

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 330

9 CFR Part 94

[Docket No. 93-037-1]

Garbage; Disposal by Cruise Ships in Landfills at Alaskan Ports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations that apply to garbage that can introduce diseases or pests of livestock, poultry, or plants. The amendment would allow cruise ships to dispose of garbage in landfills at certain Alaskan ports. This would apply only to cruise ships that do not have prohibited or restricted meat or animal products in the vessel stores. This amendment to the regulations would reduce the cost of disposing of cruise ship garbage at Alaskan ports, while continuing to help prevent the spread of plant pests and livestock and poultry diseases into or within the United States.

DATES: Consideration will be given only to comments received on or before June 4, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 93-037-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 93-037-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald B. Caffey, Assistant to the Deputy Administrator, Veterinary Medical Office, PPQ, APHIS, Suite 4C03, 4700 River Road Unit 129, Riverdale, MD 20737-1236, (301) 734-7633.

SUPPLEMENTARY INFORMATION:

Background

Our regulations concerning garbage are contained in 7 CFR 330.400 and 9 CFR 94.5 (referred to below as "the regulations"). The regulations in 7 CFR 330.400 are intended to prevent the dissemination of plant pests and diseases. The regulations in 9 CFR 94.5 are intended to prevent the dissemination of animal diseases.

Garbage is defined in § 330.400(b) and § 94.5(a) as all waste material that is derived in whole or in part from fruits, vegetables, meats, or other plant or animal (including poultry) material, and other refuse of any character whatsoever that has been associated with any such material on board any means of conveyance, and including food scraps, table refuse, galley refuse, food wrappers or packaging materials, and other waste material from stores, food preparation areas, passengers' or crews' quarters, dining rooms, or any other areas on means of conveyance. Garbage also means meals and other food that were available for consumption by passengers and crew on an aircraft but were not consumed.

Certain garbage is regulated under our regulations. There are three categories of regulated garbage: (1) Garbage that is on or removed from a means of conveyance if, at the time the garbage is on or removed from the means of conveyance, the means of conveyance has been in any port outside the continental United States and Canada within the previous 2-year period (see §§ 330.400(c) and 94.5(b) for definition; see §§ 330.400(c)(1) and (c)(2) and §§ 94.5(b)(1) and (b)(2) for exceptions); (2) garbage that is on or removed from a means of conveyance if, at the time the garbage is on or removed from the means of conveyance, the means of conveyance has moved during the previous 1-year period, either directly or indirectly, to the continental United States from any territory or possession or from Hawaii; to any territory or possession from any other territory or possession or from Hawaii; or to Hawaii

from any territory or possession (see §§ 330.400(d) and 94.5(c) for definition; see §§ 330.400(d)(2) and 94.5(c)(2) for exceptions); and (3) garbage that is commingled with regulated garbage (see §§ 330.400(e) and 94.5(d)).

Under our regulations, regulated garbage must be stored in tight, leak-proof, covered receptacles on board a means of conveyance while the means of conveyance is in the territorial waters or while otherwise within the territory of the United States. Also, regulated garbage must be removed from the means of conveyance in tight, leak-proof receptacles under the direction of an Animal and Plant Health Inspection Service (APHIS) inspector to an approved facility for incineration, sterilization, or grinding into an approved sewage system, under supervision of an APHIS inspector. Regulated garbage may be removed for other handling in a manner and under such supervision as the Administrator, APHIS, may approve in specific cases. Other handling is approved only if it complies with the applicable laws for environmental protection and is adequate to prevent the dissemination of plant pests and livestock or poultry diseases into or within the United States. (See §§ 330.400(g)(1) and 94.5(f)(1).)

Garbage can also be disposed of outside the territorial limits of the United States by dumping or in on-board incinerators, sterilizers, or grinders. However, as explained elsewhere in this document, these methods are limited to certain situations and are often impractical.

Cruise ships that sail between Alaskan ports currently dispose of their garbage in landfills at Alaskan ports. The Administrator has approved this alternate disposal method because we believe the garbage would pose no disease risk to livestock or crops in the United States.

Disposing of garbage on the high seas, or by using on-board incinerators or grinders was and is impractical for cruise ships operating off the west coast of Alaska and Canada. The International Convention on the Prevention of Pollution from Ships at Sea, Annex V, ratified by the United States in 1988, prohibits dumping any plastics into the ocean. To dispose of garbage, all plastics must be separated from the rest of the garbage and retained on board the vessel

for separate disposal. This is not practical for most cruise ships. Using on-board garbage grinders is also impossible, because cruise ships along the west coast of Alaska remain in United States and Canadian territorial waters, and both the United States and Canada prohibit use of on-board grinders within their territorial waters. Using on-board garbage incinerators is also usually impractical for cruise ships, because on-board incinerators are usually small units, not intended for disposing of all of a ship's garbage. In addition, on-board incinerators can only be used when on-board odors are not a problem.

Cruise ships usually dispose of regulated garbage by off-loading and incinerating or sterilizing it. Prior to 1991, Alaska had no approved incinerators or sterilizers that could be used by cruise ships. There was a small incinerator at Anchorage, but it was available and used only for disposal of aircraft garbage. There are no facilities in Alaska suitable for sterilizing maritime garbage. Grinding garbage into an approved sewage system is also listed in our regulations as an approved method of disposing of regulated garbage. However, there are no sewage systems in Alaska approved for the disposal of maritime garbage.

In 1991 an incinerator in Juneau, Alaska, was approved for disposal of regulated maritime garbage. Because of the availability of this facility, in early 1992 APHIS notified all cruise lines operating vessels in Alaskan waters that regulated garbage would thereafter have to be disposed of in accordance with the regulations. APHIS specifically informed cruise lines that disposal of cruise ship garbage in landfills at Alaskan ports would no longer be allowed.

The cruise lines questioned the need for and practicality of our policy changes and said they did not have enough time to prepare for the policy change before the next cruise season began. After discussions with representatives of the cruise lines, APHIS agreed verbally in 1992 to temporarily withdraw the policy change. APHIS and cruise line representatives also agreed that APHIS would conduct a risk assessment of the situation. If the risk assessment was positive—that is, if disposing of regulated garbage from cruise ships in landfills at Alaskan ports presented a risk to livestock or crops in the United States—then cruise ships would have to comply with the regulations. In the mean time, APHIS agreed that cruise ships could continue to dispose of regulated garbage in landfills at Alaskan

ports, provided that the ships have no meat or animal products on board that are prohibited or restricted under the regulations in 9 CFR part 94. These meats and animal products are prohibited or restricted in order to prevent the possible spread into the United States of various diseases of livestock and poultry, including foot-and-mouth disease.

APHIS has completed an assessment of the pest and disease risks posed by this situation. The risk assessment was limited to regulated garbage that was removed from cruise ships operating in waters off the west coast of Alaska and Canada and disposed of in landfills at Alaskan ports. These ships did not have any prohibited or restricted meat or animal products on board at the time the cruise ships entered Alaskan waters. The results of the study were that there is no undue risk of animal or plant disease or pest introduction.

The ecology, wildlife, and agriculture of Alaska are vastly different from the 48 contiguous States. No plant diseases or pests have been identified as posing any risk in Alaska. This is because no plant pest or disease of concern can survive the Alaskan climate. APHIS identified foot-and-mouth disease (FMD) as the livestock disease of greatest risk in Alaska. Ruminants and swine are the animal species at risk for FMD. At-risk animals could be infected by exposure to garbage in landfills.

Requiring cruise ships to have no prohibited or restricted meat or animal products on board at the time they enter Alaskan waters minimizes any possibility that infectious materials would be disposed of in landfills. The nature of agriculture and wildlife in Alaska minimizes the possibility of animals being exposed to landfill garbage. In Alaska, there are no wild swine, and very few herds of domestic swine. There are many wild ruminants, such as deer, elk, and moose. However, there are very few herds of domestic sheep, goats, and cattle. None of the herds of domestic livestock are located near landfills where cruise ship garbage is buried. Domestic Alaskan livestock are therefore unlikely to be exposed to garbage disposed of in landfills. Wild ruminants could be exposed to landfill garbage. However, ruminants do not normally "graze" on landfills. In addition, experts do not believe wild ruminant populations would sustain an FMD infection without being continually exposed to infected domestic animals. In Alaska, any FMD infection within the wild ruminant population would therefore die out before it could present a threat to livestock. Under these circumstances,

any outbreak of FMD could be easily contained and eradicated.

Based on this risk assessment, we have determined that continuing to allow regulated garbage from cruise ships to be disposed of in Alaskan landfills would not present any significant pest or disease risk as long as the cruise ships do not have meat or animal products on board that are restricted or prohibited under the regulations in 9 CFR part 94. This amendment would also apply only to cruise ships that remain in Alaskan or Canadian waters for the entire cruise season. We are therefore proposing to amend 7 CFR 300.400(g)(1) and 9 CFR 94.5(f)(1) to reflect this determination. Cargo ships and other conveyances, including cruise ships that do not comply with these requirements, would continue to be required to follow existing regulations in 7 CFR 330.400 and 9 CFR 94.5.

Under our proposed regulations, only cruise ships meeting certain requirements would be allowed to dispose of regulated garbage in landfills at Alaskan ports. Qualifying cruise ships would be prohibited from having prohibited or restricted meat or animal products on board at the time they enter Alaskan waters for the cruise season. Cruise ships would be inspected by APHIS inspectors at the beginning of each cruise season (approximately mid-May, depending on weather conditions). Many types of meat and animal products are prohibited or restricted under the regulations in 9 CFR part 94, in order to prevent the spread into the United States of various diseases of livestock and poultry. Among the meats and other products prohibited or restricted under 9 CFR part 94 are fresh, chilled, and frozen meat of ruminants and swine that originate in any country where rinderpest or FMD exists. Countries where rinderpest or FMD exists are listed in § 94.1(a) of those regulations. Neither rinderpest nor FMD exists in Canada or in the United States. Prohibiting cruise ships from having prohibited or restricted meat or animal products on board would prevent the possible spread of livestock and poultry diseases into the United States.

Qualifying cruise ships would also be required to remain in Alaskan or Canadian waters for the entire cruise season. This would preclude any possibility of prohibited or restricted meat or animal products being brought on board the vessel.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule

has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

There is a shortage of incinerators and sterilizers accessible to cruise ships in Alaska. Incinerators are now available to dispose of regulated maritime garbage only at Juneau, Ketchikan and Sitka. Sterilizers to dispose of maritime garbage are not available. Further, it is impractical for cruise ships to dispose of all regulated garbage in on-board incinerators or grinders, or by dumping on the high seas.

During the period when cruise ship garbage is incinerated, the total volume of garbage is too great for all of the garbage to be incinerated. We are, therefore, currently allowing certain cruise ships to dispose of regulated garbage in landfills at Alaskan ports. These are ships which have no prohibited or restricted meat or animal products on board at the time they enter Alaskan waters, and which remain in Alaskan or Canadian waters during the entire cruise season. Therefore, if this proposed rule is adopted, no major change in current practice would be required.

Allowing for the continued use of landfills would have a beneficial economic impact on cruise ships, as landfill disposal is less expensive than incineration. Our information indicates that none of the cruise ships that would be affected by this proposed rule are U.S.-owned and none would be classified as "small" entities (defined as having fewer than 500 employees, according to Small Business Administration (SBA) size criteria.)

We also foresee no economic impact on incinerator or landfill owners. Because the proposed amendments to the regulations only bring the regulations into conformance with current practices, there should be no impact of any kind on incinerator or landfill operations.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

The alternatives to this proposed rule would be to take no action or to prohibit disposal of all cruise ship garbage in landfills at Alaskan ports. We do not consider prohibiting such garbage disposal a reasonable alternative. Prohibiting such garbage disposal would disrupt industry operations without any salutary effect on disease or pest risk. We also do not consider doing nothing a reasonable alternative. Doing nothing

would continue the informal requirements which are now in effect without giving notice to the public.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (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) administrative proceedings will not be required before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this proposed rule. The assessment provides a basis for the conclusion that the disposal, in landfills at Alaskan ports, of garbage from cruise ships under the conditions specified in this proposed rule would not present a risk of introducing or disseminating plant or animal diseases or pests and would not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by

writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

7 CFR Part 330

Customs duties and inspections, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 330 and 9 CFR part 94 would be amended as follows:

PART 330—FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS; SOIL, STONE, AND QUARRY PRODUCTS; GARBAGE

1. The authority citation for part 330 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd–150ff, 161, 162, 164a, 450, 2260; 19 U.S.C. 1306; 21 U.S.C. 111, 114a; 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 330.400, paragraph (g)(1), a new sentence would be added at the end of the paragraph to read as follows:

§ 330.400 Regulation of certain garbage.

* * * * *

(g)(1) * * * *Provided that*, cruise ships may dispose of regulated garbage in landfills at Alaskan ports if the cruise ships do not have prohibited or restricted meat or animal products on board at the time they enter Alaskan waters for the cruise season, and if the cruise ships remain in Alaskan or Canadian waters for the entire cruise season.

* * * * *

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

3. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331, and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

4. In § 94.5, paragraph (f)(1), a new sentence would be added at the end of the paragraph to read as follows:

§ 94.5 Regulation of certain garbage.

* * * * *

(f)(1) * * * *Provided that*, cruise ships may dispose of regulated garbage in landfills at Alaskan ports if the cruise ships do not have prohibited or restricted meat or animal products on board at the time they enter Alaskan waters for the cruise season, and if the cruise ships remain in Alaskan or Canadian waters for the entire cruise season.

* * * * *

Done in Washington, DC, this 2nd day of April 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-8472 Filed 4-4-96; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI-47-92]

RIN 1545-AR76

Reissuance of Mortgage Credit Certificates; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to implementing a provision of the Tax Reform Act of 1984 permitting the reissuance of mortgage credit certificates.

DATES: The public hearing will be held on Wednesday, May 22, 1996, beginning at 10:00 a.m. Requests to speak and outlines of oral comments must be received by Wednesday, May 1, 1996.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Commissioner's Conference Room, Room 3313, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20044. Requests to speak and outlines of oral comments should be mailed to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:DOM:CORP:R

[FI-47-92], Room 5228, Washington, D.C., 20044.

FOR FURTHER INFORMATION CONTACT: Evangelista Lee of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-8452 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the Income Tax Regulations under section 25 of the Internal Revenue Code. The proposed regulations appeared in the Federal Register for Wednesday, December 22, 1993 (58 FR 67745).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Wednesday, May 1, 1996, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answer thereto.

Because of controlled access restrictions, attenders cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96-8460 Filed 4-4-96; 8:45 am]

BILLING CODE 4830-01-U

26 CFR Part 1

[EE-53-95]

RIN 1545-AT95

Requirements for Tax Exempt Section 501(c)(5) Organizations; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document announces a hearing on proposed regulations, published on December 21, 1995, which clarify requirements of section 501(c)(5)

to provide needed guidance to organizations as to the requirements an organization must meet in order to be exempt from tax.

DATES: The public hearing will be held on Wednesday, June 5, 1996, beginning at 10:00 a.m. Requests to speak and outlines of oral comments must be received by Wednesday, May 15, 1996.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Commissioner's Conference Room, Room 3313, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20044. Requests to speak and outlines of oral comments should be mailed to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:DOM:CORP:R [EE-53-95], Room 5228, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Evangelista Lee of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-8452 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the Income Tax Regulations under section 501(c)(5) of the Internal Revenue Code. The proposed regulations appeared in the Federal Register for Thursday, December 21, 1995 (60 FR 66228).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Wednesday, May 15, 1996, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answer thereto.

Because of controlled access restrictions, attenders cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying.