

Form No.	Edition date	Title
I-485, Supplement E	10/31/08	T and U Nonimmigrant Supplement to Form I-485 Instructions.
I-929	10/31/08	Petition for Qualifying Family Member of a U-1 Nonimmigrant.

■ 12. Section 299.5 is amended in the table by adding the entries “I-485, Supplement E” and “I-929”, in proper

alpha/numeric sequence to read as follows:

§ 299.5 Display of control numbers.

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Form No.	Form title	Currently assigned OMB control No.
I-485, Supplement E	T and U Nonimmigrant Supplement to Form I-485 Instructions	1615-0023
I-929	Petition for Qualifying Family Member of a U-1 Nonimmigrant	1615-0106

Paul A. Schneider,
Deputy Secretary.

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DEPARTMENT OF AGRICULTURE
Food Safety and Inspection Service

9 CFR Parts 317 and 381
[Docket No. FSIS-2008-0040]
RIN 0583-AD05

Uniform Compliance Date for Food Labeling Regulations

AGENCY: Food Safety and Inspection Service, USDA.
ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is establishing January 1, 2012, as the uniform compliance date for new meat and poultry product labeling regulations that are issued between January 1, 2009, and December 31, 2010. FSIS periodically announces uniform compliance dates for new meat and poultry product labeling regulations to minimize the economic impact of label changes.

DATES: This rule is effective December 12, 2008. Comments on this final rule must be received on or before January 12, 2009.

ADDRESSES: FSIS invites interested persons to submit comments on this final rule. Comments may be submitted by either of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to <http://www.regulations.gov>. Follow the online instructions at that site for submitting comments.

- *Mail, including floppy disks or CD-ROMs, and hand- or courier-delivered items:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue, SW., Room 2534, South Agriculture Building, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2008-0040. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <http://www.regulations.gov>.

Docket: For access to background documents or comments received, go to the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rosalyn Murphy-Jenkins, Food Safety and Inspection Service, USDA, 1400 Independence Avenue, SW., Washington, DC 20250-3700; Telephone 202-205-0623, Fax 202/205-0145 or 202/205-0271.

SUPPLEMENTARY INFORMATION:

Background

FSIS periodically issues regulations that require changes in the labeling of meat and poultry food products. Many meat and poultry establishments also produce non-meat and non-poultry food products subject to the jurisdiction of the Food and Drug Administration (FDA). FDA also periodically issues regulations that require changes in the labeling of such products.

On December 14, 2004, FSIS issued the final rule that provided that the Agency will set uniform compliance dates for new meat and poultry product labeling regulations in two year increments and will periodically issue final rules announcing those dates. That final rule also established January 1, 2008, as the uniform compliance date for meat and poultry product labeling regulations that issued between January 1, 2005, and December 31, 2006 (69 FR 74405). Consistent with the 2004 final rule, FSIS issued a subsequent final rule, on March 5, 2007, that established January 1, 2010, as the uniform compliance date for meat and poultry product labeling regulations that issued between January 1, 2007, and December 31, 2008 (72 FR 9651).

The Final Rule

This final rule establishes January 1, 2012, as the uniform compliance date for new meat and poultry product labeling regulations that are issued between January 1, 2009 and December 31, 2010, is consistent with the previous final rules establishing uniform

compliance dates. In addition, FSIS' approach for establishing uniform compliance dates for new food labeling regulations is consistent with FDA's approach. FDA is also establishing January 1, 2012, as the uniform compliance date for new food labeling regulations that are issued between January 1, 2009, and December 31, 2010.

Two year increments enhance the industry's ability to make orderly adjustments to new labeling requirements without unduly exposing consumers to outdated labels. With this approach to effecting compliance, the meat and poultry industry is able to plan for use of label inventories and to develop new labeling materials that meet the requirements of all labeling regulations made within the two year period, thereby minimizing the economic impact of labeling changes. By establishing a uniform compliance date that is the same as FDA's, FSIS is providing meat and poultry manufacturers with a greater ability to adjust production plans to new labeling requirements across all of their product lines.

This policy also serves consumers' interests because the cost of multiple short-term label revisions that would otherwise occur would likely be passed on to consumers in the form of higher prices.

It will remain FSIS' policy, however, to encourage industry to comply with new labeling regulations as quickly as feasible. Thus, when industry members voluntarily change their labels, they should consider incorporating any new requirements that have been published as final regulations up to that time.

The new uniform compliance date will apply only to final FSIS regulations that require changes in the labeling of meat and poultry products and that are published after January 1, 2009, and before December 31, 2010. In each of these regulations, FSIS will specifically identify January 1, 2012, as the compliance date. All meat and poultry food products that are subject to labeling regulations promulgated between January 1, 2009 and December 31, 2010, will be required to comply with these regulations when introduced into commerce on or after January 1, 2012. If any food labeling regulation involves special circumstances that justify a compliance date other than January 12, 2012, the Agency will determine for that regulation an appropriate compliance date, which will be specified when the final regulation is published.

In rulemaking that began with the publication of a proposed rule on May 4, 2004, FSIS provided notice and

solicited comment on the concept of establishing uniform compliance dates for labeling requirements (69 FR 24539). In the March 5, 2007, final rule, FSIS noted that the Agency received only four comments in response to the proposal, all fully supportive of the policy to set uniform compliance dates. Therefore, in the March 5, 2007, final rule, FSIS determined that further rulemaking for the establishment of uniform compliance dates for labeling requirements is unnecessary (72 FR 9651). Consistent with its statement in 2007, FSIS finds at this time that further rulemaking on this matter is unnecessary. However, FSIS is providing an opportunity for comment on whether the uniform compliance date established in this final rule should be modified or revoked.

Executive Order 12988

This final rule has been reviewed under the Executive Order 12988, Civil Justice Reform. Under this final rule: (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) no retroactive proceedings will be required before parties may file suit in court challenging this rule.

Executive Order 12866

FSIS has examined the impacts of the final rule under Executive Order 12866, which directs agencies to assess costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). This action has been determined to be not significant and, therefore, has not been reviewed by the Office of Management and Budget.

Establishing a uniform compliance date for all future Federal food product labeling regulations affecting the meat and poultry industry that are issued by FSIS over a two year period will eliminate potentially burdensome requirements otherwise faced by the industry.

The regulation also greatly limits the possibility of potentially conflicting compliance dates for labeling requirements developed for meat and poultry products and labeling requirements developed for non-meat and non-poultry products. It thus provides for an orderly industry adjustment to any new labeling requirements. Labeling changes in response to Federal regulations will likely be less frequent, and

establishments will be able to plan for full utilization of their labeling stocks.

Need for the Rule

Establishing uniform compliance dates for food labeling regulations issued within specified time periods minimizes the economic impact of label changes for industry and may indirectly benefit consumers if cost savings are passed on in the form of lower prices.

Regulatory Flexibility Analysis

This rule does not have a significant economic impact on a substantial number of small entities. Consequently, an initial regulatory flexibility analysis is not required (5 U.S.C. 601-612). The uniform compliance date does not impose any burden on small entities. The Agency will conduct regulatory flexibility of future labeling regulations if such analyses are required.

Paperwork Requirements

There are no paperwork or recordkeeping requirements associated with this policy under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

E-Government Act Compliance

FSIS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services for other purposes.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this final rule, FSIS will announce it online through the FSIS Web page located at http://www.fsis.usda.gov/regulations_&_policies/2008_Interim_&_Final_Rules_Index/index.asp. FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals and other individuals who have asked to be included. The Update is available on the FSIS Web page. Through the Listserv and the Web page, FSIS is able to

provide information to a much broader and more diverse audience.

In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at http://www.fsis.usda.gov/news_and_events/email_subscription/. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on December 9, 2008.

Alfred V. Almanza,
Administrator.

[FR Doc. E8-29485 Filed 12-11-08; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9434]

RIN 1545-BC88

Creditor Continuity of Interest

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations providing guidance regarding when and to what extent creditors of a corporation will be treated as proprietors of the corporation in determining whether continuity of interest ("COI") is preserved in a potential reorganization. These final regulations are necessary to provide clarity to parties engaging in reorganizations of insolvent corporations, both inside and outside of bankruptcy. These final regulations affect corporations, their creditors, and their shareholders.

DATES: *Effective Date:* These final regulations are effective on December 12, 2008.

Applicability Date: For dates of applicability see § 1.368-1(e)(8).

FOR FURTHER INFORMATION CONTACT: Jean Brenner (202) 622-7790, Douglas Bates (202) 622-7550, or Bruce Decker (202) 622-7550 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

On March 10, 2005, the IRS and Treasury Department published a notice of proposed rulemaking (REG-163314-

03) in the **Federal Register** (70 FR 11903) proposing regulations that would provide guidance regarding the application of the nonrecognition rules of subchapter C of the Internal Revenue Code (Code) to transactions involving insolvent corporations and to other transactions that raise similar issues. No public hearing regarding the proposed regulations was requested or held. The IRS and Treasury Department have carefully considered the comments regarding the proposed regulations. The IRS and Treasury Department continue to consider the issues raised and to evaluate the complexity and necessity for valuation under the exchange of net value requirement. In the interim, these final regulations adopt the portion of the proposed regulations that deals with the circumstances in which (and the extent to which) creditors of a corporation will be treated as proprietors of the corporation in determining whether continuity of interest is preserved in a potential reorganization.

Explanation of Provisions

These final regulations provide that, in certain circumstances, stock received by creditors may count for continuity of interest purposes both inside and outside of bankruptcy proceedings. The expansion of the application of the G reorganization rules to reorganizations of insolvent corporations outside of bankruptcy is consistent with Congress' intent to facilitate the rehabilitation of troubled corporations. S. Rep. No. 96-1035, 96th Sess. 35 (1980). Accordingly, the final regulations adopt the rules proposed for creditors of an insolvent target corporation outside of a title 11 or similar case in new § 1.368-1(e)(6) with only minor modifications and clarifications. The final regulations treat claims of the most senior class of creditors to receive a proprietary interest in the issuing corporation and claims of all equal classes of creditors (together, the senior claims) differently from the claims of classes of creditors junior to the senior claims (the junior claims). The final regulations treat such senior claims as representing proprietary interests in the target corporation. While such senior claims, and all junior claims, are treated as representing a proprietary interest in the target corporation, the determination of the value of proprietary interests in the target corporation represented by the senior claims is made by calculating the average treatment for all senior claims. The final regulations provide that the value of a proprietary interest in the target corporation represented by a senior claim is determined by multiplying the fair market value of the

creditor's claim by a fraction, the numerator of which is the fair market value of the proprietary interests in the issuing corporation that are received in the aggregate in exchange for the senior claims, and the denominator of which is the sum of the amount of money and the fair market value of all other consideration (including the proprietary interests in the issuing corporation) received in the aggregate in exchange for such claims. In contrast to the treatment of the senior creditor class that receives stock of the issuing corporation, the value of the proprietary interest in the target corporation represented by a junior claim is the fair market value of the junior claim. The effect of this rule is that there is 100 percent continuity of interest if each senior claim is satisfied with the same ratio of stock to nonstock consideration and no junior claim is satisfied with nonstock consideration.

An example was added to the COI rule in response to a suggestion that the final regulations demonstrate the bifurcation of senior claims when the creditors of the class receive disproportionate amounts of acquiring corporation stock and other property. Also, in response to comments, a rule was added to the final regulations requiring that in the situation where there is only one class of creditors receiving stock, more than a de minimis amount of acquiring corporation stock must be exchanged for the creditors' proprietary interests relative to the total consideration received by the insolvent target corporation, its shareholders, and its creditors, before the stock will be counted for purposes of COI.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these final regulations and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Jean Brenner, Douglas Bates, and Bruce Decker of the Office of