



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 51 and 52

[Doc. No. AMS-SC-16-0063]

Revisions to Inspection Application Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the inspection, certification and standards requirements for fresh fruits, vegetables and other products and processed fruits and vegetables, processed products and certain other processed food products (7 CFR parts 51 and 52) by adding an option to allow for electronic submissions of inspection applications. This rule also eliminates outdated terminology referencing submission of inspection applications by telegraph.

DATES: Effective [INSERT DATE 1 DAY AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]; comments received by [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit comments via the Internet at <http://www.regulations.gov>. Comments submitted by mail or courier must be sent in duplicate to Francisco Gazette, United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS), Specialty Crops Program (SCP), Specialty Crops Inspection (SCI) Division, 1400 Independence Avenue SW, Room 1536, Stop 0240, Washington, DC 20250, FAX (202) 720-0393. All comments should reference the document number, and the date and page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at <http://www.regulations.gov> and will be made available for public inspection at the above physical address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Francisco Grazette, USDA, AMS, SCP, SCI Division, 1400 Independence Avenue, SW, Room 1536, Stop 0240, Washington, DC 20250-0250; telephone: (202) 720-5870; fax: (202) 720-0393; email: Francisco.Grazette@ams.usda.gov.

SUPPLEMENTARY INFORMATION:

Section 203(c) (7 U.S.C. 1622(c)) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) (Act of 1946), as amended, directs and authorizes the Secretary of Agriculture to develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.

Parts 51 and 52 of title 7 of the Code of Federal Regulations specify the inspection, certification and standard requirements for fresh and processed fruit, vegetable and specialty crops to ensure uniformity and consistency.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect and does not preempt any state or local law, regulation, or policy unless it presents 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.

This rule amends the inspection, certification and standards requirements for fresh fruits, vegetables and other products and processed fruits and vegetables, processed products and certain other processed food products (7 CFR parts 51 and 52) by adding an option to allow for electronic submissions of inspection applications. This rule also eliminates outdated terminology referencing the telegraph. These changes are administrative in nature and do not impose any new requirements on applicants.

Pursuant to Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) (Act of 1937), whenever certain commodities are regulated under Federal marketing orders, imports of those commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality or maturity requirements as those in effect for domestically-produced commodities. The Act of 1937 also authorizes USDA to perform inspections and other related functions (such as commodity sampling) on those commodities and to certify whether these requirements have been met.

AMS's Specialty Crops Inspection (SCI) Division performs the inspections and other related functions on Section 8e imports in accordance with its authority under the Agricultural Marketing Act of 1946.

SCI Division is amending 7 CFR parts 51 and 52 to add the ability to submit initial inspection requests electronically and eliminate terminology referencing the telegraph. Individuals desiring to apply for an inspection for applicable fruit, vegetable, and specialty crop imports must complete and file AMS's form SC-357, Initial Inspection Request for Regulated Imported Commodities, in writing or electronically, to notify AMS of the need for an inspection.

Specifically, sections 51.6 and 52.7, "How to make an application" and "Information required in connection with application", respectively, are being modified by this action.

Amending parts 51 and 52 of title 7 to provide for the electronic filing of the application for inspection supports the International Trade Data System (ITDS), a key White House Initiative that has been under development for over ten years and is mandated for completion by December 31, 2016 (pursuant to Executive Order 13659, *Streamlining the Export/Import Process for American's Businesses*, signed on February 19, 2014, by President Obama (79 FR 10657)). ITDS streamlines the export and import process for America's businesses. Upon full implementation, ITDS, through the

Automated Commercial Environment (ACE), will allow businesses to electronically submit the data required by U.S. Customs and Border Protection (CBP) and its Partner Government Agencies (PGAs) to import or export cargo through a "single window" concept.

The update to the inspection, certification and standards requirements to allow for electronic submission of inspection applications will meet CBP's requirement for ITDS.

Initial Regulatory Flexibility Analysis

Pursuant to the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of no more than \$750,000 and small agricultural service firms are defined as those having annual receipts of no more than \$7.5 million. Under these definitions, AMS estimates the number of companies affected is approximately 60,000, with 24,000, or 40%, of the companies considered small businesses. AMS does not foresee any negative impact on members of the industry, regardless of size, as a result of this interim rule.

AMS is making these administrative changes to allow for the use of current technology by allowing the application for inspection to be submitted electronically and eliminating references to filing applications for service by telegraph.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements for form SC-357, Initial Inspection Request for Regulated Imported Commodities, was previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0125, effective August 1, 2016. AMS has determined that no changes are required to the information collection requirements as a result of the changes in this action. Should additional changes become necessary, they would be submitted to OMB for approval. AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Finally, interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses.

This rule invites comments on updates to application requirements and the administrative change to the inspection, certification and standards requirements for fresh and processed fruit, vegetable, and specialty crops. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, it is found that this interim rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act of 1946. Pursuant to 5 U.S.C. 553, AMS has found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice

prior to putting this rule into effect because: (1) The changes in this rule reflect current practices; (2) the import industry is aware of the ITDS initiative and its goal to automate paper-based processes; (3) CBP is requiring the timely update of import regulations to meet the ITDS electronic data submission requirement; and (4) this rule provides a 60-day comment period, and all comments received will be considered prior to the finalization of this rule.

List of Subjects

7 CFR Part 51

Food grades and standards, Fruits, Nuts, Reporting and recordkeeping, Vegetables.

7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruits, Reporting and recordkeeping requirements, Vegetables.

For the reasons set forth in the preamble, 7 CFR parts 51 and 52 are amended as follows:

1. The authority citation for parts 51 and 52 continues to read as follows:

Authority: 7 U.S.C. 1621- 1627.

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

2. Revise § 51.6 to read as follows:

§ 51.6 How to make application.

An application for inspection service may be filed in an office of inspection at any market referred to in § 51.4 (b), (c), or (d) or with any inspector. It may be made in writing, orally, electronically, or by telephone. If made orally or by telephone, the inspector may

require that it be confirmed by the applicant in writing or electronically. An application may be made for one or more lots, or it may be in the nature of a blanket application for inspection of all designated lots of a given commodity within a particular period, or for all designated lots loaded or received at a specified point.

PART 52 — PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

3. Revise § 52.7 paragraph (a) to read as follows:

§ 52.7 Information required in connection with application.

(a) Application for inspection service shall be made in the English language and may be made orally (in person or by telephone), in writing, or electronically. If an application for inspection is made orally, written confirmation may be required by the inspection service involved.

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Dated: December 14, 2016

Elanor Starmer
Administrator
Agricultural Marketing Service

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