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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 312, 322, 350, 362, 381, 590, and 592

[Docket No. FSIS-2009-0026]

RIN 0583-AD41

Electronic Export Application and Certification Charge;
Flexibility in the Requirements for Export Inspection Marks,
Devices, and Certificates; Egg Products Export Certification
AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the meat and poultry inspection regulations to provide for an electronic export application and certification system. The electronic export application and certification system will be a component of the Agency's Public Health Information System (PHIS). The PHIS Export Component will be available as an alternative to the paper-based export application and certification process. FSIS will charge an application fee to exporters that use the PHIS Export Component. FSIS is establishing a formula for calculating the fee. On an annual basis, the Agency will use the formula to update the fee and publish the new fee in the Federal Register. The updated fee will apply at the start of each calendar year. FSIS is also

amending the meat and poultry export regulations to provide flexibility in the requirements for official export inspection marks, devices, and certificates. In addition, FSIS is amending the egg product export regulations to parallel the meat and poultry product export regulations.

DATES: Effective Date: [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Applicability Date: The regulations that provide for an electronic export application and certification system for meat, poultry, and egg products; an electronic application fee; and the use of a 7-digit export mark or unique identifier will be applicable on [INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. These regulations include 9 CFR 312.8; 381.104; 322.2(a); 381.106(a); 590.407(a); 590.407(c) (unique identifier and 7-digit export mark provisions only); 350.7(e) through (g) and 362.5(e) through (g); 592.500(a); and 592.500(d) through (f).

FOR FURTHER INFORMATION CONTACT: Daniel Engeljohn, Assistant Administrator, Office of Policy and Program Development, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2147, Washington, DC 20250-3700, (202) 205-0495.

SUPPLEMENTARY INFORMATION:

Executive Summary

On January 23, 2012, FSIS proposed to amend its regulations to provide for the PHIS Export Component, an electronic export application and certification system that would be available as an alternative to the paper-based application and certification process (77 FR 3159). The Agency also proposed amendments to provide exporters with flexibility in the official marking of exported products and to delete certain prescriptive practices from the regulations, such as the obsolete "upon request" poultry export certification provision (9 CFR 381.105(a)) and requirements for "triplicate" and "duplicate" forms (9 CFR 322.2 and 381.105) to allow for "copies" of the export certificates. In addition, FSIS proposed to organize and make parallel, to the extent possible, the regulatory language for the export application and certification of meat and poultry products and to amend the egg products export regulations to add export application and certification requirements.

Because the PHIS Export Component will provide exporters with new service options, such as the ability to electronically submit, track, and manage their export applications, the Agency proposed to charge exporters a fee for the service. FSIS proposed a formula for calculating the fee based on recovering the Agency's costs of maintaining and operating the PHIS Export Component.

After review and consideration of all the comments submitted, FSIS is finalizing the proposed amendments, with modifications:

- One component of the fee formula, direct inspection cost, has been deleted. Other cost components of the formula, e.g., technical support, export library maintenance, on-going operations and maintenance cost, and the number of export applications, have been updated. The export application fee has been recalculated based on the updated costs and number of export applications. As noted above, the fee will take effect beginning on the applicability date of [INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].
- The regulatory requirements for filing a copy of the export certificate with U.S. Customs and Border Protection (CBP) will be deleted from the regulatory text (9 CFR 322.2(e)). However, the Federal Meat Inspection Act's (FMIA) statutory requirement and FSIS's regulatory requirement that the product's owner (e.g., exporter) or shipper obtain an export certificate from FSIS before the meat product departs from a U.S. port (21 U.S.C. 617; 9 CFR 322.4) remain in effect.

- The regulatory text in 9 CFR 322.1(a) and 381.105(a) for marking the outside containers of exported products is modified to include stamping the pallet within the consignment, or closed means of conveyance transporting the consignment (e.g. truck, rail car, or ocean container).
- Also, to make the regulations more clear, FSIS is amending the export certification regulations by changing the term "in lieu of certificates" to "replacement certificates" (9 CFR 322.2(b), 9 CFR 381.106(b), 590.407(b)).

Beginning on the applicability date of [INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] , FSIS will charge exporters that choose to utilize the PHS Export Component a revised fee of \$4.03 per application submitted. Automating the export application and certification process will provide a seamless, integrated, and streamlined approach to processing applications and certificates. It will likely reduce the exporter and inspection personnel workload and paperwork burden by reducing the physical handling and processing of applications and certificates. Adding export application and certification requirements to the egg products regulations will parallel the meat and poultry regulations.

Total direct cost to the exporters is estimated at \$2.3 million, assuming that the number of applications will remain at about 576,000 per year, based on recent application data. The indirect costs, which are indeterminate, will be the Internet service and the acquisition or upgrading of a current computer system to one that would be compatible with the PHIS. Under the final rule, exporters may continue to submit paper-based export applications to the Agency so as to not incur the additional fee required by this rule.

Background

On January 23, 2012, FSIS published the proposed rule, "Electronic Export Application and Certification Charge; Flexibility in the Requirement for Export Inspection Marks, Devices, and Certificates; Egg Products Export Certification" (77 FR 3159). In it, the Agency proposed to amend the meat, poultry, and egg products regulations to provide for the PHIS Export Component, an electronic alternative to the paper-based export application and certification process.

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601-695) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451-470) provide for the export and certification of meat and poultry products. The FSIS meat and poultry export regulations set forth the requirements for the certification and export of federally inspected and passed meat and poultry products to

foreign countries (9 CFR 312.8, 322.1 through 322.5 and 381.104 through 381.111).

The Egg Products Inspection Act (EPIA) (21 U.S.C. 1031-1056) does not set forth specific provisions for the export of egg products. FSIS's egg products inspection regulations provide that, upon request, an inspector may issue an egg product export certificate of wholesomeness. Exporters can present the certificate to foreign countries as certification that egg products were inspected and passed and are wholesome and fit for human consumption (9 CFR 590.402).

The Agricultural Marketing Act (AMA) provides the Secretary of Agriculture with the authority to collect fees "as will be reasonable and as nearly as may be to cover the cost of the service rendered, to the end that agricultural products may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product which they desire" (7 U.S.C 1622(h)). Under the authority of the AMA, the meat and poultry regulations provide that FSIS may make certifications regarding exported meat and poultry products meeting conditions or standards that are not imposed, or that are in addition to those imposed, by the meat and poultry regulations, the FMIA, or the PPIA (9 CFR 350.3(b) and 362.2(b)). FSIS collects fees and charges from establishments and facilities that request certification service in addition to

the basic export certification of wholesomeness (9 CFR 350.7 and 362.5).

The Public Health Information System (PHIS)

FSIS is developing and, on the applicability date of [INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], will implement the PHIS Export Component that will integrate and automate the Agency's paper-based export application and certification process into one comprehensive and automated data-driven inspection system. Through the PHIS Export Component, exporters will be able to access their online account to electronically submit, track, and manage applications for export certificates. The PHIS Export Component will allow establishment management to apply for approval of establishments for export when required by the foreign country; create, revise, and submit Product Lists; cancel pending applications and certificates; request replacement (formerly "in lieu of") certificates; and return of exported products.

The PHIS Export Component will include electronic data elements for the following export-related forms: the Application for Export Certificate (which includes the option for an "original" or "replacement" application); the Product List, which will be used by PHIS to capture the description of a product and other product-specific information; and the Application for the Return of Exported Products to the United

States (used to notify FSIS when product is exported and then returned to the U.S. and to arrange for the product's entry and reinspection by FSIS); and the Establishment Application for Export (used by FSIS to ensure specific establishment requirements defined by certain countries are met); once approved, the eligible establishment will be listed by country on the FSIS Website (<http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/exporting-products/eligible-us-establishments-by-country> or <http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/exporting-products/export-library-requirements-by-country>) and included in PHIS when the Export Component is implemented.

After the applicability date of [INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], exporters can continue to submit the paper applications for export certification, but those who choose to do so will need to e-mail, fax, or mail the completed application, and any additional information required by the foreign country, to FSIS for entry into PHIS at:

Email: FSIS.billing@fsis.usda.gov

Mail:

U.S. Department of Agriculture

Food Safety and Inspection Service

FMD, Financial Services Center

P.O. Box 9205

Des Moines, IA 50306-9948

Before the rule's applicability date of [INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], FSIS will also announce, in the Constituent Update, a dedicated fax number for paper application submissions.

FSIS intends to enter data from complete paper export certificate applications into PHIS typically within 3-5 business days after receipt of an application by FSIS. However, the entry may take longer in some cases. By contrast, export certificate applications submitted electronically will be instantly and directly submitted into PHIS for review. Therefore, processing the paper-based export certificate applications will be slower than the applications that are submitted electronically. FSIS will also enter Product List data for applicants that choose to use paper.

After FSIS enters the data from the paper export certificate application into PHIS, the application data will follow the same approval process in PHIS as application data submitted by an applicant through PHIS with Level 2 eAuthentication. After FSIS approves an Application for Export Certificate, an FSIS inspector will issue a signed export

certificate to the exporter. FSIS will continue to process and charge for after-hours (overtime or holiday) applications as a reimbursable service (9 CFR 307.5 and 307.6; 381.38 and 381.39; 590.126 through 590.130), as well as requests for certification that are in addition to the basic export certification (9 CFR 350.3(b), 350.7, 362.2(b), and 362.5).

The PHIS Export Component will initially have the ability to produce paper certificates that can be signed by FSIS with either an ink signature, as is done currently, or with a secure signature image derived from an official FSIS Identification card. The type of signature will be determined by the foreign government's requirements. FSIS will print paper certificates, generated by PHIS and issue the signed paper certificates to the exporter.

Foreign governments will also have the capability to view all export certificates for product intended for their country issued by FSIS in PHIS, as a digital image (portable document format, (PDF)), through an FSIS-controlled log-in feature (Foreign Country Log-in). Foreign governments may access the Foreign Country Log-in using Level 2 eAuthentication. Prior to implementation of the PHIS Export Component, FSIS will notify foreign governments when it is time to register for Level 2 eAuthentication. To learn more about Level 2 eAuthentication and how to register for an account, please visit

<https://www.eauth.usda.gov/MainPages/eauthWhatIsAccount.aspx>.

In the future, FSIS also intends to support electronic export certification in PHIS. Electronic export certification is the government-to-government transmission of certification data and is the electronic equivalent of a paper certificate. When developed and implemented, electronic export certification will allow FSIS to transfer certification data directly to the foreign government's competent authority. Electronic certification will allow the foreign government's competent authority to view and authenticate the export certification data. FSIS will notify the public—including industry, importing countries, and other interested stakeholders—regarding the future development and implementation of electronic export certification, through a U.S. Federal Register Notice, World Trade Organization (WTO) notification, FSIS Constituent Update, or other appropriate means.

The PHIS Export Component will maintain a record of each export certificate issued, whether the certificate is paper-based, digital image, or in the future, electronic. FSIS considers any data and the electronic records (applications and certifications) submitted and processed through the PHIS to be equivalent to paper records. Export applications and certifications transmitted electronically are official.

To access and use the PHIS Export Component, exporters will

need to register for a USDA eAuthentication account with Level 2 access. An eAuthentication account enables individuals within and outside of the USDA to obtain user-identification accounts to access a wide range of USDA applications through the Internet. The Level 2 access will provide to users the ability to conduct official electronic business transactions. To register for a Level 2 eAuthentication account, the user will need to have access to the Internet and a valid email address.

The Agency plans to provide exporters with more specific, detailed information on how to access PHIS to submit and manage export certificate applications, including guidance to exporters for accessing and navigating the PHIS Export Component. Any information concerning the implementation of the PHIS Export Component will be posted on the Agency's Web site at <http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/exporting-products>.

PHIS Export Component Implementation

To provide for an orderly transition to the PHIS Export Component, FSIS considered several implementation options, including a phased-in implementation approach, which would benefit FSIS and industry by allowing time and flexibility to identify and address any PHIS export issues that may arise. The Agency also considered initially implementing the Export Component with countries that import the highest volume of FSIS-

regulated product, or with neighboring countries such as Canada and Mexico. In addition, the Agency considered whether or not to accommodate the transfer of multiple export applications batch files sent from exporters to the PHIS Export Component.

On April 2, 2015, to solicit public comment and input on implementation issues, the Agency published "Issues on Implementation of Export Module," on regulations.gov (<http://www.regulations.gov/#!searchResults;rpp=25;po=0;s=FSIS-2015-0018-0004;fp=true;ns=true>). The document outlined the Agency's thinking on implementation options and posed specific implementation questions for industry and consumer input. The comment period closed on May 5, 2015.

Also on April 2, 2015, FSIS held a conference call with members of consumer advocacy groups and industry representatives to request feedback on the implementation of the PHIS Export Component. During the call, the Agency announced that it had published PHIS Export Component implementation issues and questions on regulations.gov for public comment. The Agency published the transcript of the conference call on its Website at: <http://www.fsis.usda.gov/wps/wcm/connect/abc21785-3a1a-43bc-b789-81187a0e67bb/PHIS-export-conference.pdf?MOD=AJPERES>.

In addition, on April 3, 2015, FSIS announced, in a Constituent Update, a request for feedback on the implementation of the PHIS Export Component

(http://www.fsis.usda.gov/wps/wcm/connect/805c2534-dfec-414b-9342-9a8effe2c5b8/ConstiUpdate040315.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=805c2534-dfec-414b-9342-9a8effe2c5b8).

In response to the implementation issues and questions, commenters generally supported a phased-in approach, starting with one country, and expanding to additional countries only after potential initial implementation issues have been resolved. Commenters did not recommend specific countries, although some suggested beginning with low-volume countries that maintain relatively simple export certification requirements. Commenters also supported including batching capabilities which will allow applicants to bundle multiple applications into a single file, and noted specifically that, as the PHIS Export Component is implemented, companies will have to operate parallel systems for both batch certificates and individual certificates. In addition, industry association members affirmed that they could accommodate both a limited initial implementation of the PHIS Export Component and traditional certification processes for countries not yet included in PHIS, depending on acceptance by foreign governments.

Based on the comments received, FSIS is developing a comprehensive phased-in implementation plan of the PHIS Export Component. Initially, beginning on the applicability date of

[INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], the Agency will implement the PHIS Export Component with one foreign country or limited number of foreign countries, and then gradually expand implementation to additional countries. In addition, the PHIS Export Component will include batch file capability, which will be aligned with the rollout of countries in the phased-in implementation. To maintain system functionality, FSIS reserves the right to place limits on batching as needed or required by PHIS, and will process applications in the order that they are received. In preparing for phased-in implementation, FSIS is evaluating criteria, such as the foreign country's product volume and product diversity, geographic proximity to the United States, and complexity of certification requirements. FSIS will communicate with foreign countries and industry regarding preparations for the phased-in implementation plan, and will seek additional public input as needed.

The rule's electronic application and fee provisions will not be applicable until [INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. FSIS will provide additional information through Federal Register notices on implementation prior to the applicability date, including specific information on which countries will initially receive export certificates through the new Export Component.

Proposed and Final Rule Amendments

Export Applications and Certificates

As discussed in the proposed rule (77 FR 3160), the meat and poultry products inspection regulations provide a paper-based export application and certification process (9 CFR 312.8, 322.2, 381.105, and 381.106). The meat regulations provide that, upon application of the exporter, FSIS inspectors are authorized to issue export certificates (9 CFR 322.2(a)). The poultry products regulations provide that, upon the exporter's request or application, FSIS inspectors are authorized to issue export certificates (9 CFR 381.105(a)). The Agency proposed to amend the regulations to provide that applications for export certification may be either paper-based or electronic and to delete the "upon request" certificate provision in the poultry products regulations, because the "upon request" provision is obsolete and does not reflect current export certification practices.

FSIS also proposed to delete the export certificate form requirements in 9 CFR 312.8(b) and 381.106, because these regulations contain specific certificate requirements and instructions for Agency inspection personnel, e.g., signature by a program employee and bearing a letterhead and the official seal of the U.S. Department of Agriculture. The Agency provides instructions to inspection program personnel for export

application approval and issuance of export certificate instructions in FSIS Directive 9000.1, Revision 1 <http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/directives/9000-series>.

In addition, FSIS proposed to delete the references in 9 CFR 322.2 and 381.105 to the issuance of "triplicate" and "duplicate" certificates to allow for "copies" of the export certificate to be distributed to the required parties and to accompany the product. The Agency also proposed to delete the provisions in 9 CFR 322.2(e) for filing a copy of the export certificate with the U.S. Customs and Border Protection (CBP) within four (4) business days of the clearance of the vessel at the time of filing the complete manifest.

FSIS also proposed to amend the meat and poultry export regulations to organize and make parallel, to the extent possible, the regulatory language for meat and poultry products. This rule finalizes all of the proposed amendments.

Export Inspection Marks and Devices

As discussed in the proposed rule (77 FR 3161), after the export application is approved, inspection program personnel provide the export stamp and authorize the establishment to mark products destined for export. As required in 9 CFR 322.1(a) and 381.105(a), each shipping container is marked with the official export stamp bearing the serial number on the export certificate

(of note, beginning on the applicability date of [INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], FSIS is changing the number of digits in the serial number that appears on both the export stamp and the corresponding export certificate from six to seven). Both 9 CFR 312.8(a) and 381.104 provide for an official device to apply the official export stamp.

FSIS proposed to amend 9 CFR 312.8(a) and 381.104 to provide an alternative method of identifying and marking containers of product destined for export. The proposed flexibility would permit exporters to mark product containers with a unique identifier that links the exported product to the export certificate. The Agency proposed the flexibility because of the technological advancements that have been made since the export marking and devices regulations were initially promulgated.

This rule finalizes the proposed amendments, but will not make the unique identifier provisions applicable until [INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. In response to a comment, the Agency is also providing greater flexibility by permitting stamping of the pallet within the consignment, or closed means of conveyance transporting the consignment (e.g. truck, rail car, or ocean container), provided that the stamp or unique identifier links

the consignment to the corresponding export certificate. FSIS intends "consignment" to mean the product represented on the export certificate (9 CFR 322.2(c)), 9 CFR 381.105(c), 9 CFR 590.407(b)), and that the stamped pallet will be securely enclosed (e.g. shrink-wrapped or other effective means). The pallet stamp should be a single mark on the pallet or pallets included within the consignment. Pallet stamping provisions will be effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Offering these options for stamping is an outgrowth of FSIS's proposal to give more flexibility in the export stamp process. While FSIS is offering this flexibility, exporters will still have to meet any stamping requirements of the importing foreign country.

Egg Products Export Regulations

As discussed, the EPIA does not set forth specific provisions for the export of egg products, and the FSIS egg products inspection regulations do not include requirements for exported egg products. The egg products inspection regulations provide that, upon request, an inspector may issue an egg product inspection and grading certificate. The exporter can present the certificate to foreign countries as certification that egg products were inspected and passed and are wholesome and fit for human consumption (9 CFR 590.402).

As discussed in the proposed rule (77 FR 3161), because

almost all foreign countries require export certification for imported egg products, FSIS proposed to amend the egg products export regulations to add export application and certification requirements in 9 CFR 590.407. The proposed section paralleled, to the extent possible, the export requirements in the meat and poultry regulations that provide for the application, certification, and marking of product destined for export. FSIS also proposed to add 9 CFR 592.20(d), which parallels 9 CFR 350.3(b) and 362.2(b) and provides that export certifications that products meet conditions or standards that are not imposed, or that are in addition to those imposed, by the egg products regulations will be subject to a charge as a reimbursable service. This rule finalizes the proposed amendments.

Charge for Electronic Export Application and Certification Process

As discussed above and in the proposed rule (77 FR 3161), under the authority of the AMA, the meat and poultry inspection regulations provide that when exporters request certification that is in addition to the basic export certification of wholesomeness required by regulation, FSIS charges and collects fees from establishments and facilities that request this service (9 CFR 350.3(b), 350.7, 362.2(b), and 362.5). Exporters may also request additional certifications to meet requirements imposed by the importing foreign countries.

The PHIS's Export Component will provide new service options to exporters enabling them to electronically submit, track, and manage their export applications. Therefore, to cover the costs of providing the electronic application and certification service, the Agency proposed to establish a fee to exporters that utilize the PHIS Export Component. The fee is for the application for the basic export certificate. Any additional certifications that are imposed by the importing foreign country will be charged as a certification service, as provided in 9 CFR 350.3(b), 362.2(b), and 592.20(d)). These additional export certifications will be charged at the appropriate basetime, overtime, or holiday rate, depending on when the certification service is provided. The basic export certification, if provided outside of an inspector's normal shift, is also charged at the appropriate rate (overtime or holiday).

The Agency proposed the following formula for assessing its annual cost: the labor costs (i.e., direct inspection labor cost for inspection personnel + technical support provided to users of the Export Component + export library maintenance) + the Information and Technology (IT) costs (i.e., on-going operations + maintenance of the system costs + eAuthentication cost) divided by the number of annual export applications:

Labor Costs (Direct Inspection Labor + Technical Support + Export Library Maintenance) + IT
Costs (On-going Operations and Maintenance + eAuthentication)

Annual Number of Export Applications

The Agency also provided the following calculation and export application fee based on the 2012 basetime rate, the best estimates for on-going operations and maintenance, and an estimated number of export applications it would receive:

$$\frac{[(\$3,188,204.70) + (\$500,000) + \$200,000] + [(\$2,675,000)] + (\$0)}{235,121} = \$27.91$$

In response to comments that the export application formula and fee should not include direct inspection labor costs for inspection personnel, FSIS deleted this cost from the export application formula and fee. In addition, the Agency has updated the costs and the estimated number of export applications included in the formula, and in response to comments provided more explanation of the costs:

The 2015 PHIS Export Application Fee is based on the following costs, rates, and best available data:

- Technical Support Costs.

The cost of providing technical support, which includes service desk support, is \$125,000.¹ Service

¹ Based on fixed price contract for contractor Service Desk support.

Desk support consists of activities like resolving user problems with the application services, identifying web browser compatibility issues, and resolving access issues to authorized areas of the system.

- Export Library Maintenance.

The cost for funding two full-time employees to provide export library functions is \$302,098.² Export library maintenance supports the PHIS Export Component and includes the writing, testing, and maintenance of complex business rules for evaluating the export application that is submitted into the PHIS export system. The business rules allow the system to determine product eligibility before the system accepts the application and transmits it to inspection program personnel. The business rules also facilitate the type of export certification required by the foreign government that will be issued when the application is accepted. This work supports the PHIS Export Component and is not part of current export library functions. In addition, there will be continuous updates to the system.

- On-going Operations and Maintenance Costs.

² Actual costs of 2016 GS-schedule salaries and benefits for two Export Library FTEs

The cost of providing on-going operations and maintenance, including improvements and necessary repairs to keep the system responsive to users' needs, is \$1,894,156.³ These costs cover activities such as modifying the application based on changes in requirements or user needs, adding functionality based on foreign regulatory changes, upkeep of the system to ensure a secure operating environment that protects the data, and costs to operate the system components. This cost may increase in future years based on GSA schedule increases in labor rates and other factors.

- eAuthentication Costs.

The cost of providing eAuthentication is currently zero. eAuthentication is a single sign-on application that allows users to securely access multiple USDA applications, including the PHIS Export Component. To access the PHIS Export Component users need to register for a USDA eAuthentication account. To learn more about eAuthentication and how to register for an account, visit <https://www.eauth.usda.gov>. FSIS may be charged for Level 2 Customer accounts separately in the future, and these costs may increase in future

³ Operations and Maintenance Costs = Application maintenance costs (\$1,451,210/yr) + Non-development-related Export O&M costs (\$442,946/yr)

years. As an example, the annual future cost could be \$56.88 per Level 2 account and would be factored on the number of export business customers annually.

- The estimated number of yearly export applications, determined using data obtained from FSIS's Office of Field Operations, is 576,192.⁴

The final export application fee formula and fee are below:

Final Export Application Formula and Fee:

Labor Cost (Technical Support Cost + Export Library Maintenance Cost) + IT Costs (On-going Operations and Maintenance + eAuthentication)

$$\frac{(\$125,000 + \$302,098) + (\$1,894,156 + \$0)}{576,192} = \$4.03$$

The fee will be calculated on an annual basis, and the updated fees will apply at the start of each calendar year. FSIS will publish a Federal Register notice announcing the fee approximately 30 days prior to the start of each new calendar year.

Notification of Changes to Replacement Certificate Terminology and Practice

FSIS is amending the export certification regulations by changing the term "in lieu of certificates" to "replacement

⁴ FSIS internal survey of Ten District Offices on June 10, 2013.

certificates” (9 CFR 322.2(b), 9 CFR 381.106(b), 9 CFR 590.407(b)). This change is intended to make FSIS regulations more clear. This change will not cause problems for the industry or international community because the term “replacement certificates” is generally well understood.

Comments on and Responses to the Proposed Rule

FSIS received 8 comments from domestic trade associations and domestic exporting establishments.

Comment: Several commenters stated the Federal Meat Inspection Act (FMIA) and Poultry Products Inspection Act (PPIA) (21 U.S.C. 695 and 468) provide that the cost of inspection rendered, except the cost of overtime and holiday work, shall be borne by the United States, and therefore, the export application formula and fee should not include direct inspection labor costs for inspection personnel.

Response: FSIS agrees that the direct inspection labor costs included in the proposed export application formula should be removed from the export application formula. However, as discussed in the proposed rule (77 FR 3161), under the authority of the Agricultural Marketing Act (AMA), the meat and poultry inspection regulations provide that when exporters request certification that is in addition to the basic export certification (e.g. as required by a foreign country and documented in the FSIS Export Library), FSIS charges and

collects fees from establishments and facilities that request this service (9 CFR 350.3(b), 350.7, 362.2(b), and 362.5). Because the PHIS Export Component provides new service options to exporters for electronic application and certification, the formula will continue to include the non-direct inspection based costs of the system for FSIS personnel (or contracted support as necessary) to operate and maintain the PHIS Export Component, including technical support for users, export library maintenance, and information technology costs.

In this final rule, in addition to deleting the direct inspection costs from the export application formula, the Agency also updated the costs and the estimated number of export applications included in the formula. The final formulas and fees are discussed above.

Comment: Comments from trade organizations stated that FSIS needs to work closely with exporters to ensure that the system is compatible with industry needs, and that it requires minimal manual input. One industry comment stated that the system must have the ability to accept some type of load files from companies that intend to use the system, and that it must have the ability to interface through Electronic Data Interchange. These commenters also recommended that FSIS communicate with U.S. trading partners and exporters to ensure that the Export Component would be acceptable.

Response: As discussed above, in April 2015, FSIS met with and solicited comments from stakeholders on the system's ability to accept batch files. In June 2015, FSIS met with stakeholders to provide an update on the progress of PHIS Export Component development and will continue to work with exporters to ensure that industry is aware of the system's capabilities. The Agency intends to provide the capability for batch file processing of applications. FSIS will involve industry in its user acceptance testing for the Export Component.

FSIS notified the World Trade Organization (WTO) of the proposed rule on January 23, 2012, consistent with our obligations under the WTO Technical Barriers to Trade Agreement. This notification gave all WTO Members the chance to review and comment on the proposal at a point when meaningful changes could still be made. In addition, FSIS is planning a formal outreach strategy to ensure that foreign governments and U.S. exporters have every opportunity to understand the Export Component.

Comment: One commenter asked whether the paper-based export process would continue to be available when the PHIS Export Component is implemented, and whether PHIS will be used to print export certificates.

Response: Export applicants can submit a paper version of the application for export process rather than use the PHIS Export Component. If applicants choose to submit the paper

application, FSIS will enter the data into the PHIS Export Component for processing and provide the paper export certificate to the applicant when it has been approved. Exporters who choose to use paper-based applications will need to e-mail, fax, or mail the completed applications, and any additional information required by the foreign country, to FSIS for entry into PHIS at:

Email: FSIS.billing@fsis.usda.gov

Mail:

U.S. Department of Agriculture
Food Safety and Inspection Service
FMD, Financial Services Center
P.O. Box 9205
Des Moines, IA 50306-9948

FSIS will provide a dedicated fax number as well, and will announce availability of this number in a Constituent Update before the rule's effective date.

Export applicants with an eAuthentication account can submit and process their application electronically (for a fee), and if the foreign country requires a paper certificate, FSIS will print an approved certificate and provide it to the applicant.

Comment: One commenter requested clarification on how FSIS will handle after hours (second shift exports), weekend, and holiday export certification applications.

Response: FSIS inspectors who are on-duty during those times will process export applications received through PHIS in a similar manner to the current process. The inspector will receive the export application in PHIS, review the application, conduct a re-inspection of the product according to current procedures, approve the application, and issue the export certificate. For exporters using paper applications, FSIS will continue to process and charge for after-hours (overtime or holiday) applications as a reimbursable service (9 CFR 307.5-6; 381.38-39; 590.126-130).

Comment: Comments from trade organizations stated that FSIS should not delete the regulatory language in 9 CFR 322.2(e) for filing a copy of the export certificate with CBP within four (4) business days of the clearance of the vessel at the time of filing the complete manifest. These commenters stated that these regulations are necessary so that establishments and exporters know that they are required to send a copy of the export certificate to CBP.

Response: FSIS proposed to delete the provisions in 9 CFR 322.2(e) initially because the filing of the export manifest with CBP within 4 business days is required under CBP

regulations (19 CFR 4.75(b)). Upon further reflection, the FMIA requires the product's owner (e.g., the exporter) or shipper to obtain an export certificate from FSIS before the product departs from a U.S. port (21 U.S.C. 617). Vessel clearance is under CBP's jurisdiction, and because FSIS provides the export certificate to the exporter prior to clearance with CBP, the intent of 21 U.S.C. 617 is satisfied.

In terms of accounting for export certificates, the PHIS Export Component will allow FSIS to electronically inventory and track export certificate information, thus eliminating the cumbersome transfer of export certificate copies or certificate data across multiple steps in the supply chain to CBP. Furthermore, no direct transfer from FSIS to CBP is needed, because the controls in place between the United States and the importing countries are sufficient to eliminate the burden of transferring data (or copies of the certificate) between Federal agencies. Therefore, in this final rule, FSIS is deleting 9 CFR 322.2(e). While this change removes unnecessary export requirements internal to the United States, exporters are responsible for obtaining the appropriate export certification before departure.

Comment: An industry comment stated that certain countries require an original signature on export certificates and

questioned how original signatures would be handled in the PHIS Export Component.

Response: For countries that require an original signature on the certificate, PHIS will have the capability of printing a paper certificate that will be signed with an ink signature by an FSIS official.

Comment: A trade organization stated that the Agency needs to provide greater flexibility in export stamping. According to the commenter, requiring facilities to place export stamps on every single case of product is costly and has little practical value. The commenter asked that the Agency provide an option for establishments to use FSIS-issued export stamps on whole pallets instead of stamping every container on a pallet. One comment also requested that FSIS define the term "unique identifier."

Response: The Agency proposed (9 CFR 312.8(a) and 381.104) that exporters could use a unique identifier, linking the exported product to the export certificate as an alternative to using the official export stamp. Under the final rule, in order to provide greater flexibility and alternative methods of identifying and stamping product, FSIS will permit stamping of the pallet within the consignment or closed means of conveyance transporting the consignment (e.g. truck, rail car, or ocean container), provided that the stamp or unique identifier links

the consignment to the corresponding export certificate. FSIS intends "consignment" to mean the product represented on the export certificate (9 CFR 322.2(c)), 9 CFR 381.105(c), 9 CFR 590.407(b)), and that the stamped pallet will be securely enclosed (e.g. shrink-wrapped or other effective means). Offering these options for stamping is an outgrowth of FSIS's proposal to give more flexibility in the export stamp process. It is important to note that exporters must still meet any stamping requirements of the importing foreign country, regardless of the flexibility offered by FSIS in export stamping.

To provide greater flexibility and accommodation of technological change, FSIS will not narrowly define the term "unique identifier" within its regulations, beyond the requirement that it must link the exported product to the export certificate issued by inspection personnel. In general, FSIS envisions the alternative mark as an alphanumeric sequence that uniquely identifies the shipment and links it to the export certificate. In the future, other methods and technologies could be used to produce unique identifiers, as verified by FSIS and determined acceptable by the importing country. Exporters' use of unique identifiers as an alternative mark will be dependent on acceptance by the importing country, as documented in the FSIS Export Library. As noted above, the unique

identifier provisions will not be applicable until [INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. FSIS will work closely with importing countries to determine their needs related to identifying the product and will explain the alternative of using a unique identifier in place of the export stamp.

Executive Orders 12866 and 13563, and the Regulatory Flexibility Act

Executive Orders (E.O.) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated a "non-significant" regulatory action under section 3(f) of E.O. 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget (OMB).

FSIS has adopted the preliminary regulatory impact analysis with an update to the paperwork burden estimates for egg plants.

Cost of the final rule

Based on the formula established in this rule, for exporters that choose to utilize this new tool, the direct cost would be \$4.03 per export application. The application fee will be determined annually based on the formula. The total cost to an exporter would depend on the number of electronic applications processed. An exporter that processes only a few applications per year would not likely experience a significant economic impact.

Assuming that the number of applications will remain about 576,000, based on recent application data,⁵ and exporters apply for all of these certificates through this new portal, the total direct cost to the exporting industry, when the PHIS Export Component is fully implemented with all countries, will be approximately \$2.3 million per year. The indirect costs, which are indeterminate, will be the Internet service and the acquisition or upgrading of a current computer system to one that would be compatible with the PHIS. Under the final rule, exporters may continue to submit paper-based export applications with the Agency as to not incur the additional fee required by this rule.

Egg plants will incur additional costs as a result of this final rule. The total annual paperwork burden to egg exporters

to fill out the paper-based export application is estimated to be 3,333⁶ hours a year or \$73,000 per year.⁷ . The average exporter burden would be 16.7 hours or approximately \$360 per exporter. There is no annual paperwork burden to meat and poultry exporters since they are currently filling out the export application.

Expected Benefits of the Final Rule

The final rule will likely reduce the exporter and inspection personnel workload and paperwork burden by reducing the physical handling and processing of applications and certificates. The reduction in workload and paperwork burden is based on the greater efficiency of processing applications electronically and the number of applications filed electronically. In the future, the PHIS Export Component will facilitate the electronic government-to-government exchange of export applications and certifications, which will assist in the resolution of allegations of fraudulent transactions such as false alterations and reproductions.

An indirect benefit of automating the export application and certification system is that there will be an automatic,

⁶ Hours are derived from estimates of 200 for the number of exporters, 100 for the number of responses per exporter, and 10 minutes to complete and submit an application. $(200 \times 100 \times 10 / 60)$

⁷ FSIS used the Occupational Code 43-5071 Shipping, Receiving, and Traffic Clerks mean hourly wage (May 2014) of \$15.27. (<http://www.bls.gov/oes/current/oes435071.htm>) The estimated benefits percent share of total compensation for private industry 30.1%, with the remaining 69.9% attributed to wages and salaries. Therefore, the factor needed to multiply to wage rate to determine total compensation rate is: $(30.1\% / 69.9\%) + 1 = 1.43$. BLS Report available at: <http://www.bls.gov/news.release/ecec.nr0.htm>. The total wage and benefit rate is $\$15.27 \times 1.43$.

electronic recordkeeping of the number and types of exporters, the types of products exported to various countries, and the number of applications and certificates issued through PHIS.

Further, the electronic export system will provide a streamlined approach to processing applications and certificates. As a result, there will be additional unquantifiable benefits because PHIS automates the verification of eligibility and accuracy of certifications needed and will speed up the process for these establishments. Also, any potential documentation problems are likely to be resolved electronically before the product arrives at the port, and as a result, the products will likely move through ports faster than they do currently. Thus, storage costs to exporters will be reduced, and the product will reach its destination more quickly. Even exporters that submit a paper-based application will benefit from the PHIS Export Component. FSIS will enter the application into the PHIS, and the FSIS verifications activities regarding eligibility and accuracy of certifications will be automated.

FSIS Budgetary Effects

If fully adopted by the industry and our trading partners when the PHIS Export Component is fully implemented, FSIS will

recover the costs of providing electronic application and certification service.

Regulatory Flexibility Analysis

The FSIS Administrator certifies that, for the purposes of the Regulatory Flexibility Act (5 U.S.C. 601-602), the final rule will not have a significant impact on a substantial number of small entities in the United States. There are 6,074 meat, poultry, and egg products establishments⁸ that could possibly be affected by this final rule since all are eligible to export. Of this number, there are about, 391 large establishments, 2,505 small federally inspected establishments (with more than 10 but less than 500 employees) and 3,178 very small establishments (with fewer than 10 employees) based on HACCP Classification.⁹ Therefore, a total of 5,683 small and very small establishments could be possibly affected by this rule.

For the meat, poultry, and egg products industries, small and very small exporters, like large exporters, would incur the \$4.03 fee only if they file their export application electronically. If they choose to submit the paper application, they will bear no additional cost compared to now. If exporters submit their applications electronically, the average annual cost from this rule would be \$382.00 per exporter (576,192

³ Establishment numbers from FSIS's Public Health Information System, October 2014.

⁹ Ibid.

export applications per year /6,074 meat, poultry, and egg products establishments * \$4.03 per application).

For the approximately 200 egg product exporters, FSIS expects the number of applications submitted to be 20,000 (200 exporters * 100 submissions¹⁰) for an estimated total cost of \$81,000. The cost per exporter would be \$403 (20,000 applications * \$4.03/200).

If small establishments require fewer applications, then the cost per small establishment is even lower. Therefore, the Agency believes that the rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection was approved under 0583-0153. This rule contains no other paperwork requirements.

Copies of this information collection assessment can be obtained from Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Ave., SW., Room 6077 South Building, Washington, DC 20250-3700; (202) 690-6510.

Executive Order 12988

¹⁰ Estimate is from the paperwork reduction analysis.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 13175

This final rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How to File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at

http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf, or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail:

U.S. Department of Agriculture
Director, Office of Adjudication
1400 Independence Avenue, SW
Washington, DC 20250-9410

Fax: (202) 690-7442

E-mail: program.intake@usda.gov

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Additional Public Notification

FSIS will announce this rule online through the FSIS Web page located at <http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register/interim-and-final-rules>.

FSIS will also make copies of this Federal Register publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, Federal Register notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at <http://www.fsis.usda.gov/subscribe>.

Options range from recalls to export information to regulations, directives, and notices. Customers can add or

delete subscriptions themselves, and have the option to password protect their accounts.

List of Subjects

9 CFR Part 312

Food labeling, Meat inspection, Signs and symbols.

9 CFR Part 322

Exports, Meat inspection.

9 CFR Part 350

Meat inspection, Reporting and recordkeeping requirements.

9 CFR Part 362

Meat inspection, Poultry and poultry products, Reporting and recordkeeping requirements.

9 CFR Part 381

Meat inspection, Poultry and poultry products, Reporting and recordkeeping requirements.

9 CFR Part 590

Eggs and egg products, Exports, Food grades and standards, Food labeling, Imports, Reporting and recordkeeping requirements.

9 CFR Part 592

Eggs and egg products, Exports, Food grades and standards, Food labeling, Imports, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, FSIS amends 9 CFR chapter III as follows:

PART 312 -- OFFICIAL MARKS, DEVICES AND CERTIFICATES

1. The authority citation for part 312 continues to read as follows:

Authority: 21 U.S.C. 601-695; 7 CFR 2.17, 2.55.

2. Revise § 312.8 to read as follows:

§312.8 Export inspection marks.

The export inspection mark required in §322.1 of this chapter must be either a mark that contains a unique identifier that links the consignment to the export certificate or an official mark with the following form:¹



¹ The number "1234567" is given as an example only. The number on the mark will correspond to the printed number on the export certificate.

PART 322 - EXPORTS

3. The authority citation for part 322 continues to read as follows:

Authority: 21 U.S.C. 601-695; 7 CFR 2.17, 2.55.

4. Revise § 322.1 to read as follows:

§322.1 Marking products for export.

(a) When authorized by inspection personnel, establishment personnel must mark the outside container of any inspected and

passed product for export, the securely enclosed pallet within the consignment, or closed means of conveyance transporting the consignment, with a mark that contains a unique identifier that links the consignment to the export certificate or an official mark as described in § 312.8 of this chapter. Ship stores, small quantities exclusively for the personal use of the consignee and not for sale or distribution, and shipments by and for the U.S. Armed Forces, are exempt from the requirements of this section.

(b) When authorized by inspection personnel, establishments must mark each tank car of inspected and passed lard or similar edible product, and each door of each railroad car or other closed means of conveyance, containing inspected and passed loose product shipped directly to a foreign country, with an export inspection mark as shown in §312.8 of this subchapter.

5. Revise § 322.2 to read as follows:

§322.2 Export certification.

(a) Exporters must apply for export certification of inspected and passed products shipped to any foreign country. Exporters may apply for an export certificate using a paper or electronic application. FSIS will assess exporters that submit an electronic application the charge in § 350.7(e) of this chapter.

(b) FSIS will issue only one certificate for each consignment, except in the case of error in the certificate or loss of the certificate originally issued. A request for a replacement certificate, except in the case of a lost certificate, must be accompanied by the original certificate. The new certificate will carry the following statement: "Issued in replacement of _____", with the numbers of the certificates that have been superseded.

(c) FSIS will deliver a copy of the certificate to the exporter. The exporter may furnish the copy of the certificate to the consignee for purposes of affecting the entry of product into the foreign country of destination.

(d) FSIS will retain a copy of the certificate.

(e) Exporters may request inspection personnel to issue certificates for export consignments of product of official establishments not under their supervision, provided the consignments are first identified as having been "U.S. inspected and passed," are found to be neither adulterated nor misbranded, and are marked as required by § 322.1.

Part 350 - SPECIAL SERVICES RELATING TO MEAT AND OTHER PRODUCTS

6. The authority citation for part 350 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624; 7 CFR 2.17, 2.55.

7. In § 350.7, add paragraphs (e), (f), and (g) to read as follows:

§ 350.7 Fees and charges.

* * * * *

(e) Exporters that submit electronic export certificate applications will be charged a fee per application submitted.

(f) For each calendar year, FSIS will calculate the electronic export certificate application fee, using the following formula: Labor Costs (Technical Support Cost + Export Library Maintenance Cost) + Information Technology Costs (On-going operations Cost + Maintenance Cost + eAuthentication Cost), divided by the number of export applications.

(g) FSIS will publish notice of the electronic export certificate application fee annually in the Federal Register.

PART 362 - VOLUNTARY POULTRY INSPECTION REGULATIONS

8. The authority citation for part 362 continues to read as follows:

Authority: 7 U.S.C 1622; 7 CFR 2.18 (g) and (i) and 2.53.

9. In § 362.5, add paragraphs (e), (f), and (g) to read as follows:

§ 362.5 Fees and charges.

* * * * *

(e) Exporters that submit electronic export certificate applications will be charged a fee per application submitted.

(f) For each calendar year, FSIS will calculate the electronic export certificate application fee, using the following formula: Labor Costs (Technical Support Cost + Export Library Maintenance Cost) + Information Technology Costs (On-going operations Cost + Maintenance Cost + eAuthentication Cost), divided by the number of export applications.

(g) FSIS will publish notice of the electronic export certificate application fee annually in the Federal Register.

PART 381 - POULTRY PRODUCTS INSPECTION REGULATIONS

10. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138F, 450; 21 U.S.C. 451-470; 7 CFR 2.7, 2.18, 2.53.

11. Revise § 381.104 to read as follows:
§381.104 Export inspection marks.

The export inspection mark required in §381.105 must be either a mark that contains a unique identifier that links the consignment to the export certificate or an official mark with the following form:¹



¹ The number "1234567" is given as an example only. The number on the mark will correspond to the printed number on the export certificate.

12. Revise § 381.105 to read as follows:

§381.105 Marking products for export.

When authorized by inspection personnel, establishments must mark the outside container of any inspected and passed product for export, the securely enclosed pallet within the consignment, or closed means of conveyance transporting the consignment, with a mark that contains a unique identifier that links the consignment to the export certificate or an official mark as described in § 381.104. Ship stores, small quantities exclusively for the personal use of the consignee and not for sale or distribution, and shipments by and for the U.S. Armed Forces, are exempt from the requirements of this section.

13. Revise § 381.106 to read as follows:

§381.106 Export certification.

(a) Exporters must apply for export certification of inspected and passed products to any foreign country. Exporters may apply for an export certificate using a paper or electronic application. FSIS will assess exporters that submit an electronic application the charge in § 362.5(e) of this chapter.

(b) FSIS will issue only one certificate for each consignment, except in the case of error in the certificate or

loss of the certificate originally issued. A request for a replacement certificate, except in the case of a lost certificate, must be accompanied by the original certificate. The new certificate will carry the following statement: "Issued in replacement of _____", with the numbers of the certificates that have been superseded.

(c) FSIS will deliver a copy of the certificate to the person who requested such certificate or his agent. Such persons may duplicate the certificate as required in connection with the exportation of the product.

(d) FSIS will retain a copy of the certificate.

(e) Exporters may request inspection personnel to issue certificates for export consignments of product of official establishments not under their supervision, provided the consignments are first identified as having been "U.S. inspected and passed," are found to be neither adulterated nor misbranded, and are marked as required by § 381.105.

PART 590 - INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

14. The authority citation for part 590 continues to read as follows:

Authority: 21 U.S.C. 1031-1056.

15. Add § 590.407 to read as follows:

§ 590.407 Export certification and marking of containers with export inspection mark.

(a) Exporters must apply for export certification of inspected and passed products shipped to any foreign country. Exporters may apply for an export certificate using a paper or electronic application. FSIS will assess exporters that submit an electronic application the charge in § 592.500(d) of this chapter.

(b) FSIS will issue only one certificate for each consignment, except in the case of error in the certificate or loss of the certificate originally issued. A request for a replacement certificate, except in the case of a lost certificate, must be accompanied by the original certificate. The new certificate will carry the following statement: "Issued in replacement of _____", with the numbers of the certificates that have been superseded.

(c) FSIS will deliver a copy of the export certificate to the person who requested such certificate or his agent. Such persons may duplicate the certificate as required in connection with the exportation of the product.

(d) FSIS will retain a copy of the certificate.

(e) (1) When authorized by inspection personnel, establishments must mark the outside container of any inspected and passed egg products destined for export, the securely

enclosed pallet within the consignment, or closed means of conveyance transporting the consignment, with a mark that contains a unique identifier that links the consignment to the export certificate or an official mark with the following form:¹



(2) Ship stores, small quantities exclusively for the personal use of the consignee and not for sale or distribution, and shipments by and for the U.S. Armed Forces, are exempt from the requirements of this section.

¹ The number "1234567" is given as an example only. The number on the export certificate will correspond to the printed number on the export certificate.

(f) Exporters may request inspection personnel to issue certificates for export consignments of product of official establishments not under their supervision, provided the consignments are first identified as having been "U.S. inspected and passed," are found to be neither adulterated nor misbranded, and are marked as required by paragraph (e) of this section.

PART 592 - VOLUNTARY INSPECTION OF EGG PRODUCTS

16. The authority citation for part 592 continues to read as follows:

Authority: 7 U.S.C. 1621-1627.

17. In § 592.20, add paragraph (d) to read as follows:

§ 592.20 Kinds of services available.

* * * * *

(d) Export certification. Upon application, by any person intending to export any egg product, inspectors may make certifications regarding products for human food purposes, to be exported, as meeting conditions or standards that are not imposed or are in addition to those imposed by the regulations in the part and the laws under which such regulations were issued.

18. In § 592.500, revise paragraph (a) and add paragraphs (d), (e), and (f) to read as follows:

§592.500 Payment of fees and charges.

(a) Fees and charges for voluntary base time rate, overtime inspection service, holiday inspection service, and electronic export applications shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of this section and §592.510 through §592.530, both inclusive. If so required by the inspection personnel, such fees and charges shall be paid in advance.

* * * * *

(d) Exporters that submit electronic export certificate applications will be charged a fee per application submitted.

(e) For each calendar year, FSIS will calculate the electronic export certificate application fee, using the following formula: Labor Costs (Technical Support Cost + Export Library Maintenance Cost)+ Information Technology Costs (On-going operations Cost + Maintenance Cost + eAuthentication Cost), divided by the number of export applications.

(f) FSIS will publish notice of the electronic export certificate application fee annually in the Federal Register.

Done at Washington, DC, on: June 17, 2016.

Alfred V. Almanza,

Acting Administrator. [FR Doc. 2016-14812 Filed: 6/28/2016 8:45 am; Publication Date: 6/29/2016]