

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

Dairy Tariff-Rate Import Quota Licensing

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Advanced notice of proposed rulemaking on Dairy Tariff-Rate Import Quota Licensing.

SUMMARY: This document requests public comments on possible options for the implementation of the Dairy Tariff-Rate Import Quota Licensing regulation's requirement to permanently reduce certain historical licenses based on surrenders, including possible rescission, suspension, or delay of this requirement.

DATES: Comments should be submitted on or before 5 p.m. on November 28, 1997 to be assured of consideration.

ADDRESSES: Interested parties may mail their comments to: Diana Wanamaker, Group Leader, Import Policies and Programs Division, Foreign Agricultural Service, 1400 Independence Avenue, SW., Stop 1021, Washington, DC 20250-1021. They may also fax their comments to 202-720-0876. All comments received will be available for public inspection in room 5541-S at the above address. Summaries of comments will be made available via our fax retrieval system by calling (202) 720-0876 after December 5, 1997.

FOR FURTHER INFORMATION CONTACT: Diana Wanamaker, Group Leader, Import Policies and Programs Division, Foreign Agricultural Service, 1400 Independence Avenue, SW, Stop 1021, Washington, DC 20250-1021 or telephone (202) 720-2916.

SUPPLEMENTARY INFORMATION: The Foreign Agricultural Service (FAS) under the authority of 7 CFR 2.43 is requesting comments concerning possible implementation of § 6.25(b) of the Department's Dairy Tariff-Rate Import Quota Licensing Regulation ("the Regulation"). Section 6.26(b)(2)

provides that prior to 1999, a determination may be made, in light of market conditions, to eliminate the requirement in §§ 6.25(b)(1)(i) and 6.25(b)(1)(ii) to permanently reduce the quantity of a historical license based on consecutive years of license surrender. Specifically, § 6.25(b)(1)(i) states that beginning in 1999, if a licensee has surrendered to the Department more than 50 percent of a historical license in each of three prior years, that license will be permanently reduced to the average amount entered during those three years (the "three-year rule"). Section 6.25(b)(1)(ii) provides that beginning in 2001, if a licensee surrenders to the Department more than 50 percent of a historical license in three of the five prior years, that license will be permanently reduced by the average amount entered during those five years (the "five-year" rule).

Section 6.25(b)(2) is under review by the Department and we are seeking comments, views, and recommendations with respect to methods and timing of the implementation of this section. At this time, all options are under consideration, including but not limited to the following:

A. Issue an immediate determination that §§ 6.25(b)(1)(i) and 6.25(b)(1)(ii) shall not apply in light of market conditions, effectively rescinding the provision;

B. Revise the regulation to advance the effective date of § 6.25(b)(1)(i) from 1999 to 2003, the effective date of § 6.26(b)(ii) from 2001 to 2005, and the determination date from prior to 1999 to prior to 2003; and

C., D. Revise the regulation to eliminate either the three-year rule (section 6.25(b)(1)(i)) or the five-year rule (section 6.26(b)(1)(ii)) to provide that one but not both of these provisions remain in effect with existing or modified requirements.

FAS also invites comments as to whether current dairy import market conditions are such that FAS should implement § 6.25(b)(2) immediately.

Background

Rationale for Section 6.26(b)(2)

Revision 8 of the Regulation, issued on October 6, 1996, amended the previous rule so that a historical license that is being consistently underutilized will be permanently reduced. Under the previous rule, there was no consequence

for surrendering license amounts. In light of the small amount of license available to new entrants or others who wish to increase imports of a certain dairy product, the Department determined that it was sound public policy to reallocate licenses amounts that are consistently not being used. Therefore, the amount by which a historical license is permanently reduced is to be converted to a nonhistorical license.

How Section 6.25(b) May Be Implemented

Section 6.25(b)(2) of the Regulation permits the Secretary of Agriculture to determine that § 6.25(b)(1) "does not apply in light of market conditions." Authority for administration of tariff-rate quotas (TRQs) for dairy products was delegated to the FAS Administrator under 7 CFR 2.43.

Requests for Public Comments on Section 6.25(b)

FAS requests comments on any of the following options and any other views, comments or recommendation for action that commentors wish to submit on this matter.

A. Using Section 6.25(b)(2) To Permanently Cancel Section 6.25(b)(1)

Under this option, FAS would use its determination authority to find that market conditions in 1997 are such that FAS would invoke § 6.25(b)(2) to permanently void § 6.25(b)(1). If FAS implemented this option, licensees would not be subsequently penalized for having surrendered more than 50 percent of their historical licensed amounts in 1996 or 1997 or in future years. However, the problems concerning repeated license surrenders and limited access to licenses to import inquota TRQ amounts would remain.

B. Postponing Implementation of Section 6.25(b)(1)

Under this option, FAS would amend the § 6.25(b)(1)(i) to delay its implementation from 1999 to a future date. This delay would give licensees time to adjust to changing market conditions which have resulted from the implementation of the Uruguay Round Trade Agreement with respect to market access and export subsidies. FAS invites comments on the concept of delaying implementation of §§ 6.25(b)(1)(i) and

6.25(b)(1)(ii)96, and welcomes proposals as to future implementation dates.

C. Eliminate the Three-Year Rule, While Retaining the Five-Year Rule

Under this option, FAS would amend the Regulation to delete § 6.25(b)(1)(i). This action would eliminate the three-year rule, while retaining the five-year rule, which appears in § 6.25(b)(1)(ii). Per the five-year rule, a licensee could surrender more than 50 percent of its historical licensed amount for two of five consecutive years without penalty. The five-year rule may be viewed as giving licensees two years in which to adjust to changed market conditions.

D. Eliminate the Five-Year Rule, While Retaining the Three-Year Rule

Under this option, FAS could amend the Regulation to delete § 6.25(b)(1)(ii). This action would eliminate the five-year rule, while retaining the three-year rule, which appears in § 6.25(b)(1)(i). Per the three-year rule, a licensee could surrender more than 50 percent of a historical license amount for two years without penalty and not be subjected to license reduction if more than 50 percent of that license were surrendered in the next two years. This also may be viewed as giving licensees time to adjust to changed market conditions.

Signed at Washington, DC, on October 3, 1997.

Christopher E. Goldthwait,

Acting Administrator.

[FR Doc. 97-26928 Filed 10-14-97; 8:45 am]

BILLING CODE 3410-10-M

FARM CREDIT ADMINISTRATION

12 CFR Parts 614, 616, 618, and 621

RIN 3052-AB63

Loan Policies and Operations; Leasing; General Provisions; Accounting and Reporting Requirements

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA) through the Farm Credit Administration Board (Board) issues a proposed rule to amend its regulations that provide Farm Credit System (Farm Credit or System) institutions, including the Farm Credit Leasing Services Corporation (FCL), regulatory guidance concerning leasing activities. The proposed rule clarifies leasing authorities of System institutions and addresses issues regarding leasing raised by System

institutions and FCA examiners. The proposed rule is also intended to provide clear and concise regulations pertaining to the System's leasing activities and clarify what existing regulations are applicable to leasing activities.

DATES: Comments should be received on or before December 15, 1997.

ADDRESSES: Comments may be mailed or delivered to Patricia W. DiMuzio, Director, Regulation Development Division, Office of Policy Development and Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, or sent by facsimile transmission to FAX number (703) 734-5784. Comments may also be provided by electronic mail addressed to "reg-comm@fca.gov" on the internet. Copies of all communications received will be available for examination by interested parties in the Office of Policy Development and Risk Control, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Robert G. Magnuson, Policy Analyst,
Office of Policy Development and
Risk Control, Farm Credit
Administration, McLean, VA 22102-
5090, (703) 883-4498, TDD (703) 883-
4444,

or

James M. Morris, Senior Counsel, Office
of General Counsel, Farm Credit
Administration, McLean, VA 22102-
5090, (703) 883-4020, TDD (703) 883-
4444.

SUPPLEMENTARY INFORMATION: System leasing operations continue to evolve to meet the demands of agricultural and aquatic producers, cooperatives, and rural utilities. Several System institutions have inaugurated new leasing programs to meet the increased demands for leasing and provide customers with more options for financing the expansion of agricultural operations. In addition, the FCL has experienced substantial growth since 1990 because of increased demand for leases by agricultural and aquatic producers and their cooperatives.

The System's statutory leasing powers were granted to supplement its lending authorities. The leasing provisions of the Farm Credit Act of 1971, as amended (Act), remain separate authorities, however, and do not parallel the rules for lending in all respects. The proposed regulations are intended to clarify which lending regulations are applicable to leasing activities and how the rules applicable to leasing differ from those governing lending transactions. In addition, this

proposal provides specific guidance for the FCL.

The FCL was chartered in 1983 as a service corporation under section 4.25 of the Act. The FCL was initially organized and owned by 14 of the 37 then existing System banks to acquire and lease assets and provide related services to eligible customers of the System. Today, it is owned by all eight of the System banks. As a service corporation, it derives its leasing authorities from the authorities of its stockholder banks that operate under titles I and III of the Act.

FCA's regulations currently address the leasing activities of System banks, associations, and the FCL by defining "loans" as including leases in some, but not all regulatory provisions and by generally providing that service corporations are subject to the regulations applicable to their organizing banks. This approach has conveyed the FCA's view that leasing activities should ordinarily follow the rules for lending and that the FCL should be governed by the same rules as other System lessors. This approach, while having the virtue of simplicity, has not always proved satisfactory. It does not account for the ways in which lease transactions differ from loan transactions, nor does it reflect differences between loans and leases in the Act. The proposed regulations would apply rules uniformly to all System institutions that conduct leasing activities under the same title(s) of the Act.

The existing leasing regulations in §§ 618.8050 and 618.8060 will be deleted upon the promulgation of final leasing regulations in part 616. Technical changes are made to §§ 614.4710 and 621.9 to conform with the below amendments. A discussion of the proposed amendments follows.

I. Leasing Authorities

1. Authority and Lessee Eligibility

Proposed § 616.6100 implements sections 1.11(c)(2), 2.4(b)(4), and 3.7(a) of the Act, which grant express leasing authorities to various System institutions. Proposed § 616.6100(a) addresses the authority of Farm Credit Banks (FCBs), agricultural credit banks (ACBs), Federal land credit associations (FLCAs), agricultural credit associations (ACAs), and the FCL to lease facilities under section 1.11(c)(2) of the Act. Similarly, proposed § 616.6100(b) reflects the equipment leasing authority of: (1) FCBs, ACBs, and the FCL under section 1.11(c)(2) of the Act; and (2) ACAs and production credit associations (PCAs) under section