



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

[No. AMS-LPS-15-0084]

Amendment to the Beef Promotion and Research Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Beef Promotion and Research Order (Order) established under the Beef Promotion and Research Act of 1985 (Act) to add six Harmonized Tariff System (HTS) codes for imported veal and veal products and update assessment levels for imported veal and veal products based on revised determinations of live animal equivalencies.

DATES: Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments should be posted online at www.regulations.gov. Comments received will be posted without change, including any personal information provided.

All comments should reference the docket number AMS-LPS-15-0084; the date of submission; and the page number of this issue of the Federal Register. Comments may also be sent to Mike Dinkel, Agricultural Marketing Specialist, Research and Promotion Division, Livestock, Poultry, and Seed Program, AMS, USDA, Room 2610-S, STOP 0249, 1400 Independence Avenue, SW., Washington, D.C. 20250-0249; or via fax (202) 720-1125. Comments will be made available for public inspection at the above address

during regular business hours or via the Internet at www.regulations.gov. Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mike Dinkel, Agricultural Marketing Specialist, Research and Promotion Division, Livestock, Poultry, and Seed Program, AMS, USDA, Room 2610-S, STOP 0249, 1400 Independence Avenue, SW., Washington, D.C. 20250-0249; fax (202) 720-1125; telephone (301) 352-7497; or email Michael.Dinkel@ams.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has waived the review process required by Executive Order 12866 for this action.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect.

Section 11 of the Act (7 U.S.C. 2910) provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic effect of this action on small entities and has determined that this proposed rule will not have a significant economic impact on a substantial number of small business entities. The effect of the Order upon small entities was discussed in the July 18, 1986, Federal Register [51 FR 26132]. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

Based on conversations with importing companies, there are approximately 270 importers who import beef and beef products and veal and veal products into the U.S. and about 198 importers who import live cattle into the U.S. The majority of these operations subject to the Order are considered small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.201]. SBA defines small agricultural service firms as those having annual receipts of \$7.5 million or less.

The proposed rule will impose no significant burden on the industry. It will merely add six HTS codes for imported veal and veal products and update assessment levels for imported veal and veal products based on revised determinations of live animal equivalencies. The addition of HTS codes reflects an increase of imported veal and veal product into the U.S. Accordingly, the Administrator of AMS has determined that this action will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with OMB regulations [5 CFR part 1320] that implement the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements contained in the Order and accompanying Rules and Regulations have previously been approved by OMB under OMB control number 0581-0093.

Background

The Act authorized the establishment of a national beef promotion and research program. The final Order was published in the Federal Register on July 18, 1986 (51 FR 21632), and the collection of assessments began on October 1, 1986. The program is administered by the Cattlemen's Beef Promotion and Research Board (Board), appointed by the Secretary of Agriculture (Secretary) from industry nominations, and composed of 100 cattle producers and importers. The program is funded by a \$1-per-head assessment on producers selling cattle in the U.S. as well as an equivalent assessment on importers of cattle, beef, and beef products.

Importers pay assessments on imported cattle, beef, and beef products. U.S. Customs and Border Protection collects and remits the assessment to the Board. The term "importer" is defined as "any person who imports cattle, beef, or beef products from outside the United States." Imported beef or beef products is defined as "products which are imported into the United States which the Secretary determines contain a substantial amount of beef including those products, which have been assigned one or more of the following numbers in the Tariff Schedule of the United States."

On March 16, 2016, AMS published a proposed rule in the Federal Register (81 FR 14022) amending § 1260.172 of the Order to add six HTS codes for imported veal and veal products. On May 6, 2016, AMS announced in a Notice to the Trade that it was withdrawing the proposed rule because an error was discovered in the imported veal carcass weight. AMS also announced at that time that it intended to publish another proposed rule with the correct carcass weight and to include the formula and an explanation of how the calculations for the new assessment rates are calculated. On June 30, 2016, AMS published the withdrawal Notice in the Federal Register (81 FR 42576). This proposed rule replaces the March 16, 2016, version. In § 1260.172 of the Order, the table would be revised to include the new codes and assessment rates for imported veal and veal products.

The Act requires that assessments on imported beef and beef products and veal and veal products be determined by converting such imports into live animal equivalents to ascertain the corresponding number of head of cattle. Carcass weight is the principle factor in calculating live animal equivalents.

Prior to publishing the March 16, 2016, proposed rule, USDA received information from the Board regarding imported veal assessments. The Board requested expanding the number of HTS codes for imported veal and veal products in order to capture product that is not currently being assessed and to update the live animal equivalency rate on imported veal to reflect the same assessment as domestic veal and veal products. The Board also suggested that AMS update the dressed veal weight to better reflect current dressed veal weights. The Board recommended using an average

dressed veal weight from 2010 to the most current data. The Board stated that establishing an average over this period of time takes into account short-term highs and lows due to the cattle cycle, weather effects, and feed prices. This average would be 154 pounds.

In order to convert carcasses and cuts back to a live animal equivalency, conversion factors are used. The conversion factor takes into account what is lost (feet, head, tail, hide, internal organs, and bone for boneless product) as the veal is processed into carcasses, bone-in cuts, and boneless cuts.

For bone-in carcasses and cuts, a one-to-one ratio is used to convert product weight to a live animal equivalent. For these items, a conversion factor of 1.00 is used.

For boneless veal cuts, the conversion factor “adds back” the weight of the bones removed from the product. For boneless veal cuts, a conversion factor of 1.32 is used.

To determine the conversion factor of boneless veal cuts to carcass weight equivalents, AMS used the latest boneless veal factor for pounds (0.685) from Table 7 of the Economic Research Service Agricultural Handbook Number 697, Weights, Measures, and Conversion Factors for Agricultural Commodities and Their Products (June 1992), subtracted this factor from “1,” and added “1” to the result, as follows:

$$(1 - 0.685) + 1 = 1.315 \text{ (rounded to 1.32)}$$

The assessment per kilograms is determined by dividing the conversion factor by the carcass weight and multiplying it by the pounds-to-kilograms factor of 2.2046.

Calculations:

- Carcass and Bone-in Cuts

$$\frac{1.00}{154} (2.2046) = .01431558$$

- Boneless Cuts

$$\frac{1.32}{154} (2.2046) = .01889657$$

These rates appear as assessment rates in the HTS code tables in § 1260.172.

List of Subjects in 7 CFR part 1260

Administrative practice and procedure, Advertising, Agricultural research, Imports, Marketing agreement, Meat and meat products, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, AMS proposes to amend 7 CFR part 1260 as follows:

PART 1260--BEEF PROMOTION AND RESEARCH

1. The authority citation for 7 CFR part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901-2911 and 7 U.S.C. 7401

2. Amend § 1260.172 by revising paragraph (b) (2) to read as follows:

§ 1260.172 Assessments.

* * * * *

(b) * * *

(2) The assessment rates for imported cattle, beef, beef products, veal, and veal products are as follows:

Imported Beef and Beef Products (Veal)		
HTS Number	Item Description	Assessment Rate per kg
0201.10.0510	Veal carcasses and half carcasses	.01431558
0201.10.1010	Misc. Veal	.01431558
0201.10.5010	Misc. Veal	.01431558
0202.10.0510	Veal carcasses and half carcasses	.01431558
0202.10.1010	Veal carcasses and half carcasses	.01431558
0202.10.5010	Veal carcasses and half carcasses	.01431558

Imported Beef and Beef Products(Veal)		
HTS Number	Item Description	Assessment Rate per kg
0201.20.5010	Fresh or chilled bone in veal cuts	.01431558
0201.20.5020	Other	.01431558
0201.30.5010	Fresh or chilled boneless veal cuts	.01889657
0201.30.5020	Other	.01889657
0202.30.5010	Frozen boneless veal cuts	.01889657
0202.30.5020	Other	.01889657

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Dated: August 18, 2016

Elanor Starmer
Administrator
Agricultural Marketing Service

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