

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 52

[FV-95-328]

#### United States Standards for Grades of Frozen Okra

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting as a final rule, with change, the provisions of the interim final rule that amends the existing U.S. standards for Frozen Okra by removing references to trimmed pods. This change will allow producers of frozen okra the option to pack whole and cut okra without trimming.

**EFFECTIVE DATE:** October 15, 1996.

**FOR FURTHER INFORMATION CONTACT:** James R. Rodeheaver, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 0709, South Building, P.O. Box 96456, Washington, D.C. 20090-6456, Telephone (2) 720-4693.

**SUPPLEMENTARY INFORMATION:** This rule is issued under the United States Standards for Grade of Frozen Okra (7 CFR Part 52) to improve grade standards.

The standards are effective under the Agricultural Marketing Act of 1946 as amended (7 U.S.C. 1621-1627), hereinafter referred to as the Act.

The USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present 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 Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, (5 U.S.C. 601 *et seq.*), because it reflects current marketing practices. In addition, these standards are voluntary. A small entity may avoid incurring any additional economic impact by not employing the standards.

Further, no additional costs are expected to result from this action for producers and benefits derived from this action may be passed on to consumers.

The American Frozen Food Institute (AFFI) petitioned for emergency relief from a requirement in the United States Standards for Grades of Frozen Okra.

AFFI is a trade association representing over 560 food industry companies that account for over 90 percent of frozen food production in the United States.

The frozen okra industry requested that USDA revise the grade standards for frozen okra so that producers of frozen okra will have the option to pack whole and cut okra without trimming and still meet the requirements of the United States Standards for Grades of Okra. The U.S. grade standards are voluntary standards. However, there is widespread use of the standards for frozen okra in contract requirements.

When the United States grade standards were first issued, okra was cut by hand. With the advent of mechanical harvesting, the techniques of harvesting have changed. Also processing equipment, including electronic sorters, has improved the quality such that the frozen okra industry can control quality more effectively without extensive handling.

Moreover, AFFI stated in its petition to revise the standards that since the frozen okra standards were last revised in 1969, new varieties have been established which leave the stems edible and tender when harvested with pods of the desirable length for freezing. AFFI noted that all other forms of whole okra including fresh, pickled, etc., are marketed untrimmed.

AFFI also stated that the cost associated with trimming frozen whole

okra was approximately \$.0625 per pound of okra. Based on 1994 United States production of 65,114,000 pounds of frozen okra sold, trimming okra costs U.S. processors of frozen okra approximately \$4,069,625 each year.

AFFI claimed that in the time it takes to revise the frozen okra standard through ordinary channels, frozen okra processors could incur costs of more than \$8 million.

Based on all the information received, USDA revised the grade standards by amending the product description in § 52.1511 and § 52.1512, Styles, in the United States Standards for Grades of Frozen Okra. Also, in § 52.1517(c)(5)(i), "apparent untrimmed pods" was removed from the standards as a defect since it no longer applies.

No additional costs are expected to result from this action for producers and benefits derived from this action may be passed on to consumers. This change is expected to facilitate marketing of frozen okra.

The interim final rule became effective when it was published in the Federal Register (60 FR 62708) on December 7, 1995, with a 30-day comment period. In response to the interim final rule the only comment received was from AFFI, which agreed with this revision.

This action will finalize the interim final rule. In addition, in the interim final rule, corrections are made to the authority citation.

#### List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and record keeping requirements, Vegetables.

Accordingly, the interim final rule amending 7 CFR part 52, which was published at 50 FR 62709 on December 7, 1995, is adopted as a final rule with the following change.

#### PART 52—[AMENDED]

The authority citation for part 52 is revised to read as follows:

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

Dated: September 6, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96-23317 Filed 9-11-96; 8:45 am]

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