

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

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB-97-05]

Tobacco Inspection: Subpart C—Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department is proposing to amend the regulations under the Official Standard Grades for Burley Tobacco to delete from the definition of "Rework" the reference to a lot of tobacco exceeding an average bale weight of 100 pounds. This action is being taken because average bale weight is not a significant factor for determining the quality of tobacco and classifying tobacco as "No Grade" solely because the average bale weight exceeds 100 pounds precludes producers from receiving an accurate description of their product at the marketplace.

DATES: Comments are due on or before September 2, 1997.

ADDRESSES: Send comments to John P. Duncan III, Director, Tobacco Division, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090-6456. Comments will be made available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Director, Tobacco Division, AMS, USDA, Room 502 Annex Building, P. O. Box 96456, Washington, D.C. 20090-6456. Telephone (202) 205-0567.

SUPPLEMENTARY INFORMATION: The Department proposes to amend the Official Standard Grades for Burley Tobacco, U.S. Type 31 and Foreign Type 93, pursuant to the authority contained in the Tobacco Inspection Act of 1935, as amended (49 Stat. 731; 7 U.S.C. 511 *et seq.*).

The proposed revision would delete the reference to lots of tobacco exceeding an average bale weight of 100 pounds from the definition of "Rework."

In 1995, the regulations were amended (60 FR 7429) to provide that lots of burley tobacco in which the average bale weight exceeded 100 pounds would be classified as needing to be reworked. That amendment was in response to a request from the tobacco industry. The basis of that request was that those bales within a lot exceeding 100 pounds had a higher potential for deterioration affecting the quality and value of the tobacco.

During the grading process, the USDA inspector looks at the total weight of the lot listed on the inspection certificate and divides by the number of bales to ascertain the average bale weight. When a lot is identified as exceeding the average bale weight, it is classified as needing to be reworked and given the grademark "No-G" meaning No Grade. The No Grade designation is also used to classify lots that are nested, offtype, semicured, damaged 20 percent or more, abnormally dirty, extremely wet or watered, matter, or has an odor foreign to the type. A lot of tobacco that otherwise meets the specifications of a standard grade, but exceeds the 100 pound average bale weight criterion, is classified in a category of less desirable tobacco. This one factor precludes the producer from receiving an accurate description of their product at the marketplace.

After reviewing the average bale weight provision for two marketing seasons, the agency believes that it reduces the accuracy of applying the grade standards. Tobacco which is of doubtful keeping order may be identified and graded as such without regard to average bale weight.

This rule has been determined not significant for the purpose of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures

which must be exhausted prior to any judicial challenge to the provision of this rule.

Additionally, in conformance with the provision of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business. All tobacco warehouses and producers fall within the confines of "small business" which are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. There are approximately 160 tobacco warehouses and approximately 250,000 producers.

The Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities. The proposal would amend the regulations to delete from the definition of "Rework" the reference to a lot of tobacco exceeding an average bale weight of 100 pounds. This action is being taken because average bale weight is not a significant factor for determining the quality of tobacco. Classifying tobacco as "No Grade" solely because the average bale weight exceeds 100 pounds precludes producers from receiving an accurate description of their product at the marketplace. This proposed rule would not substantially affect the normal movement of the commodity in the marketplace. Compliance with this rule would not impose substantial direct economic cost, record keeping, or personnel workload changes on small entities, and would not alter the market share or competitive positions of small entities relative to the large entities and would in no way affect normal competition in the marketplace.

All persons who desire to submit written data, views, or arguments for consideration in connection with this proposal may file them with the Director, Tobacco Division, AMS, USDA, Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090-6456, and not later than (60 days after publication).

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports,

Pesticides and pests, Reporting and record keeping requirements, Tobacco.

For the reasons set forth in the preamble, it is proposed that the 7 CFR part 29 be amended as follows:

PART 29—TOBACCO INSPECTION

1. The authority citation for part 29, subpart C continues to read as follows:

Authority: 7 U.S.C. 511b, 511m, and 511r.

Subpart C—Standards

2. In § 29.3053, paragraph (b) would be revised to read as follows:

§ 29.3053 Rework.

* * * * *

(b) Tobacco not properly tied in hands, not packed in bales approximately 1 x 2 x 3 feet, not oriented, not packed straight, bales not opened for inspection when chosen by a grader, or otherwise not properly prepared for market.

* * * * *

Dated: June 24, 1997.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 97-17103 Filed 6-30-97; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05-97-009]

RIN 2115-AE47

Drawbridge Operation Regulations; Pasquotank River, Elizabeth City, North Carolina

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the North Carolina Department of Transportation, the Coast Guard is proposing to change the regulations that govern the operation of the Highway 158 drawbridge across the Pasquotank River, mile 50.7, at Elizabeth City, North Carolina, by eliminating bridge openings for pleasure vessels from Monday through Friday between 7 a.m. and 9 a.m., and 4 p.m. and 6 p.m., except that, openings would be scheduled at 7:30 and 8:30 a.m., and 4:30 and 5:30 p.m. for any waiting pleasure vessels. This proposed rule is intended to help relieve automobile traffic congestion during the morning and afternoon rush hours, while still providing for the reasonable needs of navigation.

DATES: Comments must be received on or before September 2, 1997.

ADDRESSES: Comments may be mailed to Commander (Aowb), USCG Atlantic Area, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004, or may be hand-delivered to the same address between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398-6222. Comments will become a part of this docket and will be available for inspection and copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, USCG Atlantic Area, at (757) 398-6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD05-97-009), the specific section of this rule to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander, USCG Atlantic Area, at the address listed under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Terrance Knowles, Project Manager, Bridge Administration Section, and LT Robert L. Wegman, Project Counsel, USCG Maintenance and Logistics Command Atlantic Legal Division.

Background and Purpose

The Highway 158 drawbridge across the Pasquotank River, mile 50.7, at

Elizabeth City, North Carolina is currently required to open on signal year round. The City of Elizabeth City, through the North Carolina Department of Transportation (NCDOT), has requested permission to restrict drawbridge openings for pleasure vessels only to reduce highway traffic congestion during the morning and evening rush hours. In support of its request, the NCDOT contends that 10 years of records during the period from 1985 through 1995 show that highway traffic increases have caused excessive highway congestion.

The Coast Guard has reviewed the NCDOT highway traffic data during the 10 year period from 1985 through 1995, and the drawbridge opening logs from January 1995 to December 1995, copies of which are included in the docket for this rulemaking. This data appears to support NCDOT's request. According to the 1995 drawbridge logs, 234 openings occurred between 7 a.m. and 9 a.m. and 235 openings occurred between 4 p.m. and 6 p.m. Thus, the daily average for the year was 0.6 openings for each of the proposed restricted periods. Only during the month of May 1995 were there more than 2.0 openings during the time periods in question. During May 1995, an average of 2.6 openings occurred between 7 a.m. and 9 a.m. Even though 2.6 openings is not excessive, NCDOT states that the random timing of the openings caused highway traffic to backup four to six blocks. In support of this contention, the NCDOT provided highway traffic data which shows that highway traffic volumes increased by an average of between 200 and 300 vehicles during the proposed morning and evening restricted periods as compared to other daylight hours. Based upon this data, the Coast Guard believes that the 2.0 proposed scheduled openings for pleasure vessels for each time period should be adequate for marine traffic and should help to reduce highway traffic congestion.

Discussion of Proposed Rule

The Coast Guard is proposing a new regulation governing the operation of this drawbridge. The proposed rule would eliminate openings of the bridge between 7 a.m. and 9 a.m., and 4 p.m. and 6 p.m., Monday through Friday for pleasure vessels except that the draw would open at 7:30 a.m., 8:30 a.m., 4:30 p.m., and 5:30 p.m. for any pleasure vessels waiting to pass. The draw would open on signal for public vessels of the United States or local vessels used for public safety, commercial vessels, tugs with tows, and vessels in distress. The draw would continue to open on signal