

# 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 Parts 55 and 59

[Docket No. PY-93-001]

RIN 0581-AA58

#### Voluntary and Mandatory Egg and Egg Products Inspection

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** A review of the regulations implementing the voluntary and mandatory egg and egg products inspection programs authorized by the Agricultural Marketing Act of 1946, as amended, and the Egg Products Inspection Act identified a number of changes which are proposed to clarify and update the subject regulations. The proposed revisions redefine dirty eggs; define nest-run eggs, washed ungraded eggs, egg products split samples, and recognized laboratories; and clarify the type of facilities and equipment to be supplied to the grader/inspector, scheduling operations, officially identifying products, appeal procedures, equipment requirements, sanitizing shell eggs prior to breaking, and general operating procedures. The revisions would also provide for less than quarterly visits to hatcheries and update the types of nonallowed discrimination in providing service.

**DATES:** Comments must be received on or before June 23, 1995.

**ADDRESSES:** Send written comments, in duplicate, to Janice L. Lockard, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, Room 3944-South, P.O. Box 96456, Washington, DC 20090-6456. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except holidays. State that your comments refer to Docket No. PY-93-001.

#### FOR FURTHER INFORMATION CONTACT:

Larry W. Robinson, Chief, Grading Branch, 202/720-3271.

**SUPPLEMENTARY INFORMATION:** This rule has been determined to be not significant for purpose of Executive Order 12866 and therefore has not been reviewed by OMB.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would 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 provisions of this rule.

The AMS Administrator has determined that these proposed rules, if promulgated, will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the proposed changes are primarily to remove obsolete material, correct erroneous wording and otherwise clarify, update, and simplify the regulations. Further, the revisions reflect sound manufacturing practices currently in use by most segments of industry and impose no major new requirements.

The information collection requirements contained in 7 CFR parts 55 and 59 have been approved by the Office of Management and Budget and assigned OMB Control Numbers 0581-0146 and 0581-0113, respectively, under the Paperwork Reduction Act of 1980.

#### Background

The proposed rule encompasses amendments for two separate, but related regulations. Regulations for voluntary inspection of egg products and grading (7 CFR part 55) are authorized by the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627). These regulations cover several types of inspection and grading activities and product identification or certification which are not covered by the mandatory inspection regulations. Regulations for the mandatory inspection of eggs and egg products (7 CFR part 59) are authorized by the Egg Products Inspection Act. (21 U.S.C. 1034). The regulations require and provide for the

continuous inspection of the processing of egg products and the control and disposition of restricted eggs. The Act and regulations were designed to provide a safe food source for the consuming public. The proposed amendments for both regulations serve to clarify and update provisions commensurate with changes in industry technology and marketing practices, or are editorial in nature.

#### Proposed Changes

For the voluntary inspection program, the proposal would update the types of prohibited discrimination (§ 55.11). It would specify the facilities and equipment to be provided for sampling, weighing, and examination of product and the office space and equipment to be furnished (§ 55.95). Alternative work schedules also would be provided (§ 55.96). The proposal would provide for application of the official plant number at alternative locations on official labels (§ 55.310) and specify the permitted disposition of labels and packaging materials bearing official identification when inspection service is terminated by USDA (§ 55.330). The proposed revision also would clarify appeal gradings and inspections including certificate issuance (§ 55.410 through § 55.460).

For the mandatory inspection program, the proposal would redefine dirty eggs by deleting the term prominent stains. The proposal would also define nest-run eggs, washed ungraded eggs, egg products split samples, and recognized laboratories. (§ 59.5). It also would update the types of nonallowed discrimination (§ 59.17). The proposal would provide a minimum of one visit each fiscal year to hatcheries since present operating practices pose minimal risk of incubator reject eggs or other restricted eggs entering consumer channels (§ 59.28). In official egg products plants, it would define or specify the following: time of inspection, schedule of operation, basis of billing, the type of facilities and equipment to be furnished by the plant, application for continuous inspection and the requirements for blueprints, changes and approval (§§ 59.122 through 59.146). The proposal would clarify the conditions under which labeling of product is to be corrected in the appeal procedure (§§ 59.300 through 59.360). It also would clarify the

labeling requirements with regard to approval, format, terminology, identification, and disposition (§§ 59.411 through 59.417). In addition, the proposal expands on equipment requirements and general plant operational procedures, including the shipment of nondenatured inedible, use of approved compounds, candling and transfer room facilities and equipment and egg sanitizing requirements (§§ 59.502 through 59.515) due to changes in industry technology. Provisions are also proposed for liquid egg cooling and frozen egg defrosting with a definition of "cold tap water" (§§ 59.530 through 59.539). The disposition of restricted eggs and the labeling and sale of nest-run and washed ungraded eggs are further defined (§§ 59.720 through 59.801). The section dealing with imported shell eggs and egg products would be revised to require that the date of production be provided for shell eggs, to exempt certain shell eggs imported for breaking from primary container labeling requirements, and to clarify the provisions for relabeling imported egg products. (§§ 59.900 through 59.956).

#### List of Subjects

##### 7 CFR Part 55

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

##### 7 CFR Part 59

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

For reasons set forth in the preamble, title 7, Code of Federal Regulations, parts 55 and 59 are amended as follows:

#### PART 55—REGULATIONS GOVERNING THE VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING.

1. The authority citation for part 55 continues to read as follows:

**Authority:** 7 U.S.C. 1621–1627.

##### § 55.11 [Amended]

2. Section 55.11 is amended by removing the words "or national origin" and adding in its place "national origin, age or disability".

3. Section 55.95 is revised to read as follows:

**§ 55.95 Facilities and equipment to be furnished for use of graders and inspectors in performing service on a resident inspection basis.**

(a) Facilities and equipment for proper sampling, weighing, examination

of products and monitoring processing procedures shall be furnished by the official plant for use by inspectors and graders. Such facilities and equipment shall include but not be limited to a room or area suitable for sampling product, and acceptable candling light, flashlight, heavy duty, high speed drill with an eleven sixteenths-inch or larger bit of sufficient length to reach the bottom of containers used for frozen eggs, metal stem thermometer(s), test thermometer(s), stop watch, test weighing scale(s) and test weight(s), test kit for determining the bactericidal strength of sanitizing solutions, and stationary or adequately secured storage box or cage (capable of being locked only by the inspector) for holding official samples.

(b) Acceptable furnished office space and equipment, including but not being limited to, a desk, lockers or cabinets (equipped with a satisfactory locking device) suitable for the protection and storage of supplies, and with facilities for inspectors and graders to change clothing.

4. Section 55.96 is amended by adding a sentence before the last sentence and revising the last sentence of the section to read as follows:

##### § 55.96 Schedule of operation of official plants.

\* \* \* As an alternative, the normal operating schedule shall consist of a continuous 10-hour period per day (excluding not to exceed 1 hour for lunch), 4 consecutive days per week, within the administrative workweek, Sunday through Saturday for each full shift required. Graders are to be given reasonable advance notice by management of any change in the hours that grading service is requested.

5. In § 55.310, paragraph (b) is revised to read as follows:

##### § 55.310 Form of official identification symbol and inspection mark.

\* \* \* \* \*

(b) The inspection marks which are permitted to be used on products shall be contained within the outline of a shield and with the wording and design set forth in Figure 2 of this section, except the plant number may be preceded by the letter "P" in lieu of the word "plant". Alternatively, it may be omitted from the official shield if applied on the container's principal display panel or other prominent location and preceded by the letter "P" or the word "Plant".

6. In § 55.330, paragraph (c) is revised to read as follows:

##### § 55.330 Unauthorized use or disposition of approved labels.

\* \* \* \* \*

(c) Upon termination of inspection service in an official plant pursuant to the regulations in this part, all labels or packaging material bearing official identification to be used to identify product packed by the plant shall either be destroyed, or have the official identification completely obliterated under the supervision of a USDA representative, or, if to be used at another location, modified in a manner acceptable to the Service.

7. In § 55.410, paragraph (b) is amended by removing the words "in the regional office" and adding in its place "with the Regional Director in the region", and revising the heading of paragraph (a) to read as follows:

##### § 55.410 Where to file an appeal.

(a) *Appeal of resident grader's or inspector's grading or decision in an official plant.* \* \* \*

8. Section 55.420 is revised to read as follows:

##### § 55.420 How to file an appeal.

The request for an appeal grading or inspection or review of a grader's or inspector's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the identity of the product, the decision which is questioned, and the reason(s) for requesting the appeal service. If such appeal request is based on the results stated on an official certificate, the original and all copies of the certificate available at the appeal grading or inspection site shall be provided to the appeal grader or inspector assigned to make the appeal grading or inspection.

##### § 55.430 [Amended]

9. Section 55.430 is amended by adding after the words "or not substantial," the words "class, quality, quantity," and removing the word "such" after the words "reason(s) for".

10. Section 55.450 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c) and adding a new paragraph (a) to read as follows:

##### § 55.450 Procedures for selecting appeal samples.

(a) *Prohibition on movement of product.* Products shall not have been moved from the place where the grading or inspection being appealed was performed and must have been maintained under adequate refrigeration, when applicable.

\* \* \* \* \*

11. In § 55.460, the last sentence is revised to read as follows:

§ 55.460 Appeal certificates.

\* \* \* When the appeal grader or inspector assigns a different class to the lot or determines that a net weight shortage exists, the lot shall be retained pending correction of the labeling or approval of the product disposition by the National Supervisor.

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

12. The authority citation for part 59 continues to read as follows:

Authority: 21 U.S.C. 1031–1056.

13. Section 59.5 is amended by revising the definition for the term "Dirty egg" or "Dirties"; adding alphabetically four new terms; and by removing the word "salmonella" and adding the word "Salmonella" in its place everywhere it appears in the part.

§ 59.5 Terms defined.

\* \* \* \* \*

Dirty egg or Dirties means an egg(s) that has an unbroken shell with adhering dirt or foreign material.

\* \* \* \* \*

Nest-run eggs means eggs which are packed as they come from the production facilities without having been washed, sized and/or candled for quality, with the exception that some checks, dirties, or other obvious undergrades may have been removed.

\* \* \* \* \*

Recognized Laboratory means a non-Federal laboratory which, upon review, meets the requirements established by USDA for analysis of egg products for the presence of Salmonella.

\* \* \* \* \*

Split sample means an official sample of a pasteurized egg product collected by an inspector and divided into duplicate portions. One portion is to be analyzed for the presence of Salmonella by a recognized laboratory (for surveillance purposes) and the other portion by an AMS laboratory for comparative purposes.

\* \* \* \* \*

Washed ungraded eggs means eggs which have been washed but not sized or segregated for quality.

\* \* \* \* \*

§ 59.17 [Amended]

14. Section 59.17 is amended by removing the words "or national origin" and adding in its place "national origin, age, or disability".

15. Section 59.28(a)(1) is amended by revising the last sentence and adding an additional sentence, to read as follows:

§ 59.28 Other inspections.

(a) \* \* \*

(1) \* \* \* In the case of shell egg packers packing eggs for the ultimate consumer (i.e., packed for direct use of household consumers, restaurants, institutions, etc.), such inspections shall be made a minimum of once each calendar quarter. Hatcheries are to be inspected a minimum of once each fiscal year.

16. Section 59.122 is revised to read as follows:

§ 59.122 Time of inspection.

The inspector who is to perform the inspection in an official plant shall be given reasonable advance notice by plant management of the hours when such inspection will be required.

17. Section 59.124 is amended by adding a sentence at the end of the section to read as follows:

§ 59.124 Schedule of operation of official plants.

\* \* \* As an alternative, the normal operating schedule shall consist of a continuous 10-hour period per day (excluding not to exceed 1 hour for lunch), 4 consecutive days per week, within the administrative workweek, Sunday through Saturday for each full shift required.

18. Section 59.130 is amended by adding two sentences at the end of the section to read as follows:

§ 59.130 Basis of billing plants.

\* \* \* In addition, fees will be charged and collected for certifications requested by and provided for the official plant that are not within the scope of these regulations. Unless otherwise provided in this part, the fees to be charged and collected for any service performed (other than an appeal) shall be based on the applicable rates specified in the Regulations Governing the Voluntary Inspection of Egg Products and Grading (7 CFR 55.510 through 55.560).

19. In § 59.136, paragraph (a) is revised to read as follows:

§ 59.136 Facilities and equipment to be furnished by official plants for use of inspectors in performing service.

(a) Such facilities and equipment shall include but not be limited to a room or area suitable for sampling product, and acceptable: candling light, flashlight, heavy duty, high speed drill with an eleven sixteenths-inch or larger bit of sufficient length to reach the bottom of containers used for frozen eggs, metal stem thermometer(s), test thermometer(s), stop watch, test weighing scale(s) and test weight(s), test kit for determining the bactericidal

strength of sanitizing solutions, and stationary or adequately secured storage box or cage (capable of being locked) for holding official samples.

\* \* \* \* \*

20. Section 59.146 is amended by redesignating paragraph (d) as paragraph (e) and paragraph (e) as paragraph (d), revising paragraphs (b)(1), (b)(2), (b)(7), (c), newly redesignated (d) and (e) to read as follows, and removing paragraph (b)(8):

§ 59.146 Application for continuous inspection in official plants; approval.

\* \* \* \* \*

(b) \* \* \*

(1) Applicants may obtain information or assistance from the applicable Regional Director as to the requirements before submitting blueprint drawings, specifications, and supplemental information.

(2) Four copies of each blueprint drawing, as specified in this section of the complete floor plan, plot plan, supplemental information, and specifications shall be submitted. Sheet size of the print shall not exceed 34 by 44 inches, the wording shall be legible, all lines sharp and clear, and properly drawn to scale. Each print shall show the scale used, north point of the compass, and the firm name, street, city, state, and zip code or an accurate description of the location.

\* \* \* \* \*

(7) Supplemental information may be shown as notations on the blueprint drawings or on supplemental sheets. Supplemental information shall include clarifying information such as sequence of processing edible products, handling of inedible product, shell disposal, handling of packaging material, liquid pumping systems, cleaned-in-place systems, description of pasteurizer, description of drier, type and efficiency of air filtration, hot water facilities, sewage disposal, and such other notations as may be required.

Specification sheets shall indicate height of ceilings and type construction, type of floor and wall construction, wall and partition material, that floor/wall junctions are coved, when applicable, and number of employees who will use each toilet room and facilities.

(c) Upon approval of the blueprints, supplemental information, and specifications, the application for service may be approved.

(d) Final survey and plant approval: Prior to the inauguration of continuous inspection service, a final survey of the plant and premises shall be made by the supervisory egg products inspector to determine if the plant is constructed and facilities are installed in accordance

with the approved blueprints and these regulations. The plant may be approved only when these requirements have been met.

(e) Changes and revisions of official plant: When changes are planned in official plant construction, facilities, and equipment covered by previously approved prints, a completely revised blueprint(s) showing proposed alterations and additions or an overlay print drawn to the same scale as the print to be modified or revised is required. Blueprints as specified shall be submitted prior to beginning new construction or alteration of existing facilities. A final survey of the completed alterations and additions shall be made by the supervisory egg products inspector to determine if the changes are in accordance with approved drawings and the regulations.

**§ 59.155 [Amended]**

21. Section 59.155 is amended by removing the last sentence of the section.

**§ 59.300 [Amended]**

22. Section 59.300 is amended by adding immediately after the word "class" the word ", quantity,".

**§ 59.310 [Amended]**

23. In § 59.310, paragraph (a) is amended by removing the word "from" in the heading and replacing it with the word "of", and in the first sentence, adding a comma followed by the word "quantity," immediately after the words "determination of the class", and adding a comma immediately after the words "left such plant".

24. Section 59.320 is revised to read as follows:

**§ 59.320 How to file an appeal.**

The request for an appeal inspection or review of an inspector's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the identity of the product, the decision which is questioned, and the reason(s) for requesting the appeal service. If such appeal request is based on the results stated on an official certificate, the original and all copies of the certificate available at the appeal inspection site shall be provided to the inspector assigned to make the appeal inspection.

25. A new § 59.330 is added to read as follows:

**§ 59.330 When an application for an appeal grading or inspection may be refused.**

When it appears to the official with whom an appeal request is filed that the reasons given in the request are

frivolous or not substantial, or that the condition of the product has undergone a material change since the original grading or inspection, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal inspection may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

26. Section 59.350 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c) and adding a new paragraph (a) to read as follows:

**§ 59.350 Procedures for selecting appeal samples.**

(a) *Prohibition on movement of product.* Products shall not have been moved from the place where the inspection being appealed was performed and must have been maintained under adequate refrigeration when applicable.

27. Section 59.360 is amended by revising the last sentence to read as follows:

**§ 59.360 Appeal inspection certificates.**

\* \* \* When the appeal inspector assigns a different class to the lot or determines that a net weight shortage exists, the lot shall be retained pending correction of the labeling or approval of the product disposition by the National Supervisor.

28. Section 59.411 is amended by revising (b)(1) and (c)(3), revising the first sentence of (c)(1) and (e), and revising the last sentence of (e)(3) to read as follows:

**§ 59.411 Requirement of formulas and approval of labels for use in official egg products plants.**

\* \* \* \* \*

(b) \* \* \*

(1) A statement showing by their common or usual names the kinds and percentages of the ingredients comprising the egg product. A range may be given in cases where the percentages may vary from time to time. Formulas are to be expressed in terms of a liquid product except for products which are dry blended. Also, for products to be dried, the label may show the ingredients in the order of descending proportions by weight in the dried form. However, the formula submitted must include the percentage of ingredients in both liquid and dried form.

\* \* \* \* \*

(c) \* \* \*

(1) The common or usual name, if any, and if the product is comprised of

two or more ingredients, such ingredients shall be listed in the order of descending proportions by weight in the form in which the product is to be marketed (sold), except that ingredients in dried products (other than dry blended) may be listed in either liquid or dried form. \* \* \*

\* \* \* \* \*

(3) The lot number or approved alternative code number indicating date of production;

\* \* \* \* \*

(e) Nutrition information may be included on labels used to identify egg products, providing such labeling complies with the provisions of 21 CFR part 101, promulgated under the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act. \* \* \*

\* \* \* \* \*

(3) \* \* \* All labels showing nutrition information or claims are subject to review by the Food and Drug Administration prior to approval by the Department.

\* \* \* \* \*

29. In § 59.412, paragraph (b) is revised to read as follows:

**§ 59.412 Form of official identification symbol and inspection mark.**

\* \* \* \* \*

(b) The inspection mark which is to be used on containers of edible egg products shall be contained within the outline of a shield and with the wording and design set forth in Figure 2 of this section, except the plant number may be preceded by the letter "P" in lieu of the word "plant". Alternatively, it may be omitted from the official shield if applied on the container's principal display panel or other prominent location and preceded by the letter "P" or the word "Plant".

\* \* \* \* \*

30. Section 59.415 is amended by revising the second sentence to read as follows:

**§ 59.415 Use of other official identification.**

\* \* \* The plant number may be omitted from the identification if applied elsewhere on the container's principal display panel or other prominent location and preceded by the letter "P" or the word "plant". \* \* \*

31. In § 59.417, paragraph (c) is revised to read as follows:

**§ 59.417 Unauthorized use or disposition of approved labels.**

\* \* \* \* \*

(c) Upon termination of inspection service in an official plant pursuant to these regulations, all labels or packaging materials indicating product packed by

the plant which bear official identification shall either be destroyed under the supervision of the Service or, if used in another location, modified in a manner acceptable to the Service before use.

32. In § 59.502, paragraph (b) is revised to read as follows:

**§ 59.502 Equipment and utensils; PCB-containing equipment.**

\* \* \* \* \*

(b) Except as authorized by the Administrator, in new or remodeled equipment and equipment installations, the equipment and installation shall comply with the applicable 3-A or E-3-A Sanitary Standards and accepted practices currently in effect for such equipment.

\* \* \* \* \*

33. In § 59.504, the last sentence of paragraph (c) and paragraph (h) are revised to read as follows:

**§ 59.504 General operating procedures.**

\* \* \* \* \*

(c) \* \* \* In addition, product shipped from the official plant for industrial use or animal food need not be denatured or decharacterized, provided, that such product is properly packaged, labeled, segregated, and inventory controls are maintained, and that such product is shipped under Government seal and certificate and received at the destination location by an inspector or grader as defined in this part.

\* \* \* \* \*

(h) Only germicides, insecticides, rodenticides, detergents, or wetting agents or other similar compounds which will not deleteriously affect the eggs or egg products when used in an approved manner and which have been approved by the Administrator, may be used in an official plant. The identification, storage, and use of such compounds shall be in a manner approved by the Administrator.

\* \* \* \* \*

34. In § 59.506, paragraph (d) is revised to read as follows:

**§ 59.506 Candling and transfer-room facilities and equipment.**

\* \* \* \* \*

(d) Candling devices of an approved type shall be provided to enable candlers to detect loss, inedible, dirty eggs, and eggs other than chicken eggs.

\* \* \* \* \*

35. Section 59.515 is amended by removing the last sentence of paragraph (a)(8), removing paragraph (a)(9), redesignating paragraph (b) as paragraph (a)(9), removing paragraph (c), and reserving paragraph (b).

36. A new § 59.516 is added to read as follows:

**§ 59.516 Sanitizing and drying of shell eggs prior to breaking.**

(a) Immediately prior to breaking, all shell eggs shall be spray rinsed with potable water containing an approved sanitizer of not less than 100 ppm nor more than 200 ppm of available chlorine or its equivalent. Alternative procedures may be approved by the Administrator in lieu of sanitizing shell eggs washed in the plant.

(b) Shell eggs shall be sufficiently dry at time of breaking to prevent contamination or adulteration of the liquid egg product from free moisture on the shell.

37. In § 59.530, paragraph (g) is added to read as follows:

**§ 59.530 Liquid egg cooling.**

\* \* \* \* \*

(g) Previously frozen egg or egg product cannot be added to liquid product for the purpose of complying with liquid cooling requirements.

38. In § 59.539, paragraph (d)(1) is revised to read as follows:

**§ 59.539 Defrosting operations.**

\* \* \* \* \*

(d) \* \* \*

(1) Frozen eggs packed in metal or plastic containers may be placed in running tap water (70 F° or lower) without submersion to speed defrosting.

\* \* \* \* \*

39. Section 59.580 is amended by revising the last sentence of paragraph (b), revising paragraphs (c) and (d), and adding a new paragraph (e) to read as follows:

**§ 59.580 Laboratory tests and analyses.**

\* \* \* \* \*

(b) \* \* \* Samples of pasteurized egg products and heat treated dried egg whites shall be drawn from the final packaged form, in accordance with the approved sampling plan for the plant, and submitted for analysis to a laboratory recognized by USDA under its Laboratory Recognition Program.

(c) Results of all analyses and tests performed under paragraphs (a) and (b) of this section shall be provided to the inspector promptly upon receipt by the plant. If samples of pasteurized products or heat treated dried egg whites, in addition to those described in paragraphs (a) and (b) of this section, are analyzed for the presence of Salmonella, the plant shall immediately advise the inspector of any such samples which are determined to be Salmonella positive.

(d) USDA will draw split samples and submit a percentage of such samples to

a USDA laboratory for Salmonella analysis at USDA's expense. The results of split samples analyzed by the recognized laboratory shall correlate with those of the USDA laboratory, in accordance with requirements specified in the Laboratory Recognition Program.

(e) USDA will periodically draw confirmation samples and submit them to a USDA laboratory for analysis at USDA's expense to determine the accuracy of the plant's tests and analyses under paragraph (a) of this section. USDA may also draw additional samples for Salmonella analysis at a USDA laboratory at USDA's expense.

40. In § 59.720, paragraphs (a)(1) and (b) are revised to read as follows:

**§ 59.720 Disposition of restricted eggs.**

(a) \* \* \*

(1) Checks and dirties shall be labeled in accordance with § 59.800 and shipped directly or indirectly to an official egg products plant for segregation and processing. Inedible and loss eggs shall not be intermingled in the same container with checks and dirties.

\* \* \* \* \*

(b) Eggs which are packed for the ultimate consumer and which have been found to exceed the tolerance for restricted eggs permitted in the official standards for U.S. Consumer Grade B shall be identified as required in §§ 59.800 and 59.860 and shall be shipped directly or indirectly:

(1) To an official egg products plant for proper segregation and processing; or

(2) Be regraded so that they comply with the official standards; or

(3) Used as other than human food.

\* \* \* \* \*

41. Section 59.800 is amended by revising the next to last sentence to read as follows:

**§ 59.800 Identification of restricted eggs.**

\* \* \* When eggs are packed in immediate containers, e.g., cartons, sleeve packs, overwrapped 2½- or 3-dozen packs, etc., for sale to household consumers under the exemptions provided for in § 59.100 (c), or (f), they shall be deemed to be satisfactorily identified in accordance with the requirements of this part if such immediate containers bear the packer's name and address and the quality of the eggs. \* \* \*

42. In § 59.801, the section heading and first sentence are revised to read as follows:

**§ 59.801 Nest run or washed ungraded eggs.**

Nest run or washed ungraded eggs are exempt from the labeling provisions in

§ 59.800. However, when such eggs are packed and sold to consumers, they may not exceed the tolerance for restricted eggs permitted in the official standards for U.S. Consumer Grade B shell eggs.\* \* \*

43. In § 59.905, paragraph (a) is revised to read as follows:

**§ 59.905 Importation of restricted eggs or eggs containing more restricted eggs than permitted in the official standards for U.S. Consumer Grade B.**

(a) No containers of restricted egg(s) other than checks or dirties shall be imported into the United States. The shipping containers of such eggs shall be identified with the name, address, and country of origin of the exporter, and the date of pack and quality of the eggs (e.g., checks, or dirties) preceded by the word "Imported" or the statement "Imported Restricted Eggs—For Processing Only In An Official USDA Plant," or "Restricted Eggs—Not To Be Used As Human Food." Alternatively, for properly sealed and certified shipments of shell eggs imported for breaking at an official egg product plant, the shipping containers need not be labeled, provided that the shipment is segregated and controlled upon arrival at the destination breaking plant. Such identification shall be legible and conspicuous.

\* \* \* \* \*

**§ 59.915 [Amended]**

44. In § 59.915, paragraph (b)(8) is amended by adding after the words "shell egg" the words ", including date of pack,".

**§ 59.940 [Amended]**

45. In § 59.940, the last sentence is removed.

46. In § 59.945, paragraph (b) is revised to read as follows:

**§ 59.945 Foreign eggs and egg products offered for importation; reporting of findings to customs; handling of products refused entry.**

\* \* \* \* \*

(b) Consignees shall, at their own expense, return immediately to the collector of customs, in means of conveyance or packages sealed by the U.S. Department of Agriculture, any eggs or egg products received by them under this part which in any respect do not comply with this part.

47. Section 59.950 is amended by revising paragraphs (a)(3) and (a)(8), redesignating paragraph (b) as (c), and adding a new paragraph (b) to read as follows:

**§ 59.950 Labeling of containers of eggs or egg products for importation.**

(a) \* \* \* (3) the quality or description of shell eggs, including date of pack; \* \* \* (8) the date of production and plant number of the plant at which the egg product was processed and/or packed.

(b) For properly sealed and certified shipments of shell eggs imported for breaking at an official egg products plant, the immediate containers need not be labeled, provided that the shipment is segregated and controlled upon arrival at the destination breaking plant.

\* \* \* \* \*

48. Section 59.955 is amended by redesignating paragraph (b) as (c) and adding a new paragraph (b) to read as follows:

**§ 59.955 Labeling of shipping containers of eggs or egg products for importation.**

\* \* \* \* \*

(b) For properly sealed and certified shipments of shell eggs imported for breaking at an official egg products plant, the shipping containers need not be labeled, provided that the shipment is segregated and controlled upon arrival at the destination breaking plant.

49. A new § 59.956 is added to read as follows:

**§ 59.956 Relabeling of imported egg products.**

(a) Egg products eligible for importation may be relabeled with an approved label under the supervision of an inspector at an official egg products plant or other location. The new label for such product shall indicate the country of origin except for products which are reprocessed (repasteurized, or in the case of dried products, dry blended with products produced in the United States) in an official egg products plant.

(b) The label for relabeled products must state the name, address, and zip code of the distributor, qualified by an appropriate term such as "packed for", "distributed by" or "distributors".

Dated: April 17, 1995.

**Lon Hatamiya,**

*Administrator.*

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**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Parts 906 and 944**

[Docket No. FV-95-906-1PR]

**Oranges Grown in the Lower Rio Grande Valley in Texas and Imported Oranges; Proposed Suspension of Regulations for Domestic and Imported Oranges**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed suspension of rule.

**SUMMARY:** This document invites written comments on a proposal to suspend, for the period July 1 through August 31, the handling regulations for oranges grown in the Lower Rio Grande Valley in Texas and the orange import regulations. Currently, the effective period for both domestic and imported oranges is January 1 through December 31 of each year. The purpose of the proposed suspension is to remove unnecessary handling regulations applicable to shipments of Texas oranges for the two month period July and August. The proposed suspension of regulations applicable to imported oranges is necessary under section 8e of the amended Agricultural Marketing Agreement Act of 1937.

**DATES:** Comments must be received by May 15, 1995.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed suspension. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, D.C. 20090-6456, or by facsimile at 202-720-5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Charles L. Rush, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; telephone: 202-720-2431; or Belinda G. Garza, McAllen Marketing Field Office, USDA/AMS, 1313 East Hackberry, McAllen, TX 78501; telephone: 210-682-2833.

**SUPPLEMENTARY INFORMATION:** This proposed suspension is issued under Marketing Agreement and Order No. 906 (7 CFR Part 906) regulating the handling of oranges and grapefruit