

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 20

Export Reporting for Meat and Meat Products

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Department of Agriculture (USDA) is soliciting comments and views on a proposal by the Secretary of Agriculture to require reporting of export sales of meat (including poultry meat) and meat products. The proposal responds to a recommendation by the USDA Advisory Committee on Agricultural Concentration. Under the proposal, firms involved in exporting meat products could be required to report detailed information on these sales to the Department on a weekly basis. Compiled data would be made available to all market participants, giving farm-level producers and others timely access to information that many view as necessary to anticipate and plan for changing market conditions. The intent is to provide broad access to export sales information and to thereby improve efficiency in livestock and poultry markets.

DATES: Comments in response to the advance notice should be received on or before January 13, 1997 to be assured of consideration.

ADDRESSES: Comments should be sent to: Export Sales Reporting Branch, Trade and Economic Analysis Division, Room 5959—Stop 1025, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Ave. SW, Washington, DC 20250-1025. All written comments received will be available for public inspection at the above address during business hours from 8:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Thomas B. McDonald, Jr., Chief, Export Sales Reporting Branch, Trade and Economic Analysis Division, Foreign Agricultural Service, U.S. Department of Agriculture, (202) 720-3273; fax (202) 690-3275.

SUPPLEMENTARY INFORMATION:

Background

The Advisory Committee on Agricultural Concentration (the Committee), formed by the Secretary of Agriculture to investigate concentration in the livestock, poultry, and rail sectors, presented its findings and recommendations on June 6, 1996. Among its findings was a strong endorsement of the view that widely accessible, timely, and accurate information is a vital component of a well-functioning, competitive marketplace.

The Committee made several recommendations in the area of market information, suggesting improvements that the Department should consider in the collection and dissemination of information on the livestock and poultry sectors. The recommendations focused on enhancing the quality, breadth, and timeliness of information on supply and demand for livestock and poultry, including information on trade.

With regard to exports, the Committee suggested timely reporting of volume and price data on all sales to foreign markets of meat and meat products, including beef, veal, pork, lamb, chicken, and turkey. Specific recommendations dealt with the timing of the reports (within a week following the week of the export sale) and with report content: chilled, frozen, and aggregate total tonnage exported; tonnage of carcasses and each primal cut by USDA grade where applicable; tonnage of variety meats and processed meats; and country destinations for variety meats, processed meats, and boxed primals, by quality grade when applicable.

The Committee's recommendations for improvements in market information are, in part, a response to the changing structure of the livestock and poultry sectors and changes in the types of transactions within these sectors. These changes have contributed to concerns about gaps and inequities in information flows to producers. Increasingly, the sectors are comprised of numerous

producer-sellers at the farm level and a small group of highly concentrated buyers, including packers, processors, and integrators. Beyond these first-buyers or handlers are wholesalers, exporters, retailers, and, ultimately, domestic and foreign consumers.

Many producer-sellers of cattle, hogs, sheep, and poultry contend that they have far less access than do their first-buyers—the packers, processors, and integrators—to current market signals that reflect final demand by consumers. The result, they claim, is an imbalance in market power, as well as slower, more erratic, and less accurate adjustments in market prices, production practices, and marketing strategies as producers try to plan ahead to provide a product with the characteristics desired by consumers.

The argument, supported by economic theory, is that when producers or other participants lack adequate and up-to-date information, the market is less efficient than it could be in recognizing and responding to changing consumer preferences. Inefficiencies in markets typically raise costs, which are ultimately passed on to consumers in the form of higher food costs, or are passed back to producers in terms of lower prices. Inefficiencies can also translate into a loss of market share as U.S. consumers shift to alternative products or as foreign consumers shift to other products or other suppliers.

Among the information gaps that may impede efficient decisionmaking by producers and others is the lack of timely data on export sales. Exports represent a growing source of demand in an otherwise slow-growing domestic market for meat. In the past, the gathering and dissemination of information about demand for livestock and poultry products focused mainly on domestic consumption. For the most part, the United States was a net importer of meat. However, market-opening agreements, changes within the meat industries, new technologies, and global supply-demand developments have combined to significantly expand export opportunities for high-quality U.S. meats over the last 10 years. As a result, the United States is now a net meat exporter.

Export markets account for a rapidly increasing share of U.S. beef, pork, and poultry production. In the mid-1980's, exports accounted for less than 2

percent of annual production of both beef and pork, and less than 4 percent of poultry production. In 1996, exports are forecast to account for 8 percent of beef production, 6 percent of pork production, and 17 percent of poultry production. These shares are expected to increase further in 1997. On a value basis, total 1995 exports of red meats (including variety meats) and poultry meats exceeded \$6 billion and generated a trade surplus of nearly \$4 billion.

Among the reasons for the rapid expansion in exports are increased U.S. industry competitiveness, processing and technological advances that allow fresh and frozen products to be transported long distances at affordable prices, and high income growth in many markets. In Asia, especially, rising incomes have stimulated strong demand for meat and meat products.

However, many in the industry perceive the trade information currently available on meats as failing to keep pace with the increasingly important role that exports play in U.S. livestock and poultry markets. According to this view, the data fail to provide the depth, quality, and timeliness needed to anticipate market conditions and plan production and marketing decisions.

At present, U.S. Customs data on meat export shipments are compiled and released by the U.S. Bureau of the Census. These statistics are released 6–10 weeks following the actual shipments and do not report sales for future delivery. Although this reporting process for official U.S. trade data documents past export activity and may be used to discern trends that have emerged in the marketplace, the data lack timeliness and provide no information on forward sales. Market impacts are most likely to occur when sales are first contracted and well before the product is finally shipped. As a result, even instantaneous reporting of shipment data—unlikely in the immediate future—would provide only a marginally better indicator of current and future demand and prices.

Description of the Proposal

Based on the recommendations of the Advisory Committee on Agricultural Concentration and the perceived need within segments of the meat industry for accurate, comprehensive, and timely data on exports, the Department is reviewing statutory authorities and possible methods for collecting this type of information.

One of the tools currently available to the Secretary of Agriculture for collecting export data is Section 602 of the Agricultural Trade Act of 1978, as amended. Under this section, exporters

are now required to report information pertaining to the export sale of certain specified agricultural commodities, such as wheat and corn, as well as other agricultural commodities that may be designated by the Secretary. These reporting requirements are implemented through the Export Sales Reporting Program of the Foreign Agricultural Service under regulations codified in 7 CFR Part 20.

Individual firm reports collected under this program are confidential by law and are released to the public in compilation form each week following the week of reporting.

Reporting under 7 CFR Part 20 is mandatory. Any person who knowingly fails to report shall be fined not more than \$25,000 or imprisoned for not more than 1 year, or both.

To add meat and meat products to the Export Sales Reporting Program as now structured and administered, the following guidelines would apply:

- The reporting week would be Friday through Thursday. The marketing year would be January 1–December 31.
 - Individuals and firms would be required to report on a weekly basis the quantity sold to foreign buyers, the marketing year of shipment, and the country of destination. Information on prices is not collected under the Export Sales Reporting Program.
- Among the questions that would have to be addressed in implementing such a reporting program for meats are the units of measure to be used (pounds, metric tons, etc.), the specific products to be included, whether reporting should be separate for fresh/chilled versus frozen product, and the extent of the breakdowns for individual meat cuts and USDA grades.

Adding meat and meat products to the current Export Sales Reporting Program would provide more timely and comprehensive data on export sales. Public availability of this data would reduce perceived inequities in access to important market information among different segments of the industry. Similarly, this information could presumably improve market efficiency by assisting producers and others, including the government, in making well-informed, timely, and accurate decisions relating to the orderly flow of meat and meat products in domestic and export markets.

In addition to presumed benefits, the costs and the reporting burden to the private sector, as well as costs to the government, must be among the primary considerations in implementing this or any similar proposal. It is estimated that between 75 and 125 private firms may

be regularly involved in the sale of meat for export. Many of these firms are small businesses. USDA estimates that the annual paperwork burden on these firms will total approximately 7,000 hours. Annual costs to the Federal Government for collecting, processing, and disseminating export sales data on meat and meat products on a weekly basis are estimated at approximately \$400,000.

Although the Export Sales Reporting Program is one alternative for implementing this proposal, similar data on meat exports could also be collected under other authorities. For example, 7 U.S.C. 2204 authorizes the Secretary of Agriculture to procure information concerning agriculture through various methods, including the collection of statistics. Most of this collection is conducted on a voluntary basis.

A voluntary program would be preferred by many of those who export meat and who might otherwise be faced with a mandatory requirement for weekly reporting of export sales. However, other sectors of the meat industry have expressed serious reservations about reliance on voluntary reporting in a concentrated industry where relatively few firms account for the large majority of sales. These parties contend that the dominant firms already have sufficient information on export demand and therefore lack the incentive to comply with a voluntary program, rendering such a program unreliable. The concern is that if even a few of the larger firms involved in exports did not fully and consistently cooperate, the resulting data would not be useful for accurately assessing foreign demand and current and future market conditions.

Issues for Public Comment

USDA is considering the implementation of a program that would provide timely and comprehensive data on U.S. export sales of meat (including poultry meat) and meat products. If implemented under the authority of Section 602 of the Agricultural Trade Act of 1978, such a program would require all private firms involved in U.S. export sales of meat and meat products to report all such sales on a weekly basis.

Accordingly, USDA is seeking comments on the benefits, costs, and methods of collecting meat export sales information. If comments confirm the need for this information but indicate substantial problems or concerns regarding mandatory reporting, alternative approaches will be considered. The aim of any approach

should be to ensure (1) that the benefits of the additional information would justify the costs, and (2) that the best and most useful information is obtained in a manner that maximizes its value to industry participants and minimizes the burden of collection and reporting.

Interested persons are encouraged to comment on the following issues relating to this proposal:

- The extent to which lack of timely export sales information represents a problem for the meat industry or those within the industry.
 - The extent to which the Secretary of Agriculture's proposal, based on the recommendation of the Advisory Committee on Agricultural Concentration, responds to the identified problems.
 - The proper role of the Federal Government in collecting and reporting export sales information on meat and meat products.
 - The benefits and costs of the proposal, including benefits and costs of mandatory reporting by private firms.
 - The benefits and costs of possible alternative approaches, including approaches that may include voluntary reporting or other methods of achieving the identified goals.
- Interested persons are also invited to comment on the following specific considerations involved in implementing an export sales reporting program for meat and meat products:
- The frequency of reporting and the reporting period to be covered.
 - The information to be reported, such as the meats and meat products to be included, the breakdown of cuts and grades, and the units of measure for reporting (pounds, metric tons, etc.).
 - The relative benefits and costs of requiring firms to report all export sales to all country destinations, versus reporting only sales above a specified threshold volume and/or only sales to specified leading markets for individual meats.
 - The specific need, if any, for price information in addition to export sales volumes.
 - The way the data should be compiled, summarized, and reported to the public by USDA.

USDA welcomes comments on these and any related issues.

Signed at Washington, DC, November 6, 1996.

August Schumacher, Jr.,

Administrator, Foreign Agricultural Service.

[FR Doc. 96-29105 Filed 11-13-96; 8:45 am]

BILLING CODE 3410-10-P

Agricultural Marketing Service

7 CFR Part 58

RIN # 0581-AB43

[DA-96-10]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; Proposed Increase in Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service proposes to increase the fees charged for services provided under the dairy inspection and grading program. The program is a voluntary, user-fee program conducted under the authority of the Agricultural Marketing Act of 1946, as amended. The proposed increases would result in a fee of \$47.00 per hour for continuous resident services and \$52.00 per hour for nonresident services between the hours of 6:00 a.m. and 6:00 p.m. The fee for nonresident services between the hours of 6:00 p.m. and 6:00 a.m. would be \$57.20 per hour. These proposed fees represent an increase of four dollars per hour. The fees are being increased to cover the costs of recent salary increases and locality adjustments, the costs necessary to maintain adequate levels of service during changing production and purchasing patterns within the dairy industry, the continued full funding for standardization activities, and other operating costs.

DATES: Comments must be received by December 16, 1996.

ADDRESSES: Comments should be sent to: Office of the Director, USDA/AMS/Dairy Division, Room 2968-S, P.O. Box 96456, Washington, D.C. 20090-6456. Comments received will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Lynn G. Boerger, USDA/AMS/Dairy Division, Dairy Grading Branch, Room 2750—South Building, P.O. Box 96456, Washington, D.C. 20090-6456, (202) 720-9381.

SUPPLEMENTARY INFORMATION: This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations or

policies. This rule is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

There are more than 600 users of Dairy Grading Branch's inspection and grading services. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601). This rule will raise the fee charged to businesses for voluntary inspection services and grading services for dairy and related products. Even though the fee will be raised, the increase is approximately 8.6 percent and will not significantly affect these entities. These businesses are under no obligation to use these services, and any decision on their part to discontinue the use of the services would not prevent them from marketing their products. The Agricultural Marketing Service (AMS) estimates that overall this rule will yield an additional \$272,000 during fiscal year 1997. The proposed rule reflects certain fee increases needed to recover the cost of inspection and grading services rendered in accordance with the Agricultural Marketing Act (AMA) of 1946.

The Agricultural Marketing Service (AMS) has determined that this action will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601).

The Agricultural Marketing Act of 1946, as amended, authorizes the Secretary of Agriculture to provide Federal dairy grading and inspection services that facilitate marketing and help consumers obtain the quality of dairy products they desire. The Act provides that reasonable fees be collected from the users of the services to cover, as nearly as practicable, the cost of maintaining the program.

Since the costs of the grading program are covered entirely by user fees, it is essential that fees be increased when necessary to cover the cost of maintaining a financially self-supporting program. The last fee increase under this program became effective on October 1, 1995. Since that time, Congress increased the salaries of Federal employees by 2.9 percent as of January 7, 1996, which included locality pay. Also, there have been normal increases in other nonpay operating costs that include utilities, office space