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DEPARTMENT OF AGRICULTURE

7 CFR Part 6

RIN 0551-AA82

Dairy Tariff-Rate Quota Import Licensing Program

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule, technical amendment.

SUMMARY: This final rule amends the Dairy Tariff-Rate Quota Import Licensing Program to clarify that for the purposes of the Dairy Tariff-Rate Quota Import Licensing Program, U.S. Customs and Border Protection import entries submitted electronically, as well as on paper, are acceptable.

DATES: *Effective Date:* [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Contact Ron Lord, Director, Import Policies and Export Reporting Division, Foreign Agricultural Service, 1400 Independence Avenue, SW, Washington, DC 20250, STOP 1021, email at Ronald.Lord@usda.gov or telephone (202) 720-6939.

SUPPLEMENTARY INFORMATION:

Background

The Security and Accountability for Every Port Act of 2006 (SAFE Port Act) (Pub. L. 109-347) requires that all Federal agencies that require documentation for clearing or licensing the importation and exportation of cargo to participate in the International Trade Data System (ITDS). The ITDS is a government-wide project that, in implementing the SAFE Port Act, will allow businesses to electronically submit the data required by U.S.

Customs and Border Protection (CBP) and its Partner Government Agencies (PGAs) through the Automated Commercial Environment (ACE). Executive Order 13659, Streamlining the Export/Import Process for America's Businesses, signed on February 19, 2014, requires that all Federal agencies complete their program and regulatory changes to comply with the SAFE Port Act by December 31, 2016.

Because the SAFE Port Act requires Federal agencies to accept electronic data, FAS finds under the good cause exception of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), that the notice and comment process is unnecessary to make this technical amendment and is publishing this rule as a final rule without requesting comments.

The current Dairy Tariff-Rate Quota Import Licensing Program regulation at 7 CFR 6.29 requires licensed importers to present certain documents at the time of CBP entry. To comply with the SAFE Port Act, this final rule amends the Dairy Tariff-Rate Quota Import Licensing Program regulation to permit the CBP entry of items requiring a dairy license by utilizing electronic, as well as paper documentation. No other changes are made to the regulation.

Executive Order 12866

The final 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 final rule will not have a significant economic impact on small businesses participating in the program.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988. The provisions of this final 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 final rule would not have a retroactive effect. Before any judicial action may be brought forward regarding this final 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 final rule.

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

Pub. L. 104-4 requires consultation with state and local officials and Indian tribal governments. This final 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 final 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.

Delegation from the Office of the Secretary

The Foreign Agricultural Service has been delegated authority to exercise the Department's responsibilities with respect to tariff-rate quotes for dairy products under chapter 4 of the Harmonized Tariff Schedule of the United States (7 CFR 2.43(a)(12)).

List of Subjects in 7 CFR Part 6

Agricultural commodities, Dairy, Cheese, Imports, Procedural rules, Application requirements, Tariff-rate quota, Reporting and recordkeeping requirements.

For the reasons described in the background, FAS is amending 7 CFR part 6 as follows:

PART 6 – IMPORT QUOTAS AND FEES

Subpart—Dairy Tariff-Rate Quota Import Licensing

1. The authority citation for Subpart—Dairy Tariff-Rate Quota Import 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. Revise §6.29(c), (d), and (e) to read as follows:

§6.29 Use of licenses.

* * * * *

(c) If the article entered or withdrawn from warehouse for consumption was purchased by the licensee through a direct sale from a foreign supplier, the licensee shall present the following documents or their authorized electronic equivalent, when available, at the time of entry:

(1) A true and correct copy of a through bill of lading from the country; and

(2) A commercial invoice or bill of sale from the seller, showing the quantity and value of the product, the date of purchase and the country; or

(3) Where the article was entered into warehouse by the foreign supplier, CBP Form 7501 endorsed by the foreign supplier, and the commercial invoice.

(d) If the article entered was purchased by the licensee via sale-in-transit, the licensee shall present the following documents or their authorized electronic equivalent, when available, at the time of entry:

(1) A true and correct copy of a through bill of lading endorsed by the original consignee of the goods;

(2) A certified copy of the commercial invoice or bill of sale from the foreign supplier to the original consignee of the goods; and

(3) A commercial invoice or bill of sale from the original consignee to the licensee.

(e) If the article entered was purchased by the licensee in warehouse, the licensee shall present the following documents or their authorized electronic equivalent, when available, at the time of entry:

(1) CBP Form 7501 endorsed by the original consignee of the goods;

(2) A certified copy of the commercial invoice or bill of sale from the foreign supplier to the original consignee of the goods; and

(3) A commercial invoice or bill of sale from the original consignee to the licensee.

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Dated: October 19, 2016.

Bryce Quick,
Acting Administrator,
Foreign Agricultural Service.

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