

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: Final rule.

SUMMARY: This final rule amends 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 in response to new technology and current production and processing practices within the egg products industry. The revisions redefine dirty eggs; define nest-run eggs and washed ungraded eggs; and clarify the type of facilities and equipment to be supplied to the grader/inspector, officially identifying products, appeal procedures, equipment requirements, sanitizing shell eggs prior to breaking, and general operating procedures. The revisions also provide for less than quarterly visits to hatcheries and update the types of nonallowed discrimination in providing service.

EFFECTIVE DATE: October 23, 1995.

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 final 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 Administrator, Agricultural Marketing Service (AMS), has determined that this rule 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.*).

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 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, (AMA) (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 (EPIA) (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 EPIA and regulations were designed to provide a safe food source for the consuming public. The revisions will clarify and update the regulatory provisions commensurate with changes in industry technology and marketing practices, or are editorial in nature.

For the voluntary inspection program, the amendments update the types of prohibited discrimination (§ 55.11). They 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 are provided (§ 55.96). The amendments 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 amendments also clarify appeal gradings and inspections including certificate issuance (§ 55.410 through § 55.460).

For the mandatory inspection program, the amendments redefine dirty eggs by deleting the term prominent stains. The amendments also define nest-run eggs and washed ungraded eggs (§ 59.5). The amendments also update the types of nonallowed discrimination (§ 59.17). The amendments 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 from these operations entering consumer channels (§ 59.28). In official egg products plants, the amendments define or specify the following: time of

inspection, basis of billing, and the type of facilities and equipment to be furnished by the plant (§§ 59.122 through 59.136). The amendments clarify the conditions under which labeling of product is to be corrected in the appeal procedure (§§ 59.300 through 59.360). They also clarify the labeling requirements with regard to approval, format, terminology, identification, and disposition (§§ 59.411 through 59.417). In addition, the amendments expand on equipment requirements and general plant operational procedures, including the shipment of nonadenatured 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. The amendments also provide 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 is 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).

Comments

AMS published proposed revisions in the Federal Register (60 FR 20054) on April 24, 1995, to the Regulations Governing the Voluntary Inspection of Egg Products and Grading in 7 CFR part 55 and to the Regulations Governing the Inspection of Eggs and Egg Products in 7 CFR part 59. A 60-day comment period was provided. Effective May 28, 1995, the voluntary and mandatory egg products inspection program activities were transferred from AMS to the Food Safety and Inspection Service (FSIS). AMS retained authority under EPIA for the shell egg surveillance program. This program requires quarterly visits to egg packers and hatcheries to determine the disposition of certain types of undergrade eggs.

In response to the notice of proposed rulemaking, AMS received sixteen comments, the majority of which addressed the shell egg surveillance portion of the regulations. The comments were received from six industry members, six State Governments, two industry associations, one university, and one State Government organization.

Three commenters expressed overall support of the proposal.

Several commenters responded to the proposal to change the number of inspection visits to hatcheries from each calendar quarter to once each fiscal year. Three commenters supported the proposal; one commenter supported the proposal, but questioned if even one visit a year was necessary; one commenter recommended eliminating all visits to hatcheries; and three commenters objected to the change because they believed that the reduced visits would increase the likelihood of incubator rejects and other restricted eggs entering consumer channels.

When the regulations implementing the EPIA were promulgated, the Agency determined that hatcheries should be subject to quarterly inspections similar to shell egg packers packing eggs for the ultimate consumer. Hatcheries, in addition to supplying chicks to the poultry industry traditionally sold surplus shell eggs to the consuming public. Likewise, before the enactment of the EPIA, hatcheries could legally process restricted eggs into egg products which were sold for human consumption.

As the industry evolved from many small independent hatcheries to a fewer number of very large integrated firms, the volume of shell eggs supplied to consumer channels by hatcheries has diminished significantly. Additionally, incidents involving hatcheries processing restricted eggs for human consumption are a rare exception.

The Agency also considered other issues when it proposed reducing the required number of inspection visits to hatcheries. These considerations included recent reviews of the quarterly inspection reports which revealed only a few minor violations, such as recordkeeping and labeling; the increased emphasis and importance of biosecurity at all hatchery facilities; and a potential cost savings which would result from fewer visits to hatcheries.

Under the revision, hatcheries will be subject to a minimum of one inspection visit each fiscal year. However, if at anytime, the Agency has reason to believe that a hatchery is in violation of the EPIA and its regulations, the Agency is authorized to perform as many inspection visits as necessary to assure that the hatchery or any egg handler, for that matter, is in compliance with the Act.

The Agency is not making any changes as a result of the comments made in response to this revision. The regulations authorize and the Agency believes that inspection visits to hatcheries are an important vital part of

its regulatory responsibilities. The revision reduces the number of required visits to a frequency that is in accordance with the current makeup of the industry while not limiting the Agency's ability to perform inspection visits and administer the program.

One commenter recommended utilizing funds saved by the reduction of inspection visits to hatcheries to perform inspection visits to distributors.

We did not accept the recommendation. In 1987, the Agency discontinued inspection visits to wholesalers/distributors except in cases such as performing destination gradings or following up on an alleged violation of the EPIA. The Agency decided to concentrate its inspection activities on the egg handlers packing eggs destined for the ultimate consumer and does not plan to resume routine inspection visits to wholesalers/distributors at this time except on a case-by-case basis. Funds saved will be used to administer other segments of the shell egg surveillance program in the most cost effective manner.

One commenter recommended revising the proposed definition of washed ungraded eggs to include "except some dirties or other obvious undergrades may have been removed."

The Agency did not accept the recommendation because the suggested addition did not describe washed ungraded eggs. The suggested addition more correctly describes nest-run eggs for which it is appropriate to remove obvious dirties and undergrade eggs to facilitate egg grading and/or processing. Washed ungraded eggs do not require this exception because dirties and undergrades have been either already eliminated by the washing operation or previously removed if the eggs were packed as nest-run.

One commenter expressed support of the proposal to revise the definition of dirty eggs and recommended that containers used to transport washed ungraded eggs be labeled with the size of the eggs in the lot to facilitate the standardization of total solids of liquid whole eggs.

We did not accept the recommendation to allow washed ungraded shell eggs to be identified by size because any such further identification could indicate that the product was intended for consumer sales by obscuring the fact that the product was nest-run eggs which had not been graded for quality. The purpose of defining washed ungraded shell eggs was to categorize shell eggs from inline operation facilities which could not be defined as nest-run eggs because they had been washed. In many

inline operations, shell eggs move through washing equipment as part of the collection process. Management determines at a later time if the washed product will be sized and graded for quality or sold as a washed ungraded product.

One commenter expressed support for the revisions but recommended that the addition of previously frozen egg or egg products to unpasteurized liquid be permitted for the purpose of complying with liquid cooling requirements.

The Agency did not accept this recommendation. The addition of previously frozen egg or egg products to liquid product (either pasteurized or unpasteurized) for the purpose of complying with liquid cooling requirements is not a recommended good manufacturing practice due to the potential for contamination of the resultant liquid. We find it inappropriate to approve a procedure which has the potential to contaminate a product even if the product is subject to further processing (pasteurization).

One commenter generally supported the revisions but questioned the elimination of "or prominent stains" from the definition of dirty egg.

The Agency is making this change to make the regulations consistent with the language of the EPIA. Since the EPIA does not define dirty by prominent stains, the regulations should not include a stain criteria in its definition.

The commenter also took exception to the removal of the last sentence of 7 CFR 59.155.

When the Egg Products Inspection Act took effect on July 1, 1971, the subject sentence provided plants the authority to maintain possession of any egg products they had processed prior to July 1, 1971, and their inauguration of service. The sentence is out-of-date and obsolete and will be removed from the regulations.

Additionally, the commenter suggested that the word "place" in new paragraph 7 CFR 59.350(a) was too restrictive and that we should consider using "establishment" instead.

We did not accept this recommendation. The term "place" generally means any location where product is located, whereas the term "establishment" generally means the location of a business or firm where product is located. Accordingly, "place" is the least restrictive term to use when describing the location of product.

The Agency is also withdrawing from the final rule the proposal to define a recognized laboratory and a split sample (§ 59.5), the proposal to provide an alternate operating schedule (§ 59.124), the proposal to specify the requirements

for blueprints, changes and approval (§ 59.146), and the proposal to specify the sampling of egg products (§ 59.580 (b), (d), and (e)). The current regulations for these sections will not be amended at this time pending further review by FSIS.

With the exception of the above changes, the regulatory text contained in the proposed rule is hereby adopted.

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 section 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 two 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.

* * * * *

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 59.130 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).

18. In § 59.136, the heading and paragraph (a) are 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 only by the inspector) for holding official samples.

* * * * *

§ 59.155 [Amended]

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

§ 59.300 [Amended]

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

§ 59.310 [Amended]

21. In section 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".

22. 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.

23. 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.

24. 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.

* * * * *

25. 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.

26. 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.

* * * * *

27. 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".

* * * * *

28. Section 59.415 is amended by revising the second sentence of the introductory text 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".

* * * * *

29. 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.

30. 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.

* * * * *

31. 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.

* * * * *

32. 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.

* * * * *

33. Section 59.515 is amended by removing the last sentence of paragraph (a)(8), removing (a)(9), and removing paragraph (c).

34. 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.

35. 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.

36. 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.

* * * * *

37. Section 59.580 is amended by revising paragraph (c) to read as follows:

§ 59.580 Laboratory tests and analyses.

* * * * *

(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.

* * * * *

38. 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.

* * * * *

39. 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 section 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. * * *

40. In § 59.801, the section is 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.

41. 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." Such identification shall be legible and conspicuous. Alternatively, 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.

* * * * *

§ 59.915 [Amended]

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

§ 59.940 [Amended]

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

44. 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.

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45. 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.

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46. 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.

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47. 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: September 13, 1995.

Lon Hatamiya,

Administrator.

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