is amended as follows:

#### PART 6—IMPORT QUOTAS AND FEES

■ 1. The authority citation for 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. Appendices 1, 2 and 3 to Subpart—Dairy Tariff-Rate Import Quota Licensing are revised to read as follows:

#### Appendices 1-3 to Subpart—Dairy Tariff-Rate Import Quota Licensing

#### ARTICLES SUBJECT TO: APPENDIX 1, HISTORICAL LICENSES; APPENDIX 2, NONHISTORICAL LICENSES; AND APPENDIX 3, DESIGNATED IMPORTER LICENSES FOR QUOTA YEAR 2012

[Quantities in kilograms]

Article by additional U.S. Note No. and country of origin	Appendix 1	Appendix 2	Sum of Appendix 1&2	Appendix 3		Harmonized tariff schedule
				Tokyo R.	Uruguay R.	
<b>NON-CHEESE ARTICLES</b>						
BUTTER (G-NOTE 6) .....	4,733,992	2,243,008	6,977,000	.....	.....	6,977,000
EU-25 .....	75,000	21,161	96,161	.....	.....	.....
New Zealand .....	110,045	40,548	150,593	.....	.....	.....
Other Countries .....	41,970	31,965	73,935	.....	.....	.....
Any Country .....	4,506,977	2,149,334	6,656,311	.....	.....	.....
DRIED SKIM MILK (K-NOTE 7) .....	.....	5,261,000	5,261,000	.....	.....	5,261,000
Australia .....	.....	600,076	600,076	.....	.....	.....
Canada .....	.....	219,565	219,565	.....	.....	.....
Any Country .....	.....	4,441,359	4,441,359	.....	.....	.....
DRIED WHOLE MILK (H-NOTE 8) .....	3,175	3,318,125	3,321,300	.....	.....	3,321,300
New Zealand .....	3,175	.....	3,175	.....	.....	.....
Any Country .....	.....	3,318,125	3,318,125	.....	.....	.....
DRIED BUTTERMILK/WHEY (M-NOTE 12) .....	.....	224,981	224,981	.....	.....	224,981

## ARTICLES SUBJECT TO: APPENDIX 1, HISTORICAL LICENSES; APPENDIX 2, NONHISTORICAL LICENSES; AND APPENDIX 3, DESIGNATED IMPORTER LICENSES FOR QUOTA YEAR 2012—Continued

[Quantities in kilograms]

Article by additional U.S. Note No. and country of origin	Appendix 1	Appendix 2	Sum of Appendix 1&2	Appendix 3		Harmonized tariff schedule
				Tokyo R.	Uruguay R.	
Canada .....		161,161	161,161			
New Zealand .....		63,820	63,820			
BUTTER SUBSTITUTES CONTAINING OVER 45 PERCENT OF BUTTERFAT AND/OR BUTTER OIL (SU-NOTE 14) .....		6,080,500	6,080,500			6,080,500
Any Country .....		6,080,500	6,080,500			
TOTAL: NON-CHEESE ARTICLES .....	4,737,167	17,127,614	21,864,781			21,864,781

## CHEESE ARTICLES

CHEESE AND SUBSTITUTES FOR CHEESE (EXCEPT: SOFT RIPENED COW'S MILK CHEESE; CHEESE NOT CONTAINING COW'S MILK; CHEESE (EXCEPT COTTAGE CHEESE) CONTAINING 0.5 PERCENT OR LESS BY WEIGHT OF BUTTERFAT; AND, ARTICLES WITHIN THE SCOPE OF OTHER IMPORT QUOTAS PROVIDED FOR IN THIS SUBCHAPTER) (OT-NOTE 16) .....	21,419,738	10,049,993	31,469,731	9,661,128	7,496,000	48,626,859
Argentina .....	7,690	0	7,690	92,310		100,000
Australia .....	535,628	5,542	541,170	758,830	1,750,000	3,050,000
Canada .....	977,439	163,561	1,141,000			1,141,000
Costa Rica .....		0			1,550,000	1,550,000
EU-25 .....	15,729,427	7,538,229	23,267,656	1,132,568	3,446,000	27,846,224
Of which Portugal is: .....	65,838	63,471	129,309	223,691		353,000
Israel .....	79,696	0	79,696	593,304		673,000
Iceland .....	294,000	0	294,000	29,000		323,000
New Zealand .....	2,910,180	1,905,292	4,815,472	6,506,528		11,322,000
Norway .....	124,982	25,018	150,000			150,000
Switzerland .....	593,952	77,460	671,412	548,588	500,000	1,720,000
Uruguay .....		0			250,000	250,000
Other Countries .....	100,906	100,729	201,635			201,635
Any Country .....		300,000	300,000			300,000
BLUE-MOLD CHEESE (EXCEPT STILTON PRODUCED IN THE UNITED KINGDOM) AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, BLUE-MOLD CHEESE (B-NOTE 17) .....	2,283,646	197,355	2,481,001		430,000	2,911,001
Argentina .....	2,000	0	2,000			2,000
EU-25 .....	2,281,646	197,354	2,479,000		350,000	2,829,000
Chile .....					80,000	80,000
Other Countries .....		1	1			1
CHEDDAR CHEESE, AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, CHEDDAR CHEESE (C-NOTE 18) .....	2,795,016	1,488,840	4,283,856	519,033	7,620,000	12,422,889
Australia .....	902,462	82,037	984,499	215,501	1,250,000	2,450,000
Chile .....		0			220,000	220,000
EU-25 .....	52,404	210,596	263,000		1,050,000	1,313,000
New Zealand .....	1,737,605	1,058,863	2,796,468	303,532	5,100,000	8,200,000
Other Countries .....	102,545	37,344	139,889			139,889
Any Country .....		100,000	100,000			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 (A-NOTE 19) .....	2,688,157	477,396	3,165,553	357,003		3,522,556
Australia .....	761,890	119,108	880,998	119,002		1,000,000
EU-25 .....	145,147	208,853	354,000			354,000
New Zealand .....	1,630,479	131,520	1,761,999	238,001		2,000,000
Other Countries .....	150,641	17,915	168,556			168,556
EDAM AND GOUDA CHEESE, AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, EDAM AND GOUDA CHEESE (E-NOTE 20) .....	4,910,073	696,329	5,606,402		1,210,000	6,816,402
Argentina .....	110,495	14,505	125,000		110,000	235,000

## ARTICLES SUBJECT TO: APPENDIX 1, HISTORICAL LICENSES; APPENDIX 2, NONHISTORICAL LICENSES; AND APPENDIX 3, DESIGNATED IMPORTER LICENSES FOR QUOTA YEAR 2012—Continued

[Quantities in kilograms]

Article by additional U.S. Note No. and country of origin	Appendix 1	Appendix 2	Sum of Appendix 1&2	Appendix 3		Harmonized tariff schedule
				Tokyo R.	Uruguay R.	
EU-25 .....	4,680,498	608,502	5,289,000	.....	1,100,000	6,389,000
Norway .....	114,318	52,682	167,000	.....	.....	167,000
Other Countries .....	4,762	20,640	25,402	.....	.....	25,402
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 (D-NOTE 21) .....	6,402,630	1,117,917	7,520,547	795,517	5,165,000	13,481,064
Argentina .....	3,910,738	214,745	4,125,483	367,517	1,890,000	6,383,000
EU-25 .....	2,491,892	890,108	3,382,000	.....	2,025,000	5,407,000
Romania .....	.....	0	.....	.....	500,000	500,000
Uruguay .....	.....	0	.....	428,000	750,000	1,178,000
Other Countries .....	.....	13,064	13,064	.....	.....	13,064
SWISS OR EMMENTHALER CHEESE OTHER THAN WITH EYE FORMATION, GRUYERE-PROCESS CHEESE AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, SUCH CHEESES (GR-NOTE 22) .....	5,264,929	1,386,385	6,651,314	823,519	380,000	7,854,833
EU-25 .....	3,995,739	1,156,255	5,151,994	393,006	380,000	5,925,000
Switzerland .....	1,235,692	183,795	1,419,487	430,513	.....	1,850,000
Other Countries .....	33,498	46,335	79,833	.....	.....	79,833
CHEESE AND SUBSTITUTES FOR CHEESE, CONTAINING 0.5 PERCENT OR LESS BY WEIGHT OF BUTTERFAT (EXCEPT ARTICLES WITHIN THE SCOPE OF OTHER TARIFF-RATE QUOTAS PROVIDED FOR IN THIS SUBCHAPTER), AND MARGARINE CHEESE (LF-NOTE 23) .....	1,840,852	2,584,056	4,424,918	1,050,000	.....	5,474,908
EU-25 .....	1,840,852	2,584,055	4,424,907	.....	.....	4,424,907
Israel .....	.....	0	.....	50,000	.....	50,000
New Zealand .....	.....	0	.....	1,000,000	.....	1,000,000
Other Countries .....	.....	1	1	.....	.....	1
SWISS OR EMMENTHALER CHEESE WITH EYE FORMATION (SW-NOTE 25) .....	15,565,737	6,731,594	22,297,331	9,557,945	2,620,000	34,475,276
Argentina .....	.....	9,115	9,115	70,885	.....	80,000
Australia .....	209,698	0	209,698	290,302	.....	500,000
Canada .....	.....	0	.....	70,000	.....	70,000
EU-25 .....	11,155,483	5,321,345	16,476,828	4,003,172	2,420,000	22,900,000
Iceland .....	149,999	0	149,999	150,001	.....	300,000
Israel .....	27,000	0	27,000	.....	.....	27,000
Norway .....	3,187,264	468,046	3,655,310	3,227,690	.....	6,883,000
Switzerland .....	776,708	907,397	1,684,105	1,745,895	200,000	3,630,000
Other Countries .....	59,585	25,691	85,276	.....	.....	85,276
TOTAL: CHEESE ARTICLES .....	63,170,778	24,729,865	87,900,653	22,764,145	24,921,000	135,585,788
TOTAL: CHEESE ARTICLES & NON-CHEESE ARTICLES .....	67,907,945	41,857,479	109,765,434	22,764,145	24,921,000	157,450,569

[FR Doc. 2012-20943 Filed 8-24-12; 8:45 am]

BILLING CODE 3410-10-P

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 932**

[Doc. No. AMS-FV-11-0093; FV12-932-1 FR]

**Olives Grown in California; Increased Assessment Rate****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

**SUMMARY:** This rule increases the assessment rate established for the California Olive Committee (Committee) for 2012 and subsequent fiscal years from \$16.61 to \$31.32 per assessable ton of olives handled. The Committee locally administers the marketing order which regulates the handling of olives grown in California. Assessments upon olive handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal year began January 1 and ends December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** *Effective Date:* August 28, 2012.

**FOR FURTHER INFORMATION CONTACT:** Jerry L. Simmons, Marketing Specialist or Kurt J. Kimmel, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487-5901, Fax: (559) 487-5906, or Email: [Jerry.Simmons@ams.usda.gov](mailto:Jerry.Simmons@ams.usda.gov) or [Kurt.Kimmel@ams.usda.gov](mailto:Kurt.Kimmel@ams.usda.gov).

Small businesses may request information on complying with this regulation by contacting Laurel May, Marketing Order and Agreement Division, 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 Email: [Laurel.May@ams.usda.gov](mailto:Laurel.May@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 148 and Order No. 932, both as amended (7 CFR part 932), 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 (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice

Reform. Under the marketing order now in effect, California olive handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable olives beginning on January 1, 2012, and continue until amended, suspended, or terminated.

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 USDA 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. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA 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 to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 2012 and subsequent fiscal years from \$16.61 to \$31.32 per ton of assessable olives.

The California olive marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California olives. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2011 and subsequent fiscal years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal year to fiscal year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on December 15, 2011, and unanimously recommended 2012 expenditures of \$1,197,291 and an assessment rate of \$31.32 per ton of

assessable olives. Olives are an alternate year bearing crop. Olive growers and handlers are accustomed to wide swings in crop yields and assessments from year to year. In comparison, last year's budgeted expenditures were \$2,203,909. The assessment rate of \$31.32 is \$14.71 higher than the rate currently in effect.

The Committee recommended the higher assessment rate because of a substantial decrease in the assessable olive volume for the 2012 fiscal year. The olive volume available for fiscal year 2011 as reported by the California Agricultural Statistics Service (CASS) is 26,944 tons, which compares to 167,000 tons reported for the 2010 fiscal year. The reduced crop is due to olives being an alternate year bearing fruit. The Committee also plans to use available reserve funds to help meet its 2012 expenses.

The major expenditures recommended by the Committee for the 2012 fiscal year include \$333,791 for research, \$480,000 for marketing activities, \$50,000 for inspection equipment development, and \$333,500 for administration. Budgeted expenses for these items in 2011 were \$1,093,009, \$700,000, \$75,000 and \$335,900, respectively.

The assessment rate recommended by the Committee was derived by considering anticipated fiscal year expenses, actual olive tonnage received by handlers during the 2011 crop year, and additional pertinent factors. Actual assessable tonnage for the 2012 fiscal year is expected to be lower than the 2011 crop receipts of 167,000 tons reported by the CASS because some olives may be diverted by handlers to uses that are exempt from marketing order requirements. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve would be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order of approximately one fiscal year's expenses (\$932.40).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal year to recommend a budget of expenses and