

**7 CFR Part 52**

[FV-95-329]

**United States Standards for Grades of Frozen Field Peas and Frozen Black-Eye Peas****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 an interim final rule amending U.S. grade standards for Frozen Field Peas and Frozen Black-Eye Peas. The change would allow producers of frozen field peas and frozen black-eye peas the option to pack black-eye peas and cream peas without the requirement that these peas have an "obvious green color." In addition, this rule enables the frozen food industry to produce frozen black-eye peas and frozen field peas more efficiently.

**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 (202) 720-4693.

**SUPPLEMENTARY INFORMATION:** This rule is issued under the United States Standards for Grades of Frozen Field Peas and Frozen Black-Eye Peas (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. Therefore, 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 grade standards for frozen field peas and frozen black-eye peas. 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 food industry requested USDA revise the grade standards to bring it in line with current harvesting and marketing practices. This would give economic relief to the frozen field pea and black-eye pea industry. The U.S. grade standards are voluntary standards. However, there is widespread use of the standards in contracts.

When these grade standards were promulgated in 1976, it included a "Grade A" color requirement for frozen black-eye peas and cream peas that approximately 14 percent of these type peas have an obvious green color.

This requirement was applicable when hand harvesting techniques forced growers to harvest their crops earlier in the growing season which allowed for a high percentage of immature peas. Today, modern mechanical harvesting techniques allow growers to harvest these types of peas with more mature pods that are easily shelled.

The requirement for these types of peas to have an obvious green color has caused undue economic stress on the industry.

Frozen field pea and black-eye pea processors must purchase imported, hand-harvested peas and blend them with domestic crops to meet the "Grade A" color requirement. AFFI estimates that 10 million pounds of imported peas must be purchased by U.S. processors per year at an approximate annual cost of more than \$2 million.

Based on all the information received, USDA amended Section 52.1669 in the United States Standards for Grades of Frozen Field Peas and Frozen Black-Eye Peas by removing the color attribute requirements for frozen black-eye peas and frozen cream peas from the text and Table III of this section.

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 field peas and frozen black-eye peas.

The interim final rule became effective when it was published in the

Federal Register (60 FR 62709) 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. An editorial change will be made for clarity in Section 52.1669 (b)(2) to specify that in the classification of color for "field peas" and "mixed types", "black-eye peas" and "cream peas" are not considered. 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 recordkeeping requirements, Vegetables.

Accordingly, the interim final rule amending 7 CFR part 52, which was published at 60 FR 62710 on December 7, 1995, is adopted as a final rule with the following change.

**PART 52—[AMENDED]**

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

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

2. In § 52.1669, paragraph (b)(2) is revised to read as follows:

**§ 52.1669 Classification of color and grade compliance.**

\* \* \* \* \*

(b) \* \* \*

(2) "Field peas" and "mixed types".

Each unit with a color that is characteristic of very young peas ("black-eye peas" and "cream peas" are not considered.)

Dated: September 6, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

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**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 96-CE-10-AD; Amendment 39-9753; AD 96-19-05]

RIN 2120-AA64

**Airworthiness Directives; Fairchild Aircraft SA226 and SA227 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.