

DEPARTMENT OF AGRICULTURE

Office of the Secretary

2 CFR Subtitle B, Ch. IV

5 CFR Ch. LXXIII

7 CFR Subtitle A; Subtitle B, Chs. I–XI, XIV–XVIII, XX, XXV–XXXVIII, XLII

9 CFR Chs. I–III

36 CFR Ch. II

48 CFR Ch. 4

Semiannual Regulatory Agenda, Spring 2016

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 Orders (E.O.) 12866 “Regulatory Planning and Review,” and 13563 “Improving Regulation and Regulatory 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 as well as any regulation consistent with Executive Order 13563.

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 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) 720–3257.

Dated: March 18, 2016.

Michael Poe,
Legislative and Regulatory Staff.

AGRICULTURAL MARKETING SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
1	National Organic Program, Organic Pet Food Standards	0581–AD20
2	National Organic Program, Organic Apiculture Practice Standard, NOP–12–0063	0581–AD31
3	National Organic Program—Organic Aquaculture Standards	0581–AD34
4	NOP; Organic Livestock and Poultry Practices	0581–AD44

AGRICULTURAL MARKETING SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
5	National Organic Program, Origin of Livestock, NOP–11–0009	0581–AD08

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
6	Plant Pest Regulations; Update of General Provisions	0579–AC98
7	Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts.	0579–AD10
8	Brucellosis and Bovine Tuberculosis; Update of General Provisions	0579–AD65

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
9	Scrapie in Sheep and Goats	0579–AC92
10	Importation of Wood Packaging Material From Canada	0579–AD28
11	Establishing a Performance Standard for Authorizing the Importation and Interstate Movement of Fruits and Vegetables.	0579–AD71
12	Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List.	0579–AE08

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
13	Lacey Act Implementation Plan; Definitions for Exempt and Regulated Articles	0579–AD11
14	Exportation of Live Animals, Hatching Eggs, and Animal Germplasm From the United States	0579–AE00
15	Importation of Tomato Plantlets in Approved Growing Media From Mexico	0579–AE06
16	Importation of Phalaenopsis Spp. Plants for Planting in Approved Growing Media From China to the Continental United States.	0579–AE10

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
17	Undue Preference and Advantage	0580–AB27

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
18	Scope and Unfair Practices	0580–AB25

FOOD AND NUTRITION SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
19	Modernizing Supplemental Nutrition Assistance Program (SNAP) Benefit Redemption Systems	0584–AE37

FOOD AND NUTRITION SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
20	National School Lunch and School Breakfast Programs: Nutrition Standards for All Foods Sold in School, as Required by the Healthy, Hunger-Free Kids Act of 2010.	0584–AE09
21	Child Nutrition Programs: Local School Wellness Policy Implementation Under the Healthy, Hunger-Free Kids Act of 2010.	0584–AE25

FOOD AND NUTRITION SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
22	Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act of 2010.	0584–AE18

FOOD SAFETY AND INSPECTION SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
23	Elimination of Trichina Control Regulations and Consolidation of Thermally Processed, Commercially Sterile Regulations.	0583–AD59

FOOD SAFETY AND INSPECTION SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
24	Mandatory Inspection of Fish of the Order Siluriformes and Products Derived From Such Fish	0583–AD36

FOREST SERVICE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
25	Management of Surface Activities Associated With Outstanding Mineral Rights on National Forest System Lands (Directive).	0596-AD03

FOREST SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
26	Ski Area—D Clauses: Resource and Improvement Protection, Water Facilities, and Water Rights (Directive).	0596-AD14

OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
27	Designation of Biobased Product Categories for Federal Procurement, Round 11	0599-AA24
28	Designation of Biobased Product Categories for Federal Procurement, Round 12	0599-AA25

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

Proposed Rule Stage

1. National Organic Program, Organic Pet Food Standards

Legal Authority: 7 U.S.C. 6501

Abstract: The National Organic Program (NOP) establishes national standards governing the marketing of organically produced agricultural products. In 2004, the National Organic Standards Board (NOSB) initiated the development of organic pet food standards, which had not been incorporated into the NOP regulations, by forming a task force which included pet food manufacturers, organic consultants, etc. Collectively, these experts drafted organic pet food standards consistent with the Organic Foods Production Act of 1990, Food and Drug Administration requirements, and the Association of American Feed Control Officials (AAFCO) Model Regulations for Pet and Specialty Pet Food. The AAFCO regulations are scientifically based regulations for voluntary adoption by State jurisdictions to ensure the safety, quality, and effectiveness of feed. In November 2008, the NOSB approved a final recommendation for organic pet food standards incorporating the provisions drafted by the pet food task force.

Timetable:

Action	Date	FR Cite
NPRM	09/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Miles McEvoy, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720-3252.

RIN: 0581-AD20

2. National Organic Program, Organic Apiculture Practice Standard, NOP-12-0063

Legal Authority: 7 U.S.C. 6501

Abstract: This action proposes to amend the USDA organic regulations to reflect an October 2010 recommendation submitted to the Secretary by the National Organic Standards Board (NOSB) concerning the production of organic apicultural (or beekeeping) products.

Timetable:

Action	Date	FR Cite
NPRM	09/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Miles McEvoy, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720-3252.

RIN: 0581-AD31

3. National Organic Program—Organic Aquaculture Standards

Legal Authority: 7 U.S.C. 6501 to 6522

Abstract: This action proposes to establish standards for organic

production and certification of farmed aquatic animals and their products in the USDA organic regulations. This action would also add aquatic animals as a scope of certification and accreditation under the National Organic Program (NOP). This action is necessary to establish standards for organic farmed aquatic animals and their products which would allow U.S. producers to compete in the organic seafood market. This action is also necessary to address multiple recommendations provided to USDA by the National Organic Standards Board (NOSB). From 2007 through 2009, the NOSB made five recommendations to establish standards for the certification of organic farmed aquatic animals and their products. Finally, the U.S. currently has organic standards equivalence arrangements with Canada and the European Union (EU). Both Canada and the EU established standards for organic aquaculture products. Because the U.S. does not have organic aquaculture standards, the U.S. is unable to include aquaculture in the scope of these arrangements. Establishing U.S. organic aquaculture may provide a basis for expanding those trade partnerships.

Timetable:

Action	Date	FR Cite
NPRM	08/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Miles McEvoy, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing

Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720-3252.

RIN: 0581-AD34

4. • NOP; Organic Livestock and Poultry Practices

Legal Authority: 7 U.S.C. 6501 to 6522

Abstract: This action proposes to establish standards that support additional practice standards for organic livestock and poultry production. This action would add provisions to the USDA organic regulations to address and clarify livestock and poultry living conditions (for example, outdoor access, housing environment and stocking densities), health care practices (for example physical alterations, administering medical treatment, euthanasia), and animal handling and transport to and during slaughter.

Timetable:

Action	Date	FR Cite
NPRM	04/13/16	81 FR 21955
NPRM Comment Period End.	06/13/16	
Final Action	10/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Miles McEvoy, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720-3252.

RIN: 0581-AD44

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

Final Rule Stage

5. National Organic Program, Origin of Livestock, NOP-11-0009

Legal Authority: 7 U.S.C. 6501

Abstract: The current regulations provide two tracks for replacing dairy animals which are tied to how dairy farmers transition to organic production. Farmers who transition an entire distinct herd must thereafter replace dairy animals with livestock that has been under organic management from the last third of gestation. Farmers who do not transition an entire distinct herd may perpetually obtain replacement animals that have been managed organically for 12 months prior to marketing milk or milk products as organic. The proposed action would eliminate the two-track system and require that upon transition, all existing

and replacement dairy animals from which milk or milk products are intended to be sold, labeled, or represented as organic must be managed organically from the last third of gestation.

Timetable:

Action	Date	FR Cite
NPRM	04/28/15	80 FR 23455
NPRM Comment Period End.	07/27/15	
Final Action	05/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Miles McEvoy, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720-3252.

RIN: 0581-AD08

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Proposed Rule Stage

6. Plant Pest Regulations; Update of General Provisions

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 2260; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 7 U.S.C. 8301 to 8817; 19 U.S.C. 136; 21 U.S.C. 111; 21 U.S.C. 114a; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332

Abstract: We are proposing to revise our regulations regarding the movement of plant pests. We are proposing criteria regarding the movement and environmental release of biological control organisms, and are proposing to establish regulations to allow the importation and movement in interstate commerce of certain types of plant pests without restriction by granting exceptions from permitting requirements for those pests. We are also proposing to revise our regulations regarding the movement of soil. This proposed rule replaces a previously published proposed rule, which we are withdrawing as part of this document. This proposal would clarify the factors that would be considered when assessing the risks associated with the movement of certain organisms and facilitate the movement of regulated organisms and articles in a manner that also protects U.S. agriculture.

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	05/00/16	
NPRM Comment Period End.	07/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Colin Stewart, Assistant Director, Pests, Pathogens, and Biocontrol Permits, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 133, Riverdale, MD 20737-1236, *Phone:* 301 851-2237.

RIN: 0579-AC98

7. Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 1622; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 7 U.S.C. 8301 to 8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701

Abstract: This rulemaking would amend the bovine spongiform encephalopathy (BSE) and scrapie regulations regarding the importation of live sheep, goats, and wild ruminants and their embryos, semen, products, and byproducts. The proposed scrapie revisions regarding the importation of sheep, goats, and susceptible wild ruminants for other than immediate slaughter are similar to those recommended by the World Organization for Animal Health in restricting the importation of such animals to those from scrapie-free regions or certified scrapie-free flocks.

Timetable:

Action	Date	FR Cite
NPRM	05/00/16	
NPRM Comment Period End.	07/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Langston Hull, Senior Staff Veterinary Medical Officer, Animal Permitting and Negotiating Services, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737-1231, *Phone:* 301 851-3300.

RIN: 0579-AD10

8. Brucellosis and Bovine Tuberculosis; Update of General Provisions

Legal Authority: 7 U.S.C. 1622; 7 U.S.C. 8301 to 8317; 15 U.S.C. 1828; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701

Abstract: This rulemaking would consolidate the regulations governing bovine tuberculosis (TB), currently found in 9 CFR part 77, and those governing brucellosis, currently found in 9 CFR part 78. As part of this consolidation, we are proposing to transition the TB and brucellosis programs away from a State status system based on disease prevalence. Instead, States and tribes would implement an animal health plan that identifies sources of the diseases within the State or tribe and specifies mitigations to address the risk posed by these sources. The consolidated regulations also would set forth standards for surveillance, epidemiological investigations, and affected herd management that must be incorporated into each animal health plan, with certain limited exceptions; conditions for the interstate movement of cattle, bison, and captive cervids; and conditions for APHIS approval of tests for bovine TB or brucellosis. Finally, the rulemaking would revise the import requirements for cattle and bison to make these requirements clearer and ensure that they more effectively mitigate the risk of introduction of the diseases into the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/16/15	80 FR 78461
NPRM Comment Period End.	03/15/16	
NPRM Comment Period Extended.	03/11/16	81 FR 12832
NPRM Comment Period Extended End.	05/16/16	
Final Rule	02/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Langston Hull, Senior Staff Veterinary Medical Officer, Animal Permitting and Negotiating Services, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737-1231, *Phone:* 301 851-3300.

C. William Hench, Senior Cattle Health Specialist, Cattle Health Center, Surveillance, Preparedness, and Response, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 2150 Centre Avenue, Building B-3E20, Fort Collins, CO 80526, *Phone:* 970 494-7378.

RIN: 0579-AD65

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Final Rule Stage

9. Scrapie in Sheep and Goats

Legal Authority: 7 U.S.C. 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. It would simplify, reduce, or remove 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 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	09/10/15	80 FR 54659
NPRM Comment Period End.	11/09/15	
NPRM Comment Period Re-opened.	11/16/15	80 FR 70718
NPRM Comment Period Re-opened End.	12/09/15	
Final Action	07/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Diane Sutton, Sheep, Goat, Cervid, and Equine Health Center; Surveillance, Preparedness, and Response Services, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 43, Riverdale, MD 20737-1235, *Phone:* 301 851-3509.

RIN: 0579-AC92

10. Importation of Wood Packaging Material From Canada

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 21 U.S.C. 136 and 136a

Abstract: This rulemaking will amend the regulations for the importation of unmanufactured wood articles with regard to the exemption that allows wood packaging material from Canada to enter the United States without first meeting the treatment and marking requirements of the regulations that

apply to wood packaging material from all other countries. This action is necessary in order to prevent the dissemination and spread of pests via wood packaging material from Canada.

Timetable:

Action	Date	FR Cite
NPRM	12/02/10	75 FR 75157
NPRM Comment Period End.	01/31/11	
Final Rule	09/00/16	
Final Action Effective.	10/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Tyrone Jones, Trade Director, Forestry Products, Phytosanitary Issues Management, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 140, Riverdale, MD 20737-1231, *Phone:* 301 851-2344.

RIN: 0579-AD28

11. Establishing a Performance Standard for Authorizing the Importation and Interstate Movement of Fruits and Vegetables

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 21 U.S.C. 136 and 136a

Abstract: This rulemaking will amend our regulations governing the importations of fruits and vegetables by broadening our existing performance standard to provide for consideration of all new fruits and vegetables for importation into the United States using a notice-based process. Rather than authorizing new imports through proposed and final rules and specifying import conditions in the regulations, the notice-based process uses **Federal Register** notices to make risk analyses available to the public for review and comment, with authorized commodities and their conditions of entry subsequently being listed on the Internet. It also will remove the region- or commodity-specific phytosanitary requirements currently found in these regulations. Likewise, we are proposing an equivalent revision of the performance standard in our regulations governing the interstate movements of fruits and vegetables from Hawaii and the U.S. territories (Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands) and the removal of commodity-specific phytosanitary requirements from those regulations. This action will allow for the consideration of requests to authorize the importation or interstate movement of new fruits and vegetables in a manner that enables a more flexible and responsive regulatory approach to

evolving pest situations in both the United States and exporting countries. It will not, however, alter the science-based process in which the risk associated with importation or interstate movement of a given fruit or vegetable is evaluated or the manner in which risks associated with the importation or interstate movement of a fruit or vegetable are mitigated.

Timetable:

Action	Date	FR Cite
NPRM	09/09/14	79 FR 53346
NPRM Comment Period End.	11/10/14	
NPRM Comment Period Re-opened.	12/04/14	79 FR 71973
NPRM Comment Period End.	01/09/15	
NPRM Comment Period Re-opened.	02/06/15	80 FR 6665
NPRM Comment Period End.	03/10/15	
Final Rule	08/00/16	
Final Rule Effective.	10/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nicole Russo, Assistant Director, Regulatory Coordination and Compliance, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 133, Riverdale, MD 20737–1236, *Phone:* 301 851–2159. *RIN:* 0579–AD71

12. • Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of The Select Agent and Toxin List

Legal Authority: 7 U.S.C. 8401
Abstract: In accordance with the Agricultural Bioterrorism Protection Act of 2002, we are soliciting public comment regarding the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products. The Act requires the biennial review and republication of the list of select agents and toxins and the revision of the list as necessary. Accordingly, we are soliciting public comment on the current list of select agents and toxins in our regulations and suggestions regarding any addition or reduction of the animal or plant pathogens currently on the list of select agents.

Timetable:

Action	Date	FR Cite
ANPRM	02/27/15	80 FR 10627
ANPRM Comment Period End.	04/28/15	

Action	Date	FR Cite
NPRM	01/19/16	81 FR 2762
NPRM Comment Period End.	03/21/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Freeda Isaac, National Director, Agriculture Select Agent Services, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 2, Riverdale, MD 20737–1231, *Phone:* 301 851–3300. *RIN:* 0579–AE08

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Completed Actions

13. Lacey Act Implementation Plan; Definitions for Exempt and Regulated Articles

Legal Authority: 16 U.S.C. 3371 *et seq.*

Abstract: We are adopting as a final rule, without change, an interim final rule that established definitions for the terms common cultivar and common food crop and several related terms. The 2008 amendments to the Lacey Act expanded its protections to a broader range of plant species; extended its reach to encompass products, including timber, that derive from illegally harvested plants; and required that importers submit a declaration at the time of importation for certain plants and plant products. Common cultivars and common food crops are among the categorical exclusions to the provisions of the Act. The Act does not define the terms common cultivar and common food crop but instead gives authority to the U.S. Department of Agriculture and the U.S. Department of the Interior to define these terms by regulation. The interim final rule specifically requested comment on definitions of two related terms: commercial scale and tree. This document responds to comments we received on those definitions.

Completed:

Reason	Date	FR Cite
Affirmation of Interim Final Rule.	01/25/16	81 FR 3939
Affirmation of Interim Final Rule Effective.	01/25/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Parul Patel, *Phone:* 301 851–2351.

RIN: 0579–AD11

14. • Exportation of Live Animals, Hatching Eggs, and Animal Germplasm From the United States

Legal Authority: 7 U.S.C. 8301 to 8317; 19 U.S.C. 1644a(c); 21 U.S.C. 136, 136a, and 618; 46 U.S.C. 3901 and 3902

Abstract: We are revising the regulations pertaining to the exportation of livestock from the United States. Among other things, we are removing most of the requirements for export health certifications, tests, and treatments from the regulations, and instead directing exporters to follow the requirements of the importing country regarding such processes and procedures. We are retaining only those export health certification, testing, and treatment requirements that we consider necessary to have assurances regarding the health and welfare of livestock exported from the United States. We also are allowing pre-export inspection of livestock to occur at facilities other than an export inspection facility associated with the port of embarkation, under certain circumstances, and replacing specific standards for export inspection facilities and ocean vessels with performance standards. These changes will provide exporters and the Animal and Plant Health Inspection Service (APHIS) with more flexibility in arranging for the export of livestock from the United States while continuing to ensure the health and welfare of the livestock. Additionally, if APHIS knows that an importing country requires an export health certificate endorsed by the competent veterinary authority of the United States for any animal other than livestock, including pets, or for any hatching eggs or animal germplasm, we are requiring that the animal, hatching eggs, or animal germplasm have such a health certificate to be eligible for export from the United States. This change will help ensure that all animals, hatching eggs, and animal germplasm exported from the United States meet the health requirements of the countries to which they are destined. Finally, we are making editorial amendments to the regulations to make them easier to understand and comply with.

Timetable:

Action	Date	FR Cite
NPRM	02/26/15	80 FR 10398
NPRM Comment Period End.	04/27/15	
Final Rule	01/20/16	81 FR 2967
Final Rule Effective.	02/19/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jack Taniewski, Director for Animal Export, National Import Export Services, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737-1231, *Phone:* 301 851-3300.

RIN: 0579-AE00

15. • Importation of Tomato Plantlets in Approved Growing Media From Mexico

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 21 U.S.C. 136 and 136a

Abstract: This rulemaking amends the regulations governing the importation of plants for planting to authorize the importation of tomato plantlets from Mexico in approved growing media, subject to a systems approach. The systems approach consists of measures currently specified for tomato plants for planting not imported in growing media, as well as measures specific to all plants for planting imported into the United States in approved growing media. Additionally, the plantlets must be imported into greenhouses in the continental United States and the importers of the plantlets from Mexico or the owners of the greenhouses in the continental United States must enter into compliance agreements regarding the conditions under which the plants from Mexico must enter and be maintained within the greenhouses. This rule allows for the importation into the continental United States of tomato plantlets from Mexico in approved growing media, while providing protection against the introduction of plant pests. The rule also allows the imported greenhouse plantlets to produce tomato fruit for commercial sale within the United States.

Timetable:

Action	Date	FR Cite
NPRM	03/05/15	80 FR 11946
NPRM Comment Period End.	05/04/15	
Final Rule	10/02/15	80 FR 59557
Final Rule Effective.	11/02/15	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lydia Coloón, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 133, Riverdale, MD 20737-1236, *Phone:* 301 851-2302.

RIN: 0579-AE06

16. • Importation of Phalaenopsis SPP. Plants for Planting in Approved Growing Media From China to the Continental United States

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 21 U.S.C. 136 and 136a

Abstract: This rulemaking amends the regulations governing the importation of plants for planting to authorize the importation of Phalaenopsis spp. plants for planting from China in approved growing media into the continental United States, subject to a systems approach. The systems approach consists of measures that are currently specified in the regulations as generally applicable to all plants for planting authorized for importation into the United States in approved growing media. This rule allows for the importation of Phalaenopsis spp. plants for planting from China in approved growing media, while providing protection against the introduction of quarantine plant pests.

Timetable:

Action	Date	FR Cite
NPRM	06/01/15	80 FR 30959
NPRM Comment Period End.	07/31/15	
Final Rule	02/11/16	81 FR 7195
Final Rule Effective.	03/14/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lydia Colón, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 133, Riverdale, MD 20737-1236, *Phone:* 301 851-2302.

RIN: 0579-AE10

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE (USDA)

Grain Inspection, Packers and Stockyards Administration (GIPSA)

Proposed Rule Stage

17. • Undue Preference and Advantage

Legal Authority: Pub. L. 110-246; 7 U.S.C. 181-229c

Abstract: Title XI of the 2008 Farm Bill required the Secretary of Agriculture to issue a number of regulations under the P&S Act. Among these instructions, the 2008 Farm Bill directed the Secretary to identify criteria to be considered in determining whether an undue or unreasonable preference or advantage has occurred in violation of the P&S Act. In June of

2010, the Grain Inspection, Packers and Stockyards Administration (GIPSA) published a proposed rule addressing this statutory requirement along with several other rules required by the 2008 Farm Bill. Proposed 201.211 to the regulations under the P&S Act would have established criteria that the Secretary may consider in determining if conduct would violate section 202(b) of the P&S Act (undue or unreasonable preference or advantage). While many commenters provided examples of similarly situated poultry growers and livestock producers receiving different treatment, other commenters were concerned about the impacts of the provision on marketing arrangements and other beneficial contractual agreements. Beginning with the FY 2012 appropriations act, USDA was precluded from working on certain proposed regulatory provisions related to the P&S Act, including criteria in this proposal regarding undue or unreasonable preferences or advantages. Consequently, GIPSA did not finalize this rule in 2011. The prohibitions are not included in the Consolidated Appropriations Act, 2016. This rulemaking is necessary to fulfill statutory requirements.

Timetable:

Action	Date	FR Cite
Proposed Rule	09/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Raymond Dexter Thomas II, Lead Regulatory Analyst, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, 1400 Independence Avenue SW., Room 2530-South, Washington, DC 20250, *Phone:* 202 720-6529, *Fax:* 202 690-2173, *Email:* r.dexter.thomas@usda.gov.

RIN: 0580-AB27

DEPARTMENT OF AGRICULTURE (USDA)

Grain Inspection, Packers and Stockyards Administration (GIPSA)

Final Rule Stage

18. • Scope and Unfair Practices

Legal Authority: Pub. L. 110-246; 7 U.S.C. 181 to 229c

Abstract: In June of 2010, GIPSA published a proposal to amend section 201.3 of the regulations issued under the Packers and Stockyards Act (P&S Act), 1921, as amended. This proposed change responds to guidance from the courts. The courts, in addressing

litigation brought by poultry growers alleging harm, have said that GIPSA's statements regarding the appropriate application of subsections 202(a) and 202(b) are not entitled to deference in the absence of regulation addressing whether the P&S Act prohibits all unfair practices, or only those causing harm or a likelihood of harm to competition. The amendment to 201.3 will establish GIPSA's interpretation of the statute which will then be entitled to judicial deference. Section 201.210 will illustrate by way of examples types of conduct GIPSA would consider unfair, unjustly discriminatory, or deceptive.

Timetable:

Action	Date	FR Cite
Final Rule	09/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Raymond Dexter Thomas II, Lead Regulatory Analyst, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, 1400 Independence Avenue SW., Room 2530—South, Washington, DC 20250, *Phone:* 202 720-6529, *Fax:* 202 690-2173, *Email:* r.dexter.thomas@usda.gov.

RIN: 0580-AB25

BILLING CODE 3410-EN-P

DEPARTMENT OF AGRICULTURE (USDA)

Food and Nutrition Service (FNS)

Proposed Rule Stage

19. Modernizing Supplemental Nutrition Assistance Program (SNAP) Benefit Redemption Systems

Legal Authority: Pub. L. 113-79

Abstract: The Agricultural Act of 2014 (Pub. L. 113-79, the Farm Bill) amended the Food and Nutrition Act of 2008 (the FNA) to include new requirements regarding the acceptance and processing of SNAP client benefits by all non-exempt retailers participating in SNAP. Statutory changes will modernize EBT systems and ensure greater program integrity. The Food and Nutrition Service (FNS) also plans to revise certain SNAP regulations for which multiple State agencies have sought and received approval of waivers. The revisions will streamline program administration, offer greater flexibility to State agencies, and improve customer service.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles H. Watford, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605-0800, *Email:* charles.watford@fns.usda.gov.

Lynnette M. Thomas, Chief, Planning and Regulatory Affairs Branch, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605-4782, *Email:* lynnette.thomas@fns.usda.gov.

RIN: 0584-AE37

DEPARTMENT OF AGRICULTURE (USDA)

Food and Nutrition Service (FNS)

Final Rule Stage

20. National School Lunch and School Breakfast Programs: Nutrition Standards for All Foods Sold in School, as Required by the Healthy, Hunger-Free Kids Act of 2010

Legal Authority: Pub. L. 111-296

Abstract: This rule codifies the two provisions of the Healthy, Hunger-Free Kids Act (Pub. L. 111-296; the Act) under 7 CFR parts 210 and 220. Section 208 requires the Secretary to promulgate regulations to establish science-based nutrition standards for all foods sold in schools. The nutrition standards apply to all food sold outside the school meal programs, on the school campus, and at any time during the school day. Section 203 requires schools participating in the National School Lunch Program to make available to children free of charge, as nutritionally appropriate, potable water for consumption in the place where meals are served during meal service.

Timetable:

Action	Date	FR Cite
NPRM	02/08/13	78 FR 9530
NPRM Comment Period End.	04/09/13	
Interim Final Rule	06/28/13	78 FR 39067
Interim Final Rule Effective.	08/27/13	
Interim Final Rule Comment Period End.	10/28/13	
Final Action	05/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles H. Watford, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605-0800, *Email:* charles.watford@fns.usda.gov.

Lynnette M. Thomas, Chief, Planning and Regulatory Affairs Branch, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605-4782, *Email:* lynnette.thomas@fns.usda.gov.

RIN: 0584-AE09

21. Child Nutrition Programs: Local School Wellness Policy Implementation Under the Healthy, Hunger-Free Kids Act of 2010

Legal Authority: Pub. L. 111-296

Abstract: This final rule codifies a provision of the Healthy, Hunger-Free Kids Act (Pub. L. 111-296; the Act) under 7 CFR parts 210 and 220. Section 204 of the Act requires each local educational agency (LEA) to establish, for all schools under its jurisdiction, a local school wellness policy. The Act requires that the wellness policy include goals for nutrition, nutrition education, physical activity, and other school-based activities that promote student wellness. In addition, the Act requires that local educational agencies ensure stakeholder participation in development of their local school wellness policies, and periodically assess compliance with the policies, and disclose information about the policies to the public.

Timetable:

Action	Date	FR Cite
NPRM	02/26/14	79 FR 10693
NPRM Comment Period End.	04/28/14	
Final Action	05/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles H. Watford, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605-0800, *Email:* charles.watford@fns.usda.gov.

Lynnette M. Thomas, Chief, Planning and Regulatory Affairs Branch, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605-4782, *Email:* lynnette.thomas@fns.usda.gov.

RIN: 0584-AE25

DEPARTMENT OF AGRICULTURE (USDA)

Food and Nutrition Service (FNS)

Completed Actions

22. Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act of 2010

Legal Authority: Pub. L. 111–296
Abstract: This final rule will implement section 221 of the Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111–296; the Act). It requires USDA to review and update, no less frequently than once every 10 years, requirements for meals served under the Child and Adult Care Food Program (CACFP) to ensure those meal patterns are consistent with the most recent Dietary Guidelines for Americans and relevant nutrition science.

Completed:

Reason	Date	FR Cite
Final Action	04/25/16	81 FR 24348
Final Action Effective.	06/24/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles H. Watford, Phone: 703 605–0800, Email: charles.watford@fns.usda.gov.
 Lynnette M. Thomas, Phone: 703 605–4782, Email: lynnette.thomas@fns.usda.gov.
 RIN: 0584–AE18

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE (USDA)

Food Safety and Inspection Service (FSIS)

Proposed Rule Stage

23. Elimination of Trichina Control Regulations and Consolidation of Thermally Processed, Commercially Sterile Regulations

Legal Authority: Federal Meat Inspection Act (FMIA); Poultry Products Inspection Act (PPIA)

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations to eliminate the requirements for both ready-to-eat (RTE) and not-ready-to-eat (NRTE) pork and pork products to be treated to destroy trichina (*Trichinella spiralis*) because the regulations are inconsistent with the Hazard Analysis and Critical Control Point (HACCP) regulations, and these prescriptive regulations are no longer

necessary. If this supplemental proposed rule is finalized, FSIS will end its Trichinella Approved Laboratory Program (TALP program) for the evaluation and approval of non-Federal laboratories that use the pooled sample digestion technique to analyze samples for the presence of trichina. FSIS is also proposing to consolidate the regulations on thermally processed, commercially sterile meat and poultry products (*i.e.*, canned food products containing meat or poultry).

Timetable:

Action	Date	FR Cite
NPRM	05/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Daniel L. Engeljohn, Assistant Administrator, Office of Policy and Program Development, Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW., 349–E JWB, Washington, DC 20250, Phone: 202 205–0495, Fax: 202 720–2025, Email: daniel.engeljohn@fsis.usda.gov.
 RIN: 0583–AD59

DEPARTMENT OF AGRICULTURE (USDA)

Food Safety and Inspection Service (FSIS)

Completed Actions

24. Mandatory Inspection of Fish of the Order Siluriformes and Products Derived From Such Fish

Legal Authority: Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 to 695); Pub. L. 110–246, sec 11016; Pub. L. 113–79, sec 12106

Abstract: The 2008 Farm Bill (Pub. L. 110–246, sec. 11016), amended the Federal Meat Inspection Act (FMIA) to make “catfish” a species amenable to the FMIA and, therefore, subject to Food Safety and Inspection Service (FSIS) inspection. In addition, the 2008 Farm Bill gave FSIS the authority to define the term “catfish.” On February 24, 2011, FSIS published a proposed rule that outlined a mandatory catfish inspection program and presented two options for defining “catfish.” The 2014 Farm Bill (Pub. L. 113–79, sec. 12106), amended the FMIA to remove the term “catfish” and to make “all fish of the order Siluriformes” subject to FSIS jurisdiction and inspection. As a result, FSIS inspection of Siluriformes is mandated by law and non-discretionary.

Completed:

Reason	Date	FR Cite
Final Action	12/02/15	80 FR 75589
Final Action Effective.	03/01/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Daniel L. Engeljohn, Phone: 202 205–0495, Fax: 202 720–2025, Email: daniel.engeljohn@fsis.usda.gov.

RIN: 0583–AD36

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Long-Term Actions

25. Management of Surface Activities Associated With Outstanding Mineral Rights on National Forest System Lands (Directive)

Legal Authority: EPA 1992

Abstract: Close to 11,000,000 acres (approximately 6 percent) of National Forest System (NFS) lands overlie severed (split) mineral estates owned by a party other than the Federal Government. More than 75 percent of these lands are in the Eastern Region (Forest Service Regions 8 and 9). There are two kinds of severed mineral estates, generally known as “private rights”: reserved and outstanding. Reserved mineral rights are those retained by a grantor in a deed conveying land to the United States. Outstanding mineral rights are those owned by a party other than the surface owner at the time the surface was conveyed to the United States. Because these are non-Federal mineral interests, the U.S. Department of the Interior’s Bureau of Land Management has no authority for or role in managing development activities associated with such interests. States have the authority and responsibility for regulating development of the private mineral estate.

Various Secretary’s Rules and Regulations (years of 1911, 1937, 1938, 1939, 1947, 1950, and 1963) and Forest Service regulations at 36 CFR 251.15 provide direction for the use of NFS lands for mineral development activities associated with the exercise of reserved mineral rights. These existing rules for reserved minerals development activities also include requirements for protection of NFS resources.

Currently, there are no formal regulations governing the use of NFS lands for activities associated with the exercise of outstanding mineral rights underlying those lands. The Energy

Policy Act of 1992, section 2508, directed the Secretary of Agriculture to apply specified terms and conditions to surface-disturbing activities related to development of oil and gas on certain lands with outstanding mineral rights on the Allegheny National Forest, and promulgate regulations implementing that section.

The Forest Service initiated rulemaking for the use of NFS lands for development activities associated with both reserved and outstanding minerals rights with an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 29, 2008. Comments from the public in response to the ANPRM conveyed a high level of concern about the broad scope of the rule, along with a high level of concern about effects of a broad rule on small businesses and local economies.

Timetable:

Action	Date	FR Cite
ANPRM	12/29/08	73 FR 79424
ANPRM Comment Period End.	02/27/09	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: LaRenda C. King, Phone: 202 205-6560, Email: larendacking@fs.fed.us. RIN: 0596-AD03

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Completed Actions

26. Ski Area—D Clauses: Resource and Improvement Protection, Water Facilities, and Water Rights (Directive)

Legal Authority: FSH 2709.11
Abstract: On November 8, 2011, the Forest Service issued an interim directive (FSH 2709.11-2011-3) including a revised clause to address the ownership of water rights developed on National Forest System (NFS) lands for use by ski area permit holders. On March 6, 2012, a second interim directive (FSH 2709.11-2012-1) for the revised ski area water rights clause was issued, superseding the 2011 version. The National Ski Areas Association filed a lawsuit in the United States District Court for the District of Colorado on March 12, 2012, opposing use of the revised clause. On December 19, 2012, the court ruled that the Forest

Service had erred in not providing an opportunity for notice and comment on the interim directive and that the agency needed to conduct a Regulatory Flexibility Act analysis of the impact of the directive on small business entities that hold ski area permits. The court vacated the interim directive and enjoined enforcement of the 2011 and 2012 clauses in permits containing them. The directive addresses the development of water facilities on NFS lands; the ownership of preexisting and future water rights; mechanisms to ensure sufficient water remains for ski areas on NFS lands; and measures necessary to protect NFS lands and resources. The Forest Service published the proposed ski area water rights clause in the **Federal Register** for public notice and comment. To identify interests and views from a diverse group of stakeholders regarding a revised water rights clause for ski areas, the Forest Service held four stakeholder meetings in April 2013. The input from the stakeholder sessions was considered in the development of the final water rights clause for ski areas.

Completed:

Reason	Date	FR Cite
Final Directive	12/30/15	80 FR 81508

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: LaRenda C. King, Phone: 202 205-6560, Email: larendacking@fs.fed.us. RIN: 0596-AD14

BILLING CODE 3410-11-P

DEPARTMENT OF AGRICULTURE (USDA)

Office of Procurement and Property Management (OPPM)

Proposed Rule Stage

27. Designation of Biobased Product Categories for Federal Procurement, Round 11

Legal Authority: Pub. L. 113-79
Abstract: This proposed rule will designate, for preferred procurement under the Federal Biobased Products Preferred Procurement Program, approximately 10 intermediate ingredient or feedstock product categories. An intermediate ingredient or feedstock is defined by the BioPreferred Program as a material or compound made in whole or in significant part from biological

products. Typical intermediate ingredient or feedstock product categories will include renewable chemicals; plastic resins; chemical binders; oils, fats, and waxes; and fibers and fabrics.

Timetable:

Action	Date	FR Cite
NPRM	06/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marie Wheat, Department of Agriculture, Office of Procurement and Property Management, Washington, DC 20250, Phone: 202 239-4502, Email: marie.wheat@dm.usda.gov. RIN: 0599-AA24

28. Designation of Biobased Product Categories for Federal Procurement, Round 12

Legal Authority: Pub. L. 113-79

Abstract: This proposed rule will designate, for preferred procurement under the Federal Biobased Products Preferred Procurement Program, approximately eight complex assembly product categories. A complex assembly is defined by the BioPreferred program as a system of distinct materials and components assembled to create a finished product with specific functional intent where some or all of the system inputs contain some amount of biobased material or feedstock. Typical complex assembly product categories will include products such as upholstered office chairs and other office furniture; mattresses; backpacks; boots; and other camping gear. The specific product categories to be included in this rulemaking are under investigation by the Office of Procurement and Property Management, but technical information is expected to be available to support the designation of about eight product categories.

Timetable:

Action	Date	FR Cite
NPRM	08/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marie Wheat, Department of Agriculture, Office of Procurement and Property Management, Washington, DC 20250, Phone: 202 239-4502, Email: marie.wheat@dm.usda.gov. RIN: 0599-AA25

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