

# Tracking Federal Regulatory Initiatives

# Regulatory Affairs

VOL. 4, No. 6

March 3, 1998

Circulate to:	<b>HIGHLIGHTS</b>
1.	<b>Exempt from Prepublication and Approved</b>
2.	Smaller-scale dealers to be exempt from fruit and vegetable licensing . . . . . 2
3.	Wild animal and plant trade controls updated . . . . . 2-3
4.	Anti-dumping duties on vitreous Type I cold-rolled steel to be remitted . . . . 3
5.	Pacific salmon licence fees lowered . . . . . 4-5
	<b>Pre-Published and Approved</b>
	Egg marking and meat inspection regulations amended . . . . . 5-7

<b>Proposed Regulations for Pre-Publication in Part I, Canada Gazette</b>	<b>Statutory Authority &amp; Regulatory Plan Listing</b>
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**The Merger Enforcement Guidelines as Applied to a Bank Merger**

The Competition Bureau has published a preliminary draft of the proposed Guidelines setting out the analytical framework to be used in assessing the competitive effects of a merger of two or more Schedule I banks under the Competition Act.

The Guidelines represent the first time the Bureau has provided general guidance for a specific industrial sector. The publication was triggered in part by the recent announcement of a proposed merger of two large Canadian banks.

Interested parties have been asked to submit written comments by April 27, 1998.

The detailed Guidelines include a proposal to use an initial threshold test, under which the Bureau will focus on market share and a pre-defined set of product offerings and geographic areas where competition is expected to be most affected by a proposed bank merger.

The Bureau indicates it will also be assessing the economic incentives of foreign banks entering the Canadian market should any of the existing regulatory restrictions be lifted.

Contact: Competition Bureau, Place du Portage, Phase I, 50 Victoria Street, Hull, Quebec, K1A 0C9. Fax: 819-953-5013; e-mail: complaints@ic.gc.ca.

*Competition Act*

Published in Canada Gazette February 28, 1998

## Exempt from Pre-Publication and Approved

### Statutory Authority & Regulatory Plan Listing

#### **Licensing and Arbitration Regulations, amendment (SOR/98-132, OIC 1998-275)**

This amendment provides exemptions from the international and inter-provincial produce licensing requirements for smaller-scale fresh fruit and vegetable dealers. More specifically, the following categories of dealers are exempt:

- dealers (growers) who market only agricultural products that they grow themselves;
- dealers, including shippers and wholesalers, who market agricultural products purchased only from within the province in which their business is located;
- dealers, including retailers and charitable organizations, who market directly to consumers agricultural products with a total annual invoice value not greater than \$230,000; and
- brokers who negotiate sales of agricultural products with a total annual invoice value not greater than \$230,000.

These exemptions have been made in consideration that shippers of their own produce, shippers that purchase produce from within their own province, and small brokers and small retailers, do not directly benefit from the licensing program; that these exemptions are consistent with the equivalent U.S. program; that the licensing requirement was a cost impediment for small businesses; that the exemptions are fair and do not disrupt the industry; and that the exemptions can be applied easily and consistently across the country.

The exemption follows a licensing fee increase under an amendment to the *Fresh Fruit and Vegetable Fees Order*, as pre-published in Part I of the Canada Gazette, on August 9, 1997.

Contact: R. Cardinal, A/Associate Director, Dairy, Fruit and Vegetable Division, Canadian Food Inspection Agency, 59 Camelot Drive, Nepean, Ontario, K1A 0Y9. Tel: 613-225-2342, ext. 4640; Fax: 613-228-6632; E-mail: rcardinal@em.agr.ca.

#### **Wild Animal and Plant Trade Regulations, Schedule I, amendment (SOR/98-134, OIC 1998-279)**

This amendment updates Schedule I of the Regulations in order to reflect changes in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) control list agreed to at the 1997 Conference of the Parties in Zimbabwe in June.

There are over 50,000 species listed in the three appendices to CITES and incorporated in Schedule I in the Regulations. Appendix I animals and plants are considered threatened with extinction and may not be traded for primarily commercial purposes. However, they may be traded for educational, scientific, and propagation purposes.

Animals and plants are listed in Appendix II for one of two reasons. The first is to control commercial trade to prevent over-exploitation which could cause them to become threatened with extinction. The second is to protect Appendix I species by requiring permits for species which are similar in appearance, and which customs officials could mistake as being a non-CITES species.

Appendix III animals and plants are listed unilaterally by a country in which they occur to enlist the help of other countries in preventing unauthorized exports.

Canada's proposal to down-list Wood Bison to Appendix II, passed by consensus without debate at the Conference. This means that Canadian bison farmers will be able to legally export captive-bred (ranch) Wood Bison.

*Canada Agricultural  
Products Act*

To be published in Canada Gazette March 18, 1998

*Wild Animal and Plant  
Protection and Regulation of International and  
Interprovincial Trade Act,*  
section 21

To be published in Canada Gazette March 18, 1998

## Exempt from Pre-Publication and Approved

Statutory Authority  
&  
Regulatory Plan Listing

A proposal to list on Appendix II all those Sturgeon which are not already on one of the Appendices was also passed by consensus, and will take effect on April 1, 1998. This means that three Canadian species (*Acipenser fulvescens*, *A. medirostris*, and *A. transmontanus*) will now be listed on Appendix II and export from Canada will require a CITES export permit from the Department of Fisheries and Oceans.

Two plant proposals affecting Canadian native species, the deletion of Tweedy's Bitterroot from Appendix II, and the inclusion of Goldenseal on Appendix II, were both adopted.

A proposal to remove from Appendix II several artificially propagated species of Easter and Christmas cacti, of one euphorbia (the "cowboy cactus"), and of the Florist's cyclamen, was also approved. This will result in a substantial reduction in the number of CITES export permits issued to Canadian greenhouses.

Contact: Lisa Quiring, National Co-ordinator, Legislation and Public Awareness Program, Analysis & Coordination, Canadian Wildlife Service, Environment Canada, Ottawa, Ontario, K1A 0H3. Tel: 819-997-1272; Fax: 819-953-6283.

### **Order Respecting the Remission of Anti-Dumping Duties on Vitreous Type I Cold-Rolled Steel (SOR/98-135, OIC 1998-280)**

The remission Order will reimburse anti-dumping duties collected on imports of vitreous type I cold rolled steel for porcelain enamelling produced by the open coil anneal process. This product was not available from Canadian sources during the period covered by the remission.

Due to domestic non-availability this product had to be imported during a five-month period and was subject to an antidumping duty rate of up to 87.3%. The remission of anti-dumping duties on this product should help Whirlpool and Frigid-aire's two remaining appliance manufacturing plants located in Montmagny and L'Assomption, Quebec respectively, remain viable.

The Remission Order will remit approximately \$800,000 in anti-dumping duties assessed/collected for this period.

Contact: Lawrence Euteneier, International Trade Policy Division, Department of Finance, Ottawa, Ontario, K1A 0G5. Tel: 613-992-0826.

### **Dehydrated Garlic and Chewing Gum Containing Nicotine Remission Order (SOR/98-136, OIC 1998-281)**

This Order will remit the additional duties paid on dehydrated garlic for use in the manufacture of food products for the period January 1, 1997 to December 31, 1997. Under the simplified *Customs Tariff* introduced on January 1, 1998, the Free rate of customs duty was re-introduced for dehydrated garlic.

Under the old *Customs Tariff*, dehydrated vegetables for use in the manufacture of food products became duty-free on July 10, 1996 by means of tariff code 3053. On January 1, 1997, with the implementation of the Canada-Israel Free Trade Agreement, a new tariff item for garlic was created which had the inadvertent effect of imposing a Most-Favoured-Nation (MFN) rate of customs duty of 8.2% on imported dehydrated garlic.

In another change, this Order remits the additional duties paid on chewing gum containing 2 mg or more of nicotine for the period June 1, 1996 to December 31, 1997. Under the simplified *Customs Tariff* introduced on January 1, 1998, the Free rate of customs duty was re-introduced for this gum.

*Customs Tariff*, section  
115

To be published in Can-  
ada Gazette March 18,  
1998

*Customs Tariff*, section  
115

To be published in Can-  
ada Gazette March 18,  
1998

## Exempt from Pre-Publication and Approved

### Statutory Authority & Regulatory Plan Listing

Previously, chewing gum containing 2 mg or more of nicotine (brand name "Nicorette") had for a number of years entered Canada duty-free as a medicament. However, the World Customs Organization reviewed the tariff classification of this product in 1996, and reclassified it as a chewing gum containing synthetic agents. Since Canada is bound as a signatory to the Harmonized System Convention, this chewing gum containing nicotine became dutiable at an MFN rate of 14%.

The Order would remit approximately \$35,000 in customs duties for the dehydrated garlic, and approximately \$480,000 in customs duties for the chewing gum containing 2 mg or more of nicotine.

Contact: Lawrence Euteneier, International Trade Policy Division, Department of Finance, Ottawa, Ontario, K1A 0G5. Tel: 613-992-0826.

### **Insurable Earnings and Collection of Premiums Regulations, amendment (SOR/98-137, OIC 1998-284)**

The amendments make a number of changes to the rules used to calculate employment insurance premiums for employees, including the decrease in the premium rate from \$2.90 to \$2.70 per \$100 of insurable earnings.

More specifically:

- Subsection 2(2) is being amended to add complaints filed with federal labour authorities. Section 2 sets out the amounts to be included in insurable earnings, which is used for various purposes, such as the calculation of unemployment insurance benefits. While the amounts to be included in insurable earnings must usually be an amount paid to the person, subsection 2(2) allows the inclusion of amounts remaining unpaid, for reasons such as an employer's bankruptcy, as long as the person has filed a complaint with a provincial labour authority.
- Paragraphs 3(3)(a) and (b) are being amended to reflect the revised premium rate for 1998 of \$2.70 per \$100 of insurable earnings. Section 3 provides the ranges of insurable earnings used in preparing the tables used by employers in determining employees' premiums.
- Subparagraph 18(2)(a)(i) is being amended as a result of changes to the issuance pattern of Government of Canada treasury bills which was announced on August 5, 1997. The change essentially deletes the reference to the weekly issuance. Subsection 18(2) provides the calculation to determine the prescribed rate of interest in effect during a quarter.
- Section 18.1 is being added to introduce a definition of "associated employer", and to ensure that the total refund available to all the associated employers cannot exceed the maximum refund available under the Act for a single employer. This relates to the "New Hires" program, which provides employment insurance premium relief (i.e. refunds) for all firms with employer premiums of less than \$60,000 in 1996.

Contact: Richard Montroy, Legislative Policy Division, 123 Slater Street, Ottawa, Ontario, K1A 0L5. Tel: 613-952-6479.

### **Pacific Fishery Regulations, 1993, amendment (SOR/98-138, OIC 1998-299)**

This amendment reduces the licence fee for fishing salmon in the Pacific seine, gill net and troll fleets to reflect the new market situation. The Salmon Enhancement Program (SEP) surcharge included in the fee remains unchanged.

*Employment Insurance Act*, sections 82 and 108

RC/R-22-L

To be published in Canada Gazette March 18, 1998

*Fisheries Act*

To be published in Canada Gazette March 18, 1998

## Exempt from Pre-Publication and Approved

Statutory Authority  
&  
Regulatory Plan Listing

For the fishers, the amendment will mean a reduction of the fee from \$730 to \$430 for vessels that are less than 9.14 m in overall length, from \$1,390 to \$710 for vessels that are 9.14 m or more in overall length and from \$5,750 to \$3,880 for purse seine vessels. This fee reduction is important will keep the licence fees at 3% and 5% of the gross earnings of salmon licence holders as was agreed to in 1996.

The reduction in fees will mean a decrease of \$2.6 million in revenues from Pacific salmon fishing licences for the Federal Fisheries Department.

The current licence fees for salmon in the Pacific are based on the average landed value of salmon from 1990 to 1993. The most up to date four-year average landed value for Pacific salmon is 34% lower. Some fleet experienced an even larger decrease such as troll, which saw a 40% decrease in its landed value between 1990-93 and 1994-97. This decrease is the result of a combination of lower quantities landed and lower prices paid to fishers.

Commercial fishing licence fees are based on a formula agreed to in consultations leading to the 1996 fishing licence fees. According to that formula, a licence fee costs \$30 for the first \$1,000 in value of landings or \$100 for the first \$25,000 in value of landings, plus 3% of the next \$75,000 in landed value, plus 5% of anything over \$100,000 in landed value per licence. However, in 1996, an exception was made to this rule for the gill net and troll fleet. Since their fees were already higher than the new formula developed in consultations, they agreed to stay at their current level.

This fee amendment proposes to relieve them from this exception and to calculate the gill net and troll fees according to the same formula as the seine fleet. Because of this, the fee reduction for the gill net and troll fleet will be more than their respective decrease in landed value.

Indians who elect to pay a reduced fee, and the Northern Native Fishing Corporation currently pay 50% of the licence fee because they have additional transferability restrictions. These licence holders will continue to pay 50% of the licence fee. There will be no change in their SEP charge.

Contact: Diane Cofsky, Economic Analysis, Department Fisheries and Oceans, 200 Kent Street, Ottawa, Ontario, K1A 0E6. Tel: 613-990-5374.

## Pre-Published and Approved With comments or changes

Statutory Authority  
&  
Regulatory Plan Listing

### **Egg Regulations - Marking 95004, amendment (SOR/98-131, OIC 1998-274)**

This amendment addresses several issues primarily to facilitate shell egg marketing as well as to strengthen certain health and safety provisions.

More specifically, the amendments:

- update the packing requirements, to relax the existing requirement that containers used previously to pack ungraded eggs not be subsequently reused to pack graded eggs, by allowing this to occur in the case of Canada Nest Run and Canada C grade eggs, since these eggs are not destined for the table market;
- require that molded pulp trays must be new when used with Canada A or Canada B eggs, but that plastic trays may be reused with graded or ungraded eggs provided the trays are cleaned, sanitized and dried prior to reuse.

*Canada Agricultural  
Products Act*

Agr/96-3-L

To be published in Canada Gazette March 18, 1998

## Pre-Published and Approved With comments or changes

Statutory Authority  
&  
Regulatory Plan Listing

- allow a registered egg station to grade and pack eggs for another registered egg station and to identify the other station by its registration number on the containers (other than cartons);
- remove the upper weight limit on the Canada A medium and small size designations so that a registered egg station can overgrade (i.e. designate large size eggs as medium);
- allow Canada Nest Run eggs to be conveyed either to a registered processed egg station for breaking purposes (as currently required) or to a registered egg station for subsequent regrading. This will allow egg stations short of eggs to access Canada Nest Run eggs in addition to traditional alternative measures such as importing eggs;
- remove the requirement that an Agency inspector stamp all containers of imported eggs; and
- require appropriate labelling on trays of eggs that are overwrapped prior to leaving the registered egg station.

The *Egg Regulations* establish the national grade standards for shell eggs; require that grading stations be registered with Agriculture and Agri-Food Canada if the Canada grade names are used; set the operating and maintenance requirements for operators of registered egg stations to promote sanitary practices; specify the requirements for the interprovincial import and export movement of shell eggs; and provide the packing and marking requirements for graded shell eggs.

The amendments were republished in the Canada Gazette, Part I, on April 27, 1996.

As a result of comments, several changes have been made to the proposals, e.g.:

- eliminating the requirement that all trays of Canada A or B eggs be overwrapped when they leave the station; however, if they are overwrapped then labelling comparable to that required on cartons must appear on the overwrapping. Retailers who market eggs must ensure that the required labelling information is provided to consumers for cartons and trays.
- allowing the grading of hatching eggs and to no longer imposing special conditions on hatcheries. Eggs which do not meet the criteria specified in the *Egg Regulations* for grading may not be graded.

Contact: Richard Robinson, Chief, Livestock Identification and Legislation, Meat and Poultry Products Division, Canadian Food Inspection Agency, 59 Camelot Drive, Nepean, Ontario, K1A 0Y9. Tel: 613-952-8000; Fax: 613-998-0958.

### **Meat Inspection Regulations, 1990, amendment (I.D. No. 96008) (SOR/98-133, OIC 1998-276); Meat Products Inspection Fees Order (SOR/98-139)**

This amendment repeals the existing fee provisions in the *Meat Inspection Regulations, 1990* and replaces them with the *Meat Products Inspection Fees Order*, established pursuant to the *Financial Administration Act*.

The proposals were republished in the Canada Gazette, Part I, on September 6, 1997; minor clarifications were made.

More specifically, the following new fees and modifications to existing fees are approved:

- for the inspection of an establishment registered for the slaughter of poultry, in respect of each inspection station within a scheduled work shift, with an increase in the annual fee from \$12,122 to \$16,218 per inspection station proposed;

*Meat Inspection Act*,  
R.S., c. 25 (1st Supp.), s.  
20; *Financial Administration  
Act*

Cost Sharing Arrange-  
ments, 1996

To be published in Can-  
ada Gazette March 18,  
1998

## Pre-Published and Approved With comments or changes

Statutory Authority  
&  
Regulatory Plan Listing

- for the analysis or testing of a meat product, carcass or food animal, fees ranging from \$364 and \$227 for each test or analysis for LCMS Confirmation and Chloramphenicol LCMS respectively, to \$30 for antibiotic screening, \$0.71 and \$3.53 for trichinella in swine and in horses and other species respectively;
- for an extra slaughter inspection station, an annual fee of \$24,657 for each additional inspection station provided within a scheduled slaughter shift;
- for a processing shift worked concurrently with a slaughter shift, the current exemption for fees would be revoked and a new fee charged;
- for an additional work station as occasionally requested by the operator, a proposed fee that would be the greater of a minimum fee of \$159 or the amount determined by multiplying the number of hours worked by the hourly rate of \$53;
- for the issuance of an export certificate, an increase from \$12 for each certificate issued to \$15 per certificate;
- for additional activities/services provided by the CFIA to assist clients in bringing their commodities or establishments into compliance, a fee designed to recover 100% of the adjusted program expenditure, based on the hourly rate for the commodity program; and
- for the payment and adjustment of fees, an increase to \$1,000 in the minimum amount payable upon receipt of the invoice from the inspection agency in the case of the licence fee, up from \$300.

Overall, the proposed changes would generate revenue of some \$17.5-million from the meat processing industry.

Contact: Dr. M.F. Baker, Director, Meat and Poultry Products Division, Canadian Food Inspection Agency, 59 Camelot Drive, Nepean, Ontario, K1A 0Y9. Tel: 613-225-2342, Ext. 4646; Fax: 613-228-6636.

## Ministerial Orders Approved

Statutory Authority  
&  
Regulatory Plan Listing

### **National Animal Health Program Cost Recovery Fees Order, amendment (SOR/98-140)**

The amendment revises the fees for services relating to the import and export of animals, animal embryos and animal semen, by the Canadian Food Inspection Agency.

Also approved is a fee for the operation of an enhanced national Equine Infectious Anemia (EIA) program. The fee will be imposed on accredited laboratories for each EIA test they perform; a similar fee has been added to the proposed fees for the export and import inspection of horses where the test is carried out in departmental laboratories. The fee for each EIA test performed by an approved laboratory would be \$2.

The cost recovery fees would generate some \$5-million in revenue each year. The fees will be reviewed annually.

The fees are detailed in Parts I through VIII in the proposed Order.

The Order was prepublished in the Canada Gazette, Part I on August 9, 1997.

*Financial Administration Act*, paragraphs 19(1)(b) and 19.1(b); Order in Council P.C. 1995-325

Not included in Regulatory Plan

To be published in Canada Gazette March 18, 1998

# Ministerial Orders Approved

Statutory Authority  
&  
Regulatory Plan Listing

As a result of the prepublication, several changes were made to the proposals to:

- provide a lower import permit fee, when a risk assessment is required, for small shipments of mammals and birds imported by zoos for education and species preservation;
- provide a lower inspection fee for horses imported from the United States during periods when such inspection by the Agency is required;
- provide a lower certification fee for most poultry exported to the United States and other countries except Mexico, and to increase the fee for the certification of chickens and turkeys to Mexico to reflect the increased cost of providing this service as a result of new testing requirements imposed by Mexico;
- distribute the cost of post-licence laboratory testing services for veterinary biologics among all such products sold in Canada, whether imported from another country or manufactured in Canada; and
- ensure that the fees paid by shipping agents for import inspection services relating to ships arriving in Canada are applied equitably to all shipping agents in those instances where a ship is chartered by more than one shipping agent.

The amendments come into effect on March 1, 1998 except for Part VIII, the Equine Infectious Anemia part which come into force on April 1, 1998.

Contact: Dr. Brian Evans, Director, Animal Health Division, Canadian Food Inspection Agency, 59 Camelot Drive, Nepean, Ontario, K1A 0Y9. Tel: 613-225-2342, ext. 4601; Fax: 613-228-6631; e-mail: bevens@em.agr.ca.

Regulatory Affairs

ISSN 1201-0715

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