

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

Animal and Plant Health Inspection Service

9 CFR Part 156

[Docket No. 93-168-1]

Export Certification of Animal Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning inspection and certification of animal byproducts by removing references to "inedible animal byproducts" and replacing them with references to "animal products," and by providing for the issuance of export certificates for animal products which do not require inspection. These amendments appear to be necessary to facilitate trade in U.S. animal products.

DATES: Consideration will be given only to comments received on or before November 18, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 93-168-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Marolo Garcia, Senior Staff Veterinarian, Products Staff, National Center for Import and Export, VS, APHIS, Suite 3B05, 4700 River Road Unit 40, Riverdale, MD 20737-1231. Telephone: (301) 734-4401; or E-mail: mgarcia:aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 156 (referred to as the regulations) govern the inspection and certification of animal byproducts. These regulations were promulgated under authority contained in sections 203 and 205 of The Agriculture Marketing Act of 1946, as amended (7 U.S.C. 1622 and 1624) (the Act). The Act authorizes the Secretary of Agriculture, among other things, to "inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary of Agriculture may prescribe. * * *" The Act further states that the intended effect of this authority is that agricultural products "may be marketed to the best advantage" and "that trading may be facilitated." The Act also authorizes the Secretary "to perform such other activities as will facilitate the marketing [and] distribution of agricultural products through commercial channels." In addition, the Act states that no person shall be required to use the service.

Animal Byproducts/Animal Products

Until recently, the Animal and Plant Health Inspection Service (APHIS) was delegated authority under the Act with respect to voluntary inspection and certification of *inedible animal byproducts*. Based on this authority, our regulations currently provide for APHIS to issue export certificates for inedible animal byproducts.

However, effective November 8, 1995, APHIS was granted broader authority under revised delegations of authority from the Secretary of Agriculture and general officers of the Department (see 60 FR 56392, *et seq.*) Among other changes, authority was delegated to the Administrator, APHIS, to administer the Act "with respect to voluntary inspection and certification of animal products" (see 60 FR 56457, 7 CFR 2.80(a)(28)). The effect of this amendment was to give APHIS authority to issue export certificates for all animal products, edible and inedible.

To reflect this change, we are proposing to amend the regulations to remove the term "animal byproduct" wherever it appears, and replace it with the term "animal product." We would

also remove the current definition of "animal byproduct" and add a definition of "animal product."

Export Certificates Without Inspection

Most countries require imported animal products to be accompanied by an official export certificate issued by the country of origin. Without such a certificate, the products cannot be brought into the country. However, depending upon the product involved, many importing countries require the export certificate to state only that the exporting country is free of certain diseases. Often there is no requirement that the product itself have been inspected.

The regulations as now written do not provide for APHIS to issue export certificates for uninspected animal products. We are proposing to amend the regulations to provide that we would issue such certificates on request. Providing export certificates for uninspected animal products would enable exporters to sell products outside the United States and would facilitate international trade, both stated goals of the Act.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed change in the regulations would enable APHIS to issue export certificates for certain animal products without inspecting the products. This is a service many prospective exporters have asked the Agency to provide. Under the proposed regulations, exporters would not be required to use this service. However, exporters who choose to obtain export certificates from APHIS would be required to pay a user fee of \$21.50 for each certificate.

According to *Foreign Agriculture Trade of the United States, FY 1995 Supplement*, approximately \$3.5 billion worth of animal products of all types were exported from the United States during FY 94. During FY 1994, the latest year for which figures are available, APHIS issued approximately 35,000 export certificates for inedible animal byproducts.

However, no data is available to us indicating the number of entities that export animal products, how many entities might export edible animal products under our proposed rule, or how many of these entities might be small entities. For these reasons, we are unable to determine whether this proposed action might have a significant economic impact on a substantial number of small entities. We invite comments on this impact. In particular, we are interested in determining the number of small entities that may incur costs associated with obtaining export certificates for inedible animal products.

Executive Order 12998

This proposed rule has been reviewed under Executive Order 12998, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 9 CFR Part 98

Exports, Livestock, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 156, would be amended as follows:

PART 156—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE

1. The authority citation for part 156 would continue to read as follows:

Authority: 7 U.S.C. 1622 and 1624; 21 U.S.C. 136a; 7 CFR 2.22, 2.80, and 371.2(d).

2. The part heading would be revised as set forth above.

3. Section 156.2 would be amended as follows:

- a. Paragraph (g) would be removed;
- b. All paragraph designations would be removed;
- c. All definitions would be placed in alphabetical order; and

d. A definition of *Animal product* would be added, in alphabetical order, to read as follows:

§ 156.2 Definitions.

* * * * *

Animal product. Anything made of, derived from, or containing any material of animal origin.

* * * * *

§§ 156.3, 156.5, and 156.8 [Amended]

4. In the following sections, the word "byproducts" would be removed and the word "products" would be added in its place:

- a. § 156.3, each time it appears;
- b. § 156.5; and
- c. § 156.8(b), each time it appears.

5. In § 156.6, the first sentence would be revised to read as follows:

§ 156.6 Certificates.

The inspector shall sign and issue certificates in forms approved by the Administrator for animal products, if the inspector finds that the requirements as stated in the certification have been met. * * *

Done in Washington, DC, this 13th day of September 1996.

A. Strating,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-24039 Filed 9-18-96; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-245562-96]

RIN 1545-AU46

Relief From Disqualification for Plans Accepting Rollovers

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Proposed regulations.

SUMMARY: This document contains proposed regulations that would provide guidance on the qualification of retirement plans that accept rollover contributions from employees. These regulations affect plan administrators of qualified plans that accept rollover contributions.

DATES: Written comments must be received by December 18, 1996.

ADDRESSES: Send submissions to CC:DOM:CORP:R (REG-245562-96), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the

alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (REG-245562-96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC.

Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html

FOR FURTHER INFORMATION CONTACT:

Marjorie Hoffman, (202) 622-6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On September 22, 1995, Final Income Tax Regulations (TD 8619) under sections 401(a)(31) and 402(c) were published in the Federal Register (60 FR 49199). The final regulations provide guidance for complying with the Unemployment Compensation Amendments of 1992 (UCA).

UCA expanded the types of distributions from a qualified plan that are eligible to be rolled over to an individual retirement account or individual retirement annuity, or to another qualified plan that accepts rollovers (collectively referred to as eligible retirement plans). Such distributions are referred to as eligible rollover distributions. UCA also added a new qualification provision under section 401(a)(31) that requires qualified plans to provide employees with a direct rollover option. Under a direct rollover option, an employee may elect to have an eligible rollover distribution paid directly to an eligible retirement plan. The direct rollover option is provided in addition to the pre-existing rollover provisions under section 402. Thus, an employee who receives an eligible rollover distribution but who does not elect a direct rollover still has the option to roll over the distribution to an eligible retirement plan within 60 days of receipt.

The final regulations under section 401(a)(31) provide that a plan that accepts a direct rollover from another plan will not fail to satisfy section 401(a) or 403(a) merely because the plan making the distribution is, in fact, not qualified under section 401(a) or 403(a) at the time of the distribution, if, prior to accepting the rollover, the receiving plan reasonably concluded that the distributing plan was qualified under section 401(a) or 403(a). The regulations provide, as an example, that the receiving plan may reasonably conclude that the distributing plan was qualified