



Federal Register

**Monday,
December 7, 2009**

Part III

Department of Agriculture

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda, Fall 2009

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of significant and not significant regulations being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Order 12866 "Regulatory Planning and Review." The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96-354. This agenda also identifies regulatory actions that are being

reviewed in compliance with section 610(c) of the Regulatory Flexibility Act. We invite public comment on those actions.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

USDA's complete regulatory agenda is available online at www.reginfo.gov. Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), USDA's printed agenda entries include only:

(1) Rules that are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules identified for periodic review under section 610 of the Regulatory Flexibility Act.

For this edition of the USDA regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory Priorities are included in the Regulatory Plan, which appears in both the online regulatory agenda and in part II of the **Federal Register** that includes the abbreviated regulatory agenda.

For this fall 2009 edition, regulations previously developed by the former Cooperative State Research, Education, and Extension Service (CSREES) will now appear under the new National Institute of Food and Agriculture (NIFA).

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action. For general comments or inquiries about the agenda, please contact Michael Poe, Office of Budget and Program Analysis, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-1272.

Dated: September 18, 2009.

Michael Poe,

Chief, Legislative and Regulatory Staff.

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
179	National Organic Program: Dairy Replacement Animals (Livestock)	0581-AC69
180	National Organic Program, Sunset (2011) (Crops and Processing) (TM-07-14)	0581-AC77

Agricultural Marketing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
181	National Organic Program: Access to Pasture (Reg Plan Seq No. 1)	0581-AC57
182	National Dairy Promotion and Research Program; Final Rule on Amendments to the Order (Reg Plan Seq No. 2)	0581-AC87
183	National Organic Program—Amendments to the National List (Crops, Livestock, and Processing) TM-08-06	0581-AC91

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Agricultural Marketing Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
184	National Organic Program: Add Standards for the Organic Certification of Wild Captured Aquatic Animals, TM-01-08	0581-AB97

USDA

Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
185	Mushroom Promotion, Research and Consumer Information Order (FV-08-702)	0581-AC82

Farm Service Agency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
186	Emergency Forest Restoration Program	0560-AH89
187	Biomass Crop Assistance Program	0560-AH92
188	Farm Loan Programs Loan Making Activities	0560-AI03
189	Conservation Loan Guarantee Program	0560-AI04

Farm Service Agency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
190	Loan Servicing; Farm Loan Programs	0560-AI05

Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
191	Animal Welfare: Marine Mammals; Nonconsensus Language and Interactive Programs (Rulemaking Resulting From a Section 610 Review)	0579-AB24
192	Animal Welfare; Regulations and Standards for Birds (Reg Plan Seq No. 3)	0579-AC02
193	Tuberculosis in Cattle; Import Requirements for Roping Steers	0579-AC50
194	Bovine Spongiform Encephalopathy; Importation of Bovines and Bovine Products (Reg Plan Seq No. 4)	0579-AC68
195	Importation of Grapes From Chile Under a Systems Approach	0579-AC82
196	Scrapie in Sheep and Goats	0579-AC92
197	Plant Pest Regulations; Update of General Provisions	0579-AC98

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
198	Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation of Commodities; Unsealing of Means of Conveyance and Transloading of Products	0579-AB97
199	Importation of Plants for Planting; Establishing a New Category of Plants for Planting Not Authorized for Importation Pending Risk Assessment (Rulemaking Resulting From a Section 610 Review) (Reg Plan Seq No. 5)	0579-AC03
200	National Veterinary Accreditation Program (Rulemaking Resulting From a Section 610 Review)	0579-AC04
201	Citrus Canker; Compensation for Certified Citrus Nursery Stock	0579-AC05
202	Agricultural Inspection and AQI User Fees Along the U.S./Canada Border	0579-AC06
203	Citrus Canker; Quarantine of the State of Florida	0579-AC07
204	Importation of Poultry and Poultry Products From Regions Affected With Highly Pathogenic Avian Influenza	0579-AC36
205	Light Brown Apple Moth Quarantine	0579-AC71
206	Viral Hemorrhagic Septicemia; Interstate Movement and Import Restrictions on Certain Live Fish	0579-AC74
207	Citrus Greening and Asian Citrus Psyllid; Quarantine and Interstate Movement Regulations	0579-AC85
208	Sirex Woodwasp; Quarantine and Regulations	0579-AC86

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

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Animal and Plant Health Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
209	Phytosanitary Certificates for Imported Fruits and Vegetables	0579-AB18
210	Foot-and-Mouth Disease; Payment of Indemnity	0579-AB34
211	Tuberculosis in Cattle; Import Requirements (Section 610 Review)	0579-AB44
212	Phytophthora Ramorum; Quarantine and Regulations	0579-AB82
213	Boll Weevil; Quarantine and Regulations	0579-AB91
214	Minimum Age Requirements for the Transport of Animals	0579-AC14
215	Introduction of Organisms and Products Altered or Produced Through Genetic Engineering	0579-AC31
216	Animal Welfare; Climatic and Environmental Conditions for Transportation of Warm-Blooded Animals Other Than Marine Mammals	0579-AC41
217	Importation of Cattle From Mexico; Addition of Port at San Luis, Arizona	0579-AC63
218	Handling of Animals; Contingency Plans	0579-AC69

Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
219	Plant Pest Regulations; Update of Current Provisions (Completion of a Section 610 Review)	0579-AA80
220	Standards for Permanent, Privately Owned Horse Quarantine Facilities (Completion of a Section 610 Review) ..	0579-AC00
221	User Fees; Export Certification for Plants and Plant Products	0579-AC22
222	Pale Cyst Nematode; Quarantine and Regulations	0579-AC54
223	Bovine Tuberculosis	0579-AC73
224	Citrus Canker; Movement of Fruit From Quarantined Areas	0579-AC96
225	User Fees for Agricultural Quarantine and Inspection Services	0579-AC99

Rural Housing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
226	Guaranteed Single-Family Housing	0575-AC18

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
227	Performance Standards for the Production of Processed Meat and Poultry Products; Control of Listeria Monocytogenes in Ready-To-Eat Meat and Poultry Products (Reg Plan Seq No. 23)	0583-AC46
228	Federal-State Interstate Shipment Cooperative Inspection Program (Reg Plan Seq No. 24)	0583-AD37

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
229	Special Areas; State-Specific Inventoried Roadless Area Management: Colorado	0596-AC74

USDA

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
230	Voluntary Labeling Program for Designated Biobased Products	0503-AA35
231	Designation of Biobased Items for Federal Procurement, Round 7	0503-AA36

Rural Business-Cooperative Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
232	Renewable Energy—Clarify Requirements for Construction/Development of Energy Program Projects (Rule-making Resulting From a Section 610 Review)	0570-AA69

BILLING CODE 3410-90-S

Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)
Proposed Rule Stage
**179. NATIONAL ORGANIC PROGRAM:
DAIRY REPLACEMENT ANIMALS
(LIVESTOCK)**
Legal Authority: 7 USC 6501

Abstract: The National Organic Program (NOP) is administered by the Agricultural Marketing Service (AMS). Under the NOP, AMS established national standards for the production and handling of organically produced products. Since implementation of the NOP, some members of the public have advocated for amending the regulations for sourcing dairy replacement animals. They have asserted that the current regulatory language on sourcing dairy replacement animals lacks clarity, has established an inequitable two track system, and has harmed organic dairy producers by creating an environment that has prevented the development of a market for organic dairy replacement animals. They seek amendment to the regulations to require that once a dairy operation has converted to organic production all future animals be organic from the last third of gestation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/10	
Final Action	12/00/10	

**Regulatory Flexibility Analysis
Required:** Yes

Agency Contact: Richard H. Mathews, Chief of Standards Development and Review Branch, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-3252
Fax: 202 205-7808
Email: richard.mathews@usda.gov

RIN: 0581-AC69
**180. NATIONAL ORGANIC PROGRAM,
SUNSET (2011) (CROPS AND
PROCESSING) (TM-07-14)**
Legal Authority: 7 USC 6501

Abstract: The Agricultural Marketing Service (AMS) is amending regulations pertaining to the National List of Allowed and Prohibited Substances. As required by the National Organic Foods Production Act of 1990, the allowed use of the 12 synthetic and non-synthetic substances in organic production and handling will expire on September 12, 2011. The AMS published an advance notice of proposed rulemaking to make the public aware of this requirement. AMS

believes that public comment is essential in the review process to determine whether these substances should continue to be allowed or prohibited in the production and handling of organic agricultural products.

Timetable:

Action	Date	FR Cite
ANPRM	03/14/08	73 FR 13795
ANPRM Comment Period End	05/13/08	
NPRM	10/00/10	
Final Action	08/00/11	

**Regulatory Flexibility Analysis
Required:** Yes

Agency Contact: Richard H. Mathews, Chief of Standards Development and Review Branch, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-3252
Fax: 202 205-7808
Email: richard.mathews@usda.gov

RIN: 0581-AC77

Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)
Final Rule Stage
**181. NATIONAL ORGANIC PROGRAM:
ACCESS TO PASTURE**

Regulatory Plan: This entry is Seq. No. 1 in part II of this issue of the **Federal Register**.

RIN: 0581-AC57

**182. NATIONAL DAIRY PROMOTION
AND RESEARCH PROGRAM; FINAL
RULE ON AMENDMENTS TO THE
ORDER**

Regulatory Plan: This entry is Seq. No. 2 in part II of this issue of the **Federal Register**.

RIN: 0581-AC87

**183. • NATIONAL ORGANIC
PROGRAM—AMENDMENTS TO THE
NATIONAL LIST (CROPS, LIVESTOCK,
AND PROCESSING) TM-08-06**

Legal Authority: 7 USC 6517 and 6518

Abstract: The Agricultural Marketing Service is amending the National List of Allowed and Prohibited Substances contained in the National Organic Program regulations. This rule would add six new substances and remove one from the list.

Timetable:

Action	Date	FR Cite
NPRM	06/03/09	74 FR 26591

Action	Date	FR Cite
NPRM Comment Period End	08/03/09	
Final Action	12/00/09	

**Regulatory Flexibility Analysis
Required: Yes**

Agency Contact: Richard H. Mathews, Chief of Standards Development and Review Branch, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-3252
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RIN: 0581-AC91

Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)
Long-Term Actions
**184. NATIONAL ORGANIC PROGRAM:
ADD STANDARDS FOR THE ORGANIC
CERTIFICATION OF WILD CAPTURED
AQUATIC ANIMALS, TM-01-08**

Legal Authority: 7 USC 6501 to 6522

Abstract: The Agricultural Marketing Service (AMS) is revising regulations pertaining to labeling of agricultural products as organically produced and handled (7 CFR part 205). The term "aquatic animal" will be incorporated in the definition of livestock to establish production and handling

standards for operations that capture aquatic animals from the wild. Production standards for operations producing aquatic animals will incorporate requirements for livestock origin, feed ration, health care, living conditions, and recordkeeping. Handling standards for such operations will address prevention of commingling of organically produced commodities and prevention of contact between organically produced and prohibited substances.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/10	

**Regulatory Flexibility Analysis
Required: Yes**

Agency Contact: Richard H. Mathews
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Email: richard.mathews@usda.gov

RIN: 0581-AB97

Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)
Completed Actions
**185. MUSHROOM PROMOTION,
RESEARCH AND CONSUMER
INFORMATION ORDER (FV-08-702)**

Legal Authority: 7 USC 6101 to 6112

Abstract: The Farm Bill of 2008 amended the Mushroom Promotion, Research and Consumer Information Act of 1990 by changing the number of regions for nominations purposes from four to three; adjusting the number of pounds required to appoint members to the Mushroom Council;

and to allow for the development of good agricultural and good handling practices.

Completed:

Reason	Date	FR Cite
NPRM	04/07/09	74 FR 15677
Second NPRM	06/05/09	74 FR 26984
Second NPRM Comment Period End	07/17/09	
Final Action	10/02/09	74 FR 50915
Final Action Effective	10/05/09	

**Regulatory Flexibility Analysis
Required: Yes**

Agency Contact: Sonia Jimenez
Phone: 202 720-9915
Fax: 202 205-2800
Email: sonia.jimenez@usda.gov

RIN: 0581-AC82

BILLING CODE 3410-02-S

Department of Agriculture (USDA)
Farm Service Agency (FSA)

Proposed Rule Stage

186. EMERGENCY FOREST RESTORATION PROGRAM

Legal Authority: PL 110–246

Abstract: We are adding a new subpart to the regulations in 7 CFR part 701 to implement the Emergency Forest Restoration Program (EFRP), which was authorized by the 2008 Farm Bill. EFRP will provide cost-share funding to owners of nonindustrial private forest land to restore the land after the land is damaged by a natural disaster. The damaged land must have had a tree cover immediately before the natural disaster. The 2008 Farm Bill authorized such funds as may be necessary to be appropriated to carry out this program; the appropriated amounts are to remain available until expended.

Timetable:

Action	Date	FR Cite
NPRM	10/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Deirdre Holder, Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, 1400 Independence Avenue SW, Washington, DC 20250–0572
 Phone: 202 205–5851
 Fax: 202 720–5233
 Email: deirdre.holder@wdc.usda.gov

RIN: 0560–AH89

187. BIOMASS CROP ASSISTANCE PROGRAM

Legal Authority: PL 110–246

Abstract: We are adding a new regulation to implement the Biomass Crop Assistance Program (BCAP) as required by the 2008 Farm Bill. We will collaborate with USDA/Rural Development (RD), private industry, agricultural and forest land owners to support the evaluation and selection of BCAP project areas. BCAP project areas must include a commitment to use local production; evidence of sufficient equity (if the facility is not operational at the time of proposal); anticipated economic impacts; opportunities for local ownership; the participation rate by beginning and socially disadvantaged farmers and ranchers; the impact on soil, water, and related resources; and the variety in biomass production approaches. FSA will partner with RD, which has capability and responsibility, including the

potential for providing funding for proposed biomass conversion facility, regarding BCAP project area evaluation and selection. After BCAP project area selection, FSA, acting on behalf of the Commodity Credit Corporation (CCC), may enter into contracts with BCAP project area producers for a term of up to 5 years for annual and perennial crops and up to 15 years for woody biomass.

Timetable:

Action	Date	FR Cite
Notice	10/01/08	73 FR 57047
Notice–EIS	05/13/09	
Notice Comment Period End	06/12/09	
Notice–NOFA	06/11/09	74 FR 27767
Notice Comment Period End	08/10/09	
Notice–EIS	08/10/09	74 FR 39915
Notice Comment Period End	09/24/09	
NPRM	12/00/09	
Final Rule	01/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Deirdre Holder, Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, 1400 Independence Avenue SW, Washington, DC 20250–0572
 Phone: 202 205–5851
 Fax: 202 720–5233
 Email: deirdre.holder@wdc.usda.gov

RIN: 0560–AH92

188. FARM LOAN PROGRAMS LOAN MAKING ACTIVITIES

Legal Authority: PL 110–246

Abstract: The rule will implement the provisions of the 2008 Farm Bill that affect Farm Loan Programs (FLP) Loan Making Division (LMD); there is discretion involved in the implementation. The sections being implemented are: 5001, Direct Loans; 5005, Beginning Farmer or Rancher and Socially Disadvantaged Farmer or Rancher Contract Land Sales Program Down Payment Loan Program; 5101, Farming Experience as an Eligibility Requirement; 5201, Eligibility of Equine Farmers and Ranchers for Emergency Loans; 5301, Beginning Farmer and Rancher Individual Development Accounts Pilot Program; and 5501, Loans to Purchase Highly Fractionated Land.

A Beginning Farmer and Rancher Individual Development Accounts five-year pilot program will be established in at least 15 States. The program entails FSA making grants to qualified nonprofit organizations who then deliver the program to eligible participants. Grantees must match 50 percent of the grant received. Under the program, qualified, low-income beginning farmers or prospective beginning farmers would establish saving accounts with a monthly deposit plan administered by the grantees. The program funds must match the participants' deposits at a minimum of 100 percent and a maximum of 200 percent. Participants must use the savings account funds toward the purchase of farmland, livestock, or similar farm start-up/operating expenses. The program must be operated by and in conjunction with FSA farm loan programs. The initial applications for the program must be approved no more than one year after the law is enacted. The program is not mandatory; an appropriation of up to \$5 million annually is authorized to fund the program.

Individual tribal members will be allowed to qualify for Indian Land Acquisition loans.

Timetable:

Action	Date	FR Cite
NPRM	11/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Deirdre Holder, Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, 1400 Independence Avenue SW, Washington, DC 20250–0572
 Phone: 202 205–5851
 Fax: 202 720–5233
 Email: deirdre.holder@wdc.usda.gov
RIN: 0560–AI03

189. CONSERVATION LOAN GUARANTEE PROGRAM

Legal Authority: PL 110–246

Abstract: The rule will implement the provisions of the 2008 Farm Bill that affect Farm Loan Programs (FLP) Loan Making Division (LMD); there is discretion in how several of the provisions are implemented. The section being implemented is 5002, Conservation Loan and Loan Guarantee. Implementation of this provision will

USDA—FSA

Proposed Rule Stage

create a new direct and guaranteed loan program directed at assisting farmers in implementing conservation practices.

The rule establishes a new loan and loan guarantee program to finance qualifying conservation projects. All guarantees will be at 75 percent of the loan amount. The applicant must have an acceptable conservation plan that includes the project(s) to be financed. Preference is given to beginning farmer and socially disadvantaged applicants,

conversion to sustainable or organic production practices, and compliance with highly erodible land conservation requirements. Eligibility for the program is not restricted to those who cannot get credit elsewhere. The program is not mandatory; appropriations are authorized.

Timetable:

Action	Date	FR Cite
NPRM	12/00/09	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Deirdre Holder, Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, 1400 Independence Avenue SW, Washington, DC 20250-0572
Phone: 202 205-5851
Fax: 202 720-5233
Email: deirdre.holder@wdc.usda.gov

RIN: 0560-AI04

Department of Agriculture (USDA)
Farm Service Agency (FSA)

Final Rule Stage

190. LOAN SERVICING; FARM LOAN PROGRAMS

Legal Authority: PL 110-246

Abstract: The 2008 Farm Bill requires several changes to the Farm Service Agency (FSA) Farm Loan Program (FLP) loan servicing regulations. An overall plan will be established to insure that borrowers can be transitioned to private credit in the shortest timeframe practicable. At present, FSA monitors the status of all borrowers to determine if graduation is possible. The 2008 Farm Bill emphasizes this responsibility and insures that FSA uses all the tools available to graduate borrowers to commercial credit as soon as they can financially do so. In 2007, over 2,500 direct borrowers (about 3.7 percent of the portfolio) graduated to commercial credit. FSA believes graduation will

continue in the 3 to 5 percent range and is dependant on the overall farm economy.

The right of an FSA borrower-owner to purchase leased property under Homestead Protection will be extended beyond the borrower-owner to the immediate family. Currently, FSA only has 38 properties in Homestead Protection.

Acceleration and foreclosure will be suspended on borrowers who file a claim of program discrimination against the Department or have a claim pending. Interest accrual and offset will also be suspended during the time of the moratorium. If the borrower does not prevail in the claim, the interest, which would have accrued during the moratorium will be due and offset on the account will be reestablished.

Timetable:

Action	Date	FR Cite
NPRM	08/07/09	74 FR 39565
NPRM Comment Period End	10/06/09	
Final Rule	01/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Deirdre Holder, Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, 1400 Independence Avenue SW, Washington, DC 20250-0572
Phone: 202 205-5851
Fax: 202 720-5233
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RIN: 0560-AI05

BILLING CODE 3410-05-S

Department of Agriculture (USDA)
Animal and Plant Health Inspection Service (APHIS)

Proposed Rule Stage

191. ANIMAL WELFARE: MARINE MAMMALS; NONCONSENSUS LANGUAGE AND INTERACTIVE PROGRAMS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Legal Authority: 7 USC 2131 to 2159

Abstract: The U.S. Department of Agriculture regulates the humane handling, care, treatment, and transportation of certain marine mammals under the Animal Welfare Act. The present standards for these animals have been in effect since 1979 and amended in 1984. During this time, advances have been made and new information has been developed with

regard to the housing and care of marine mammals. This rulemaking addresses marine mammal standards on which consensus was not reached during negotiated rulemaking conducted between September 1995 and July 1996. These include standards affecting variances, indoor facilities, outdoor facilities, space requirements, and water quality, as well as swim-with-the-dolphin programs. These actions appear necessary to ensure that the minimum standards for the humane handling, care, treatment, and transportation of marine mammals in captivity are based on current general,

industry, and scientific knowledge and experience.

Timetable:

Action	Date	FR Cite
ANPRM	05/30/02	67 FR 37731
ANPRM Comment Period End	07/29/02	
NPRM	12/00/09	
NPRM Comment Period End	02/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Barbara Kohn, Senior Staff Veterinarian, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700

USDA—APHIS

Proposed Rule Stage

River Road, Unit 84, Riverdale, MD
20737–1234
Phone: 301 734–7833

RIN: 0579–AB24

192. ANIMAL WELFARE; REGULATIONS AND STANDARDS FOR BIRDS

Regulatory Plan: This entry is Seq. No. 3 in part II of this issue of the **Federal Register**.

RIN: 0579–AC02

193. TUBERCULOSIS IN CATTLE; IMPORT REQUIREMENTS FOR ROPING STEERS

Legal Authority: 7 USC 1622; 7 USC 8301 to 8317; 21 USC 136 and 136a; 31 USC 9701

Abstract: This document will withdraw a proposed rule that we published on August 24, 2004 (69 FR 51960 to 51962, APHIS Docket No. 03-081-3). In our August 2004 proposed rule, we proposed to require that steers and spayed heifers with any evidence of horn growth that are entering the United States meet the same tuberculosis testing requirements as sexually intact animals entering the United States. Instead of proposing provisions specific to cattle imported for use at rodeos, as our August 2004 proposal did, APHIS is considering broader changes to the tuberculosis regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/20/04	69 FR 43283
Interim Final Rule Effective	08/19/04	
Interim Final Rule Comment Period End	09/20/04	
Interim Rule; Withdrawal	08/12/04	69 FR 49783
Interim Rule; Withdrawal Effective	08/12/04	
NPRM	08/24/04	69 FR 51960
NPRM Comment Period End	10/25/04	
NPRM; Withdrawal	01/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Francisco Collazo–Mattei, Assistant Director, Ruminant Health Programs, National Center for Animal Health Programs, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700

River Road, Unit 43, Riverdale, MD
20737
Phone: 301 734–6954

RIN: 0579–AC50

194. BOVINE SPONGIFORM ENCEPHALOPATHY; IMPORTATION OF BOVINES AND BOVINE PRODUCTS

Regulatory Plan: This entry is Seq. No. 4 in part II of this issue of the **Federal Register**.

RIN: 0579–AC68

195. IMPORTATION OF GRAPES FROM CHILE UNDER A SYSTEMS APPROACH

Legal Authority: 7 USC 450; 7 USC 7701 to 7772; 7 USC 7781 to 7786; 7 USC 8301 to 8317; 21 USC 136 and 136a

Abstract: We are proposing two changes related to our proposed rule published in the Federal Register on August 27, 2008, that would amend the fruit and vegetable regulations to allow fresh table grapes from Chile to be imported into the continental United States under a systems approach. Currently as a condition of entry, all table grapes from Chile have to be fumigated with methyl bromide as a risk-mitigation measure for *Brevipalpus chilensis*. On August 27, 2008, we proposed to allow a combination of risk-mitigation measures, or systems approach, to be employed in lieu of methyl bromide fumigation for *B. chilensis*. However, there is a new quarantine pest of table grapes, *Lobesia botrana*, in Chile, and the proposed systems approach does not address and was not intended to mitigate the risk for this pest. Therefore, this supplemental proposed rule modifies the proposed systems approach so that it is effective for *L. botrana*. Alternatively, it would require Chilean grapes that do not meet the conditions of the systems approach for *L. botrana* to be fumigated with methyl bromide as a condition of their importation into the continental United States.

Timetable:

Action	Date	FR Cite
NPRM	08/27/08	73 FR 50577
NPRM Comment Period End	10/27/08	
Supplemental NPRM	12/00/09	

Action	Date	FR Cite
Supplemental NPRM Comment Period End	02/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Charisse Cleare, Regulatory Coordination Specialist, Regulations, Permits & Manuals, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 156, Riverdale, MD 20737
Phone: 301 734–0773

RIN: 0579–AC82

196. SCRAPIE IN SHEEP AND GOATS

Legal Authority: 7 USC 8301 to 8317

Abstract: This rulemaking would amend the scrapie regulations by changing the risk groups and categories established for individual animals and for flocks, increasing the use of genetic testing as a means of assigning risk levels to animals, reducing movement restrictions for animals found to be genetically less susceptible or resistant to scrapie, and simplifying, reducing, or removing certain recordkeeping requirements. This action would provide designated scrapie epidemiologists with more alternatives and flexibility when testing animals in order to determine flock designations under the regulations. It would change the definition of high-risk animal, which will change the types of animals eligible for indemnity, and to pay higher indemnity for certain pregnant ewes and early maturing ewes. It would also make the identification and recordkeeping requirements for goat owners consistent with those for sheep owners. These changes would affect sheep and goat producers and State governments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/09	
NPRM Comment Period End	02/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Diane Sutton, National Scrapie Program Coordinator, Ruminant Health Programs, NCAHP, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 43, Riverdale, MD 20737–1235

USDA—APHIS

Proposed Rule Stage

Phone: 301 734-6954

RIN: 0579-AC92

197. • PLANT PEST REGULATIONS; UPDATE OF GENERAL PROVISIONS

Legal Authority: 7 USC 450; 7 USC 2260; 7 USC 7701 to 7772; 7 USC 7781 to 7786; 19 USC 136; 21 USC 111; 21 USC 114a; 21 USC 136 and 136a; 31 USC 9701; 42 USC 4331 to 4332

Abstract: We are proposing to revise our regulations regarding the movement of plant pests. We are proposing to regulate not only plant pests, but also biological control organisms and noxious weeds. We are proposing risk-based criteria for determining the plant pest status of biological control organisms, providing for the

environmental release of organisms for the biological control of weeds, providing for exemption from permit requirements for certain plant pests, and adding relevant definitions. We are also proposing to revise our regulations regarding the movement of soil. These proposed changes would clarify the factors that would be considered when assessing the risks associated with certain organisms, facilitate the importation and interstate movement of regulated organisms, provide transparency of the assessment process, and address gaps in the current regulations.

Timetable:

Action	Date	FR Cite
Notice of Intent to Prepare an Environmental Impact Statement	10/20/09	74 FR 53673
Notice Comment Period End	11/19/09	
NPRM	01/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Robert Flanders, Senior Technical Advisor, Plant Health Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 131, Riverdale, MD 20737-1236
Phone: 301 734-0858

RIN: 0579-AC98

Department of Agriculture (USDA)

Final Rule Stage

Animal and Plant Health Inspection Service (APHIS)

198. BOVINE SPONGIFORM ENCEPHALOPATHY; MINIMAL-RISK REGIONS AND IMPORTATION OF COMMODITIES; UNSEALING OF MEANS OF CONVEYANCE AND TRANSLOADING OF PRODUCTS

Legal Authority: 7 USC 450; 7 USC 1622; 7 USC 7701 to 7772; 7 USC 7781 to 7786; 7 USC 8301 to 8317; 21 USC 136 and 136a; 31 USC 9701; 42 USC 4331 and 4332

Abstract: In a final rule published in the Federal Register on January 4, 2005, we amended the regulations regarding the importation of animals and animal products to establish a category of regions that present a minimal risk of introducing bovine spongiform encephalopathy into the United States via live ruminants and ruminant products and byproducts, and added Canada to this category. We also established conditions for the importation of certain live ruminants and ruminant products and byproducts from such regions. This rule will amend the regulations to broaden who is authorized to break seals on means of conveyances carrying certain ruminants of Canadian origin. Additionally, it will amend the regulations regarding the transiting through the United States of certain ruminant products from Canada to allow for direct transloading of the products from one means of conveyance to another in the United

States under Federal supervision. These actions will contribute to the humane treatment of ruminants shipped to the United States from Canada and remove an impediment to international trade, without increasing the risk of the BSE disease agent entering the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/28/05	70 FR 71213
Interim Final Rule Comment Period End	01/27/06	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Karen A. James-Preston, Director, Technical Trade Services, Animal Products, NCIE, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 38, Riverdale, MD 20737-1231
Phone: 301 734-4356

RIN: 0579-AB97

199. IMPORTATION OF PLANTS FOR PLANTING; ESTABLISHING A NEW CATEGORY OF PLANTS FOR PLANTING NOT AUTHORIZED FOR IMPORTATION PENDING RISK ASSESSMENT (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 5 in part II of this issue of the Federal Register.

RIN: 0579-AC03

200. NATIONAL VETERINARY ACCREDITATION PROGRAM (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Legal Authority: 7 USC 8301 to 8317; 15 USC 1828

Abstract: This rulemaking will amend the regulations regarding the National Veterinary Accreditation Program to establish two accreditation categories in place of the current single category, to add requirements for supplemental training and renewal of accreditation, and to offer accreditation specializations. These changes are intended to support the Agency's animal health safeguarding initiatives, to involve accredited veterinarians in integrated surveillance activities, and to make the provisions governing our National Veterinary Accreditation Program more uniform and consistent.

USDA—APHIS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/01/06	71 FR 31109
NPRM Comment Period End	07/31/06	
Supplemental NPRM	02/27/07	72 FR 8634
Supplemental NPRM Comment Period End	04/30/07	
Final Action	12/00/09	

Regulatory Flexibility Analysis**Required:** No

Agency Contact: Todd Behre, Program Manager, National Veterinary Accreditation Program, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 46, Riverdale, MD 20737
Phone: 301 734-6188

RIN: 0579-AC04**201. CITRUS CANCKER; COMPENSATION FOR CERTIFIED CITRUS NURSERY STOCK**

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786

Abstract: This rulemaking will establish provisions under which eligible commercial citrus nurseries may, subject to the availability of appropriated funds, receive payments for certified citrus nursery stock destroyed to eradicate or control citrus canker. The payment of these funds is necessary in order to reduce the economic effects on affected commercial citrus nurseries that have had certified citrus nursery stock destroyed to control citrus canker.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/08/06	71 FR 33168
Interim Final Rule Effective	06/08/06	
Interim Final Rule Comment Period End	08/07/06	
Affirmation of Interim Final Rule	03/00/10	

Regulatory Flexibility Analysis**Required:** Yes

Agency Contact: Stephen Poe, Senior Operations Officer, Emergency and Domestic Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 137, Riverdale, MD 20737-1231
Phone: 301 734-4387

RIN: 0579-AC05**202. AGRICULTURAL INSPECTION AND AQI USER FEES ALONG THE U.S./CANADA BORDER**

Legal Authority: 7 USC 450; 7 USC 7701 to 7772; 7 USC 7781 to 7786; 7 USC 8301 to 8317; 21 USC 136 and 136a; 49 USC 80503

Abstract: This action amended the foreign quarantine and user fee regulations by removing the exemptions from inspection for fruits and vegetables grown in Canada and the exemptions from user fees for commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international air passengers entering the United States from Canada. As a result of this action, all agricultural products imported from Canada are subject to inspection, and commercial conveyances, as well as airline passengers arriving on flights from Canada, will be subject to inspection and user fees. We took this action in part because we were not recovering the costs of our inspection activities at the U.S./Canada border. In addition, our data showed an increasing number of interceptions on the U.S./Canada border of prohibited material that originated in regions other than Canada that presents a high risk of introducing plant pests or animal diseases into the United States. These findings, combined with additional Canadian airport preclearance data on interceptions of ineligible agricultural products approaching the U.S. border from Canada, strongly indicated that we needed to expand and strengthen our pest exclusion and smuggling interdiction efforts at that border. In order to do this and to recover the costs of our existing inspection activity, we need to collect user fees from commercial conveyances and international air passengers entering the United States from Canada.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/25/06	71 FR 50320
Interim Final Rule Comment Period End	11/24/06	
Interim Final Rule Effective	11/24/06	
Delay of Effective Date	11/22/06	71 FR 67436
Delay of Effective Date	02/26/07	72 FR 8261
Final Action	12/00/09	

Regulatory Flexibility Analysis**Required:** Yes

Agency Contact: Cynthia Stahl, Senior Staff Officer, Quarantine Policy, Analysis, and Support, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 60, Riverdale, MD 20737
Phone: 301 734-8415

RIN: 0579-AC06**203. CITRUS CANCKER; QUARANTINE OF THE STATE OF FLORIDA**

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786

Abstract: This action amended the citrus canker regulations to list the entire State of Florida as a quarantined area for citrus canker and amended the requirements for the movement of regulated articles from Florida now that the eradication of citrus canker in Florida is no longer being carried out as an objective. It also amended the regulations to allow regulated articles that would not otherwise be eligible for interstate movement to be moved to a port for immediate export. These changes were necessary in light of the Department's determination that the established eradication program was no longer a scientifically feasible option to address citrus canker.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/01/06	71 FR 43345
Interim Final Rule Effective	08/01/06	
Interim Final Rule Comment Period End	10/02/06	
Technical Amendment	01/12/07	72 FR 1415
Final Action	03/00/10	

Regulatory Flexibility Analysis**Required:** Yes

Agency Contact: Stephen Poe, Senior Operations Officer, Emergency and Domestic Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 137, Riverdale, MD 20737-1231
Phone: 301 734-4387

RIN: 0579-AC07**204. IMPORTATION OF POULTRY AND POULTRY PRODUCTS FROM REGIONS AFFECTED WITH HIGHLY PATHOGENIC AVIAN INFLUENZA**

Legal Authority: 7 USC 1622; 7 USC 8301 to 8317; 21 USC 136 and 136a

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Abstract: This rulemaking will amend the regulations concerning the importation of animals and animal products to prohibit or restrict the importation of birds, poultry, and bird and poultry products from regions that have reported the presence in commercial birds or poultry of highly pathogenic avian influenza other than subtype H5N1. This action will supplement existing prohibitions and restrictions on articles from regions that have reported the presence of exotic Newcastle disease or highly pathogenic avian influenza subtype H5N1. The new restrictions will be almost identical to those imposed on articles from regions with exotic Newcastle disease.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/09	
Interim Final Rule	02/00/10	
Comment Period		
End		

Regulatory Flexibility Analysis

Required: Yes

Agency Contact: Julia Punderson, Senior Staff Veterinarian, NCIE, Animal Health Policy and Programs, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 38, Riverdale, MD 20737

Phone: 301 734-4356

RIN: 0579-AC36

205. LIGHT BROWN APPLE MOTH QUARANTINE

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786

Abstract: We are quarantining 10 counties in California and the entire State of Hawaii because of the light brown apple moth and restricting the interstate movement of regulated articles from the quarantined areas. This action is necessary on an emergency basis to prevent the spread of the light brown apple moth into noninfested areas of the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/09	
Interim Final Rule	02/00/10	
Comment Period		
End		

Regulatory Flexibility Analysis

Required: Yes

Agency Contact: Deborah McPartlan, Staff Officer, Emergency and Domestic Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 134, Riverdale, MD 20737-1236

Phone: 301 734-5356

RIN: 0579-AC71

206. VIRAL HEMORRHAGIC SEPTICEMIA; INTERSTATE MOVEMENT AND IMPORT RESTRICTIONS ON CERTAIN LIVE FISH

Legal Authority: 7 USC 1622; 7 USC 8301 to 8317; 21 USC 136 and 136a; 31 USC 9701

Abstract: This rulemaking will establish regulations to restrict the interstate movement and importation into the United States of live fish that are susceptible to viral hemorrhagic septicemia, a highly contagious disease of certain fresh and saltwater fish. In 2005 and 2006, viral hemorrhagic septicemia was detected in freshwater fish in several of the Great Lakes and related tributaries. The disease has been responsible for several large-scale die-offs of wild fish in the Great Lakes region. This action is necessary to prevent further introductions into, and dissemination within, the United States of viral hemorrhagic septicemia.

Timetable:

Action	Date	FR Cite
Interim Final Rule (IFR)	09/09/08	73 FR 52173
Interim Final Rule	11/10/08	
Comment Period		
End		
IFR; Delay of Effective Date	10/28/08	73 FR 63867
Interim Final Rule	01/09/09	
Effective		
IFR; Delay of Effective Date	01/02/09	74 FR 1
Amended Interim Final Rule	02/00/10	

Regulatory Flexibility Analysis

Required: Yes

Agency Contact: P. Gary Egrie, Senior Staff Veterinary Medical Officer, National Center for Animal Health Programs, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 46, Riverdale, MD 20737-1231

Phone: 301 734-6188

Peter Merrill, Senior Staff Veterinarian, National Center for Import and Export,

VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737-1231

Phone: 301 734-8364

RIN: 0579-AC74

207. CITRUS GREENING AND ASIAN CITRUS PSYLLID; QUARANTINE AND INTERSTATE MOVEMENT REGULATIONS

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786; 21 USC 136 and 136a

Abstract: This rulemaking will establish regulations that designate the State of Florida and one parish in Louisiana as quarantined areas for citrus greening, and Alabama, Florida, Guam, Hawaii, Puerto Rico, Louisiana, Mississippi, Texas, three counties in South Carolina, and portions of two counties in California as quarantined areas for Asian citrus psyllid, a vector of a bacterium that causes citrus greening. It would also establish restrictions on the interstate movement of regulated articles from the quarantined areas, as well as treatments under which Asian citrus psyllid host material may be moved interstate from a quarantined area. These actions follow the discovery of citrus greening and/or Asian citrus psyllid in the quarantined areas, and are necessary in order to prevent the spread of the disease and its vector to noninfested areas of the United States.

Timetable:

Action	Date	FR Cite
Availability of an Environmental Assessment	09/09/09	74 FR 46409
Environmental Assessment	11/09/09	
Comment Period		
End		
Interim Final Rule	01/00/10	
Interim Final Rule	03/00/10	
Comment Period		
End		

Regulatory Flexibility Analysis

Required: Yes

Agency Contact: Patrick J. Gomes, National Project Coordinator, Citrus Health Response Program, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606-5213

USDA—APHIS

Final Rule Stage

Phone: 919 855-7313

RIN: 0579-AC85

**208. SIREX WOODWASP;
QUARANTINE AND REGULATIONS****Legal Authority:** 7 USC 7701 to 7772;
7 USC 7781 to 7786; 21 USC 136 to
136a**Abstract:** This rulemaking will
quarantine counties in Michigan, New
Jersey, New York, Ohio, Pennsylvania,
and Vermont because of the Sirexwoodwasp and establish restrictions on
the interstate movement of regulated
articles from these quarantined areas.
This action is necessary on an
emergency basis to prevent the artificial
spread of this plant pest to noninfested
areas of the United States.**Timetable:**

Action	Date	FR Cite
Interim Final Rule	12/00/09	
Interim Final Rule Comment Period End	02/00/10	

**Regulatory Flexibility Analysis
Required: Yes****Agency Contact:** Lynn Evans-Goldner,
Department of Agriculture, Animal and
Plant Health Inspection Service, 4700
River Road, Unit 137, Riverdale, MD
20737-1231
Phone: 301 734-7228

RIN: 0579-AC86

Department of Agriculture (USDA)

Animal and Plant Health Inspection Service (APHIS)

Long-Term Actions

**209. PHYTOSANITARY CERTIFICATES
FOR IMPORTED FRUITS AND
VEGETABLES****Legal Authority:** 7 USC 450; 7 USC
7701 to 7772; 7 USC 7781 to 7786; 21
USC 136 and 136a**Abstract:** Currently APHIS does not
require a phytosanitary certificate to
accompany fruits and vegetables
imported into the United States except
for certain fruits and vegetables grown
in designated foreign regions. This rule
will require that a phytosanitary
certificate accompany noncommercial
consignments of fresh fruits and
vegetables imported into the United
States by air passengers.**Timetable:**

Action	Date	FR Cite
NPRM	08/29/01	66 FR 45637
NPRM Comment Period End	10/29/01	
NPRM; Availability of Risk Assessment	05/24/06	71 FR 29846
NPRM; Availability of Risk Assessment Comment Period End	07/24/06	

Next Action Undetermined

**Regulatory Flexibility Analysis
Required: Yes****Agency Contact:** Evelia Sosa
Phone: 301 734-8295

RIN: 0579-AB18

disease (FMD) and other serious
diseases, including both cooperative
programs and extraordinary
emergencies. The purpose of this rule
is to remove possible sources of delay
in eradicating foot-and-mouth disease,
should an occurrence of that disease
occur in this country, so that eligible
claimants will be fully compensated
while at the same time protecting the
U.S. livestock population from the
further spread of this highly contagious
disease.**Timetable:**

Action	Date	FR Cite
NPRM	05/01/02	67 FR 21934
NPRM Comment Period Extended	06/28/02	67 FR 43566
NPRM Comment Period End	07/01/02	
NPRM Comment Period End	07/31/02	
Next Action Undetermined		

**Regulatory Flexibility Analysis
Required: Yes****Agency Contact:** Mark Teachman
Phone: 301 734-8073

RIN: 0579-AB34

**211. TUBERCULOSIS IN CATTLE;
IMPORT REQUIREMENTS (SECTION
610 REVIEW)****Legal Authority:** 7 USC 1622; 7 USC
8301 to 8317; 21 USC 136 and 136a;
31 USC 9701**Abstract:** This rulemaking would
amend the regulations regarding the
importation of animals into the United
States to establish several levels of risk
classifications to be applied to foreign
regions with regard to tuberculosis and
to establish requirements governing theimportation of cattle and captive bison
based on each risk classification. These
changes are necessary to help ensure
that cattle and captive bison infected
with tuberculosis are not imported into
the United States.**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

**Regulatory Flexibility Analysis
Required: Yes****Agency Contact:** Kelly Rhodes
Phone: 301 734-4356

RIN: 0579-AB44

**212. PHYTOPHTHORA RAMORUM;
QUARANTINE AND REGULATIONS****Legal Authority:** 7 USC 7701 to 7772;
7 USC 7781 to 7786**Abstract:** This action will amend the
Phytophthora ramorum regulations to
make the regulations consistent with a
Federal Order issued by APHIS in
December 2004 that established
restrictions on the interstate movement
of nursery stock from nurseries in
nonquarantined counties in California,
Oregon, and Washington. This action
will also update conditions for the
movement of regulated articles of
nursery stock from quarantined areas,
as well as restrict the interstate
movement of all other nursery stock
from nurseries in quarantined areas. We
are also updating the list of plants
regulated because of P. ramorum and
the list of areas that are quarantined
for P. ramorum and making other
miscellaneous revisions to the
regulations. These actions are necessary
to prevent the spread of P. ramorum**210. FOOT-AND-MOUTH DISEASE;
PAYMENT OF INDEMNITY****Legal Authority:** 7 USC 8301 to 8317**Abstract:** This rule would amend the
regulations for the cooperative control
and eradication of foot-and-mouth

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to noninfested areas of the United States. We will continue to update the regulations through additional rulemakings as new scientific information on this pathogen becomes available.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/27/07	72 FR 8585
Interim Final Rule Effective	02/27/07	
Interim Final Rule Comment Period End	04/30/07	
Final Action	To Be Determined	

Regulatory Flexibility Analysis

Required: Yes

Agency Contact: Jonathan Jones
Phone: 301 734–8247

RIN: 0579–AB82

213. BOLL WEEVIL; QUARANTINE AND REGULATIONS

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786

Abstract: This action would establish domestic boll weevil regulations that would restrict the interstate movement of regulated articles within regulated areas and from regulated areas into or through nonregulated areas in commercial cotton producing States. The regulations would help prevent the artificial spread of boll weevil into noninfested areas of the United States and the reinfestation of areas from which the boll weevil has been eradicated.

Timetable:

Action	Date	FR Cite
NPRM	10/31/06	71 FR 63707
NPRM Comment Period End	01/02/07	
NPRM Comment Period Extended	12/20/06	71 FR 76224
NPRM Comment Period End	02/01/07	
Next Action Undetermined		

Regulatory Flexibility Analysis

Required: Yes

Agency Contact: William Grefenstette
Phone: 301 734–8676

RIN: 0579–AB91

214. MINIMUM AGE REQUIREMENTS FOR THE TRANSPORT OF ANIMALS

Legal Authority: 7 USC 2131 to 2159

Abstract: This rulemaking would amend the Animal Welfare Act regulations by adding minimum age and weaning requirements for the transport in commerce of animals. The regulations currently contain such requirements for dogs and cats, but no corresponding ones for other regulated animals, despite the risks associated with the early transport of these species. The rule would also provide an exemption to allow animals to be transported without their mothers for medical treatment and for scientific research before reaching the minimum age and weaning requirement, provided certain conditions are met. Establishing minimum age requirements for the transport of animals and providing for the transport of animals that have not met the minimum age requirements are necessary to help ensure the humane treatment of these animals.

Timetable:

Action	Date	FR Cite
NPRM	05/09/08	73 FR 26344
NPRM Comment Period End	07/08/08	
NPRM Comment Period Reopened	07/31/08	73 FR 44671
NPRM Comment Period Extended	09/02/08	
Next Action Undetermined		

Regulatory Flexibility Analysis

Required: Yes

Agency Contact: Barbara Kohn
Phone: 301 734–7833

RIN: 0579–AC14

215. INTRODUCTION OF ORGANISMS AND PRODUCTS ALTERED OR PRODUCED THROUGH GENETIC ENGINEERING

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786; 31 USC 9701

Abstract: This rulemaking would revise the regulations regarding the importation, interstate movement, and environmental release of certain genetically engineered organisms in order to bring the regulations into alignment with provisions of the Plant Protection Act. The revisions would also update the regulations in response to advances in genetic science and technology and our accumulated experience in implementing the current regulations. This is the first comprehensive review and revision of the regulations since they were established in 1987. This rule would

affect persons involved in the importation, interstate movement, or release into the environment of genetically engineered plants and certain other genetically engineered organisms.

Timetable:

Action	Date	FR Cite
Notice of Intent to Prepare an Environmental Impact Statement	01/23/04	69 FR 3271
Comment Period End	03/23/04	
Notice of Availability of Draft Environmental Impact Statement	07/17/07	72 FR 39021
Comment Period End	09/11/07	
NPRM	10/09/08	73 FR 60007
NPRM Comment Period End	11/24/08	
Correction	11/10/08	73 FR 66563
NPRM Comment Period Reopened	01/16/09	74 FR 2907
NPRM Comment Period End	03/17/09	
NPRM; Notice of Public Scoping Session	03/11/09	74 FR 10517
NPRM Comment Period Reopened	04/13/09	74 FR 16797
NPRM Comment Period End	06/29/09	
Next Action Undetermined		

Regulatory Flexibility Analysis

Required: Yes

Agency Contact: John Turner
Phone: 301 734–5720

RIN: 0579–AC31

216. ANIMAL WELFARE; CLIMATIC AND ENVIRONMENTAL CONDITIONS FOR TRANSPORTATION OF WARM-BLOODED ANIMALS OTHER THAN MARINE MAMMALS

Legal Authority: 7 USC 2131 to 2159

Abstract: This rulemaking would amend the Animal Welfare Act regulations regarding transportation of live animals other than marine mammals by removing the current ambient temperature requirements for various stages in the transportation of those animals. The action would replace those requirements with a single performance standard under which the animals would be transported under climatic and environmental conditions that are appropriate for their welfare. The regulations currently require that ambient temperatures be maintained within certain ranges during

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transportation, but animals may be transported at ambient temperatures below the minimum temperatures if their consignor provides a certificate signed by a veterinarian certifying that the animals are acclimated to temperatures lower than the minimum temperature. This proposal would make acclimation certificates for live animals other than marine mammals unnecessary. This rule would replace a previously published proposed rule, which we are withdrawing as part of this document, that would have required that the acclimation certificate for a dog or cat be signed by the owner of the dog or cat being transported rather than by a veterinarian. This rulemaking does not address marine mammals due to their unique requirements for care and handling. We believe that establishing a single performance standard would ensure that warm-blooded animals other than marine mammals are transported in climatic and environmental conditions that are not detrimental to their welfare while allowing for variations in climatic and environmental conditions that are suitable for individual animals.

Timetable:

Action	Date	FR Cite
NPRM	01/03/08	73 FR 413
NPRM Comment Period End	03/03/08	
NPRM Comment Period Reopened	03/18/08	73 FR 14403
NPRM Comment Period End	04/17/08	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Gerald Rushin
Phone: 301 734-0954

RIN: 0579-AC41

217. IMPORTATION OF CATTLE FROM MEXICO; ADDITION OF PORT AT SAN LUIS, ARIZONA

Legal Authority: 7 USC 1622; 7 USC 8301 to 8317; 21 USC 136 and 136a; 31 USC 9701

Abstract: This rulemaking will amend the regulations regarding the importation of cattle from Mexico by adding San Luis, AZ, as a port through which cattle that have been infested with fever ticks or exposed to fever ticks or tick-borne diseases may be imported into the United States. A new facility for the handling of animals is to be constructed on the Mexican side of the border at the port of San Luis, AZ, that will be equipped with facilities necessary for the proper chute inspection, dipping, and testing that are required for such cattle under the regulations. The rule will also amend the regulations to remove provisions that limit the admission of cattle that have been infested with fever ticks or exposed to fever ticks or tick-borne diseases to the State of Texas. The statutory requirement that limited the admission of those cattle to the State of Texas has been repealed. These changes make an additional port of entry available and relieve restrictions on the movement of imported Mexican cattle within the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/29/08	73 FR 5132
NPRM Comment Period End	03/31/08	
Final Rule	01/02/09	74 FR 1
Final Rule Effective; But the Amendment to 93.427(b)(2) Effective Date Is Delayed Indefinitely	01/02/09	
Final Rule; Correction	05/12/09	74 FR 22090
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Betzaida Lopez
Phone: 301 734-8364

RIN: 0579-AC63

218. HANDLING OF ANIMALS; CONTINGENCY PLANS

Legal Authority: 7 USC 2131 to 2159

Abstract: This rulemaking will amend the Animal Welfare Act regulations to add requirements for contingency planning and training of personnel by research facilities and by dealers, exhibitors, intermediate handlers, and carriers. These requirements are necessary because we believe all licensees and registrants should develop a contingency plan for all animals regulated under the Animal Welfare Act in an effort to better prepare for potential disasters. This action will heighten the awareness of licensees and registrants regarding their responsibilities and help ensure a timely and appropriate response should an emergency or disaster occur.

Timetable:

Action	Date	FR Cite
NPRM	10/23/08	73 FR 63085
NPRM Comment Period End	12/22/08	
NPRM Comment Period Extended	12/19/08	73 FR 77554
NPRM Comment Period End	02/20/09	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jeanie Lin
Phone: 301 734-7833

RIN: 0579-AC69

Department of Agriculture (USDA)

Completed Actions

Animal and Plant Health Inspection Service (APHIS)

219. PLANT PEST REGULATIONS; UPDATE OF CURRENT PROVISIONS (COMPLETION OF A SECTION 610 REVIEW)

Legal Authority: 7 USC 450; 7 USC 7711 to 7772; 7 USC 7781 to 7786; 7 USC 8301 to 8317; 21 USC 136 and 136a; 31 USC 9701

Abstract: APHIS plans to amend its plant pest regulations to align them

more closely with the Plant Protection Act and to update them in response to advances in science and technology and our accumulated experiences in implementing the regulations.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/96	61 FR 50767

Action	Date	FR Cite
ANPRM Comment Period End	12/26/96	
NPRM	10/09/01	66 FR 51340
NPRM Comment Period End	02/06/02	
Rulemaking Proceeding Under RIN 0579-AC98	07/16/09	

USDA—APHIS

Completed Actions

Regulatory Flexibility Analysis**Required:** No

Agency Contact: Robert Flanders, Senior Technical Advisor, Plant Health Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 131, Riverdale, MD 20737–1236
Phone: 301 734–0858

RIN: 0579–AA80
220. STANDARDS FOR PERMANENT, PRIVATELY OWNED HORSE QUARANTINE FACILITIES (COMPLETION OF A SECTION 610 REVIEW)

Legal Authority: 7 USC 1622; 7 USC 8301 to 8317; 21 USC 136 and 136a; 31 USC 9701

Abstract: This rulemaking will establish standards for the approval of permanent, privately owned quarantine facilities for horses. We are taking this action because regional and seasonal demand for quarantine services for horses often exceeds the space available at existing facilities. Allowing imported horses to be quarantined in permanent, privately owned quarantine facilities that meet these newly proposed criteria facilitates the importation of horses while continuing to protect against the introduction of communicable diseases of horses.

Timetable:

Action	Date	FR Cite
NPRM	12/13/06	71 FR 74827
NPRM Comment Period End	02/12/07	
Final Rule	07/02/09	74 FR 31582
Final Rule Effective	08/03/09	

Regulatory Flexibility Analysis**Required:** Yes

Agency Contact: Ellen Buck, Veterinary Medical Officer, Import/Export Animals, National Center for Import and Export, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737–1231

Phone: 301 734–8364

RIN: 0579–AC00
221. USER FEES; EXPORT CERTIFICATION FOR PLANTS AND PLANT PRODUCTS

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786; 7 USC 8301 to

8317; 21 USC 136 and 136a; 49 USC 80503

Abstract: This rulemaking amends the user fee regulations by adjusting the fees charged for export certification of plants and plant products. We are increasing these user fees for fiscal years 2009 through 2012 to reflect the anticipated costs associated with providing these services during each year. This action adds a new user fee for Federal export certificates for plants and plant products that an exporter obtains from a State or county cooperator in order to recover our costs associated with that service. Finally, the action makes several nonsubstantive changes to the regulations for clarity. These changes will enable us to properly recover the costs of providing export certification services for plants and plant products.

Completed:

Reason	Date	FR Cite
Final Rule	07/08/09	74 FR 32391
Final Rule Effective	10/01/09	

Regulatory Flexibility Analysis**Required:** Yes

Agency Contact: Marcus McElvaine
Phone: 301 734–4382

Kris Caraher
Phone: 301 734–0882

RIN: 0579–AC22
222. • PALE CYST NEMATODE; QUARANTINE AND REGULATIONS

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786; 21 USC 136 and 136a

Abstract: This action will quarantine parts of Bingham and Bonneville Counties, ID, due to the discovery of the potato cyst nematode there and establish restrictions on the interstate movement of regulated articles from the quarantined area. This action is necessary on an emergency basis to prevent the spread of the potato cyst nematode to noninfested areas of the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/12/07	72 FR 51975
Interim Final Rule Effective	11/01/07	
Interim Final Rule Comment Period End	11/13/07	

Action	Date	FR Cite
Final Rule	04/29/09	74 FR 19374
Final Rule Effective	04/29/09	

Regulatory Flexibility Analysis**Required:** Yes

Agency Contact: Eileen Smith, National Program Manager, Emergency and Domestic Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 134, Riverdale, MD 20737–1236
Phone: 301 734–5235

RIN: 0579–AC54
223. BOVINE TUBERCULOSIS

Legal Authority: 7 USC 8301 to 8317

Abstract: This rulemaking would amend the bovine tuberculosis regulations by removing from incorporation by reference the Bovine Tuberculosis Eradication Uniform Methods and Rules, 1999, and including in 9 CFR part 77 all Federal requirements. We are also proposing a number of substantive changes to the requirements in order to enhance our bovine tuberculosis eradication efforts. The proposed changes include, but are not limited to, tightening certain tuberculosis surveillance and reporting requirements; strengthening the quarantine and quarantine-release requirements; setting minimum testing ages, depending upon the status of the State or zone of origin and/or the purpose of movement, when testing is required for interstate movement of cattle and bison; adding new requirements to prevent the spread of tuberculosis from wildlife to cattle and bison; adding new requirements for interstate movement of dairy cattle; strengthening the requirements for individual cattle and bison that are to be added to accredited herds; and providing for the interstate movement of commuter herds. Finally, we would reorganize 9 CFR part 77 to make the regulations clearer and easier to use.

Completed:

Reason	Date	FR Cite
Agency Is Reevaluating the Domestic Tuberculosis Program	07/30/09	

Regulatory Flexibility Analysis**Required:** Yes

Agency Contact: Charles W. Hench

USDA—APHIS

Completed Actions

Phone: 970 494-7378

RIN: 0579-AC73

224. • CITRUS CANCKER; MOVEMENT OF FRUIT FROM QUARANTINED AREAS**Legal Authority:** 7 USC 7701 to 7772; 7 USC 7781 to 7786

Abstract: This action will amend the citrus canker regulations to modify the conditions under which fruit may be moved interstate from a quarantined area. We will eliminate the requirement that each lot of finished fruit be inspected at the packinghouse and found to be free of visible symptoms of citrus canker, and we will remove the current prohibition on the movement of fruit from a quarantined area to commercial citrus-producing States. We will continue to require fruit moved interstate from a quarantined area be treated with an approved disinfectant and packed in a commercial packinghouse that operates under a compliance agreement. These changes will relieve some restrictions on the interstate movement of fresh citrus fruit from quarantined areas while maintaining conditions that will prevent the artificial spread of citrus canker.

Timetable:

Action	Date	FR Cite
NPRM	06/30/09	74 FR 31201
NPRM Comment Period End	08/31/09	
Final Action	10/22/09	74 FR 54431

Regulatory Flexibility Analysis**Required:** Yes

Agency Contact: Stephen Poe, Senior Operations Officer, Emergency and Domestic Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 137, Riverdale, MD 20737-1231

Phone: 301 734-4387

RIN: 0579-AC96

225. • USER FEES FOR AGRICULTURAL QUARANTINE AND INSPECTION SERVICES**Legal Authority:** 7 USC 7701 to 7772; 7 USC 7781 to 7786; 7 USC 8301 to 8317; 21 USC 136 and 136a; 49 USC 80503

Abstract: This action will amend the user fee regulations by adjusting the fees charged for certain agricultural quarantine and inspection (AQI) services that are provided in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the customs territory of the United States. The recent downturn in the U.S. economy has negatively impacted travel volumes, and, as a result, our user fee collections, which fund these services, have diminished. Because there has been no corresponding decrease in the risk of plant and animal pest and disease introduction into the United States, we have continued to provide inspection and related support services at the same level as we did before the downturn; however, our user fee collections have not been sufficient to enable us to recover fully the costs of providing those services and maintain

a reasonable reserve balance. We are therefore increasing our AQI user fees in order to provide adequate funds for these purposes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/28/09	74 FR 49311
Interim Final Rule Effective	10/01/09	
Interim Final Rule Effective Date Delayed	10/02/09	74 FR 50915
Notice of Public Meeting	10/23/09	74 FR 54758
Interim Final Rule Withdrawal Effective	10/30/09	
Delayed Interim Final Rule Effective	11/01/09	
Interim Final Rule Withdrawn	11/04/09	74 FR 57057
Interim Final Rule Comment Period End	11/27/09	

Regulatory Flexibility Analysis**Required:** Yes

Agency Contact: William E. Thomas, Director, Quarantine Policy, Analysis, and Support Staff, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 131, Riverdale, MD 20737
Phone: 301 734-5214

Kris Caraher, User Fee Section, Financial Services Branch, Financial Management Division, MRPBS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 55, Riverdale, MD 20737-1232
Phone: 301 734-0882

RIN: 0579-AC99

BILLING CODE 3410-34-S

**Department of Agriculture (USDA)
Rural Housing Service (RHS)****Final Rule Stage****226. GUARANTEED SINGLE-FAMILY HOUSING****Legal Authority:** 5 USC 301; 7 USC 1989; 42 USC 1480

Abstract: The Guaranteed Single-Family Housing program will provide better clarity and consistency within the program. The action is taken to update the regulations to current mortgage industry standards and

provide more guidance on program oversight and monitoring.

Timetable:

Action	Date	FR Cite
NPRM	12/15/99	64 FR 70124
NPRM Comment Period End	02/14/00	
Final Action	02/00/10	

Regulatory Flexibility Analysis**Required:** Yes

Agency Contact: Joaquin Tremols, Acting Director, Single-Family Housing Guaranteed Loan Division, Department of Agriculture, Rural Housing Service, 1400 Independence Avenue SW, Washington, DC 20250
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RIN: 0575-AC18

BILLING CODE 3410-XV-S

Department of Agriculture (USDA)
Food Safety and Inspection Service (FSIS)

Final Rule Stage

227. PERFORMANCE STANDARDS FOR THE PRODUCTION OF PROCESSED MEAT AND POULTRY PRODUCTS; CONTROL OF LISTERIA MONOCYTOGENES IN READY-TO-EAT MEAT AND POULTRY PRODUCTS

Regulatory Plan: This entry is Seq. No. 23 in part II of this issue of the **Federal Register**.

RIN: 0583-AC46

228. FEDERAL-STATE INTERSTATE SHIPMENT COOPERATIVE INSPECTION PROGRAM

Regulatory Plan: This entry is Seq. No. 24 in part II of this issue of the **Federal Register**.

RIN: 0583-AD37

BILLING CODE 3410-DM-S

Department of Agriculture (USDA)
Forest Service (FS)

Final Rule Stage

229. SPECIAL AREAS; STATE-SPECIFIC INVENTORIED ROADLESS AREA MANAGEMENT: COLORADO

Legal Authority: Not Yet Determined

Abstract: On April 11, 2007, Governor of Colorado Ritter submitted a petition under the provisions of the Administrative Procedure Act (5 U.S.C. 553(e)) and Agriculture Department regulation (7 CFR 1.28) to promulgate regulations, in cooperation with the State, for the management of inventoried roadless areas within the State of Colorado. After review and recommendation by the Roadless Area Conservation National Advisory Committee, the Secretary accepted the Governor's petition and initiated a proposed rulemaking for inventoried roadless areas in Colorado. The proposed rulemaking would manage Colorado's inventoried roadless areas by prohibiting road building and tree

cutting, with some exceptions, on 4.1 million acres of inventoried roadless areas in Colorado. The 4.1 million acres reflect the most updated IRA boundaries for Colorado, which incorporate planning rule revisions since 2001 on several Colorado national forests. Inventoried roadless areas that are allocated to ski area special uses (approximately 10,000 acres) would also be removed from roadless designation. Road construction and reconstruction plus timber harvesting would be prohibited in inventoried roadless areas, with some exceptions, on the Arapaho-Roosevelt, Grand Mesa-Uncompahgre, Gunnison, Manti-La Sal, Pike-San Isabel, Rio Grande, Routt, San Juan, and White River National Forests in Colorado. Exceptions to the prohibitions would be allowed for certain health, safety, valid existing rights, resource protection, and ecological management needs.

Web site: <http://roadless.fs.fed.us>

Timetable:

Action	Date	FR Cite
NPRM	07/25/08	73 FR 43544
NPRM Comment Period End	10/23/08	
Final Action	03/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Lorrie Parker, Regulatory Analyst, Department of Agriculture, Forest Service, ATTN: ORMS, D&R Branch, 1400 Independence Avenue SW, Washington, DC 20250-0003
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RIN: 0596-AC74

BILLING CODE 3410-11-S

Department of Agriculture (USDA)
Office of the Secretary (AgSEC)

Proposed Rule Stage

230. VOLUNTARY LABELING PROGRAM FOR DESIGNATED BIOBASED PRODUCTS

Legal Authority: PL 110-246

Abstract: The purpose of the program is to provide a "USDA Certified Biobased Product" label for use on biobased products meeting certain criteria to be established in the proposed rule, to specify those criteria for gaining use of the label, establish a system to make the label available to manufacturers and vendors of biobased products, and to establish the labeling program.

Timetable:

Action	Date	FR Cite
NPRM	07/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Ron Buckhalt, Manager, Biopreferred Program, Departmental Administration, Department of Agriculture, 342 Reporters Building, 300 7th Street SW, Washington, DC 20250
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RIN: 0503-AA35

231. DESIGNATION OF BIOBASED ITEMS FOR FEDERAL PROCUREMENT, ROUND 7

Legal Authority: PL 110-246

Abstract: Designates bath products; concrete and asphalt cleaners, including microbial and non-microbial concrete and asphalt cleaners as subcategories; corrosion removers; dishwashing detergents; floor cleaners and protectors; hair cleaning products, including shampoos and conditioners as subcategories; microbial cleaners; oven and grill cleaners; slide way lubricants; and thermal shipping containers, including durable and non-

USDA—AgSEC

Proposed Rule Stage

durable thermal shipping containers as subcategories.

Timetable:

Action	Date	FR Cite
NPRM	02/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Ron Buckhalt, Manager, Biopreferred Program, Departmental Administration, Department of Agriculture, 342

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RIN: 0503-AA36

BILLING CODE 3410-90-S

Department of Agriculture (USDA)

Proposed Rule Stage

Rural Business—Cooperative Service (RBS)

232. RENEWABLE ENERGY—CLARIFY REQUIREMENTS FOR CONSTRUCTION/DEVELOPMENT OF ENERGY PROGRAM PROJECTS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

Abstract: This regulation provides financial assistance to agricultural producers and rural small businesses for the purpose of purchasing and installing renewable energy systems and energy efficiency improvements in rural areas. Financial assistance to any single entity may be provided as a guaranteed loan or grant, or a combination of a loan and grant. Since the programs inception, it has become evident that some of the language in the existing regulation was misinterpreted by field offices and applicants. The changes are as follows:

- Clarify that surety requirements for projects under \$100,000, no surety is required. For projects between \$100,000 and \$200,000, no surety would be required if the contractor will accept payment as a “lump sum” at the end

of the work. For projects more than \$200,000, surety is required.

- The requirements for a review of plans and specifications by the Agency will refer to either the State Architect or State Engineer to perform the review rather than just an Agency employee.

- Clarify contract administration requirements for a design/build contract of more than \$200,000.

- Compliance with Executive Order 11246 is necessary for all construction contracts issued by non-profit applicants (not just those in excess of \$10,000).

- Non-profits must meet the requirements of 7 CFR 3019.40-48(e). Additional changes for non-for-profit entities are required as well. (The vast majority of Renewable Energy applicants are “for profit” entities. However, some non-profits are acceptable applicants.) The regulation does not adequately cover the additional requirements for a non-profit entity.

- Revise procurement, construction contract and construction

administration requirements. The present language needs to incorporate “lessons learned” with the experience gained in the five years since the inception of this new program.

- Include minor revisions to the application, application processing, and grant/loan-making requirements to clarify intentions not fully explained in the existing 7 CFR 4280 language.

Timetable:

Action	Date	FR Cite
NPRM	04/00/10	
NPRM Comment Period End	06/00/10	

Regulatory Flexibility Analysis Required: No

Agency Contact: Larry Fleming, Senior Architect, Department of Agriculture, STOP 0761, 1400 Independence Avenue SW, Washington, DC 20250
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RIN: 0570-AA69

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