

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 51****[Docket Number FV-97-301]****Apples; Grade Standards****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Interim final rule with request for comments.

SUMMARY: This rule will revise the United States Standard for Grades of Apples and the U.S. Condition Standards for Export. This rule revises the U.S. Extra Fancy and U.S. Fancy grades basic requirements section, the definition of damage by invisible water core, and the U.S. Condition Standards for Export to exempt the Fuji variety of apples from damage by invisible water core. This change will result in a benefit to handlers and producers of Fuji apples, by allowing more fruit to be marketed which would otherwise be graded as defective.

DATES: This rule is effective May 30, 1997. Comments must be received by July 28, 1997.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2065 South Building, Washington, D.C. 20090-6456. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank O'Sullivan, at the above address or call (202) 720-2185.

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture 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 rule will 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 the rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA),

the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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. The United States standards issued pursuant to the Agricultural Marketing Act of 1946, 7 U.S.C. 1621-1627, and issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have compatibility.

Although it is difficult to obtain an exact number of Fuji apple handlers and producers (primarily due to the fact that an apple producer or handler normally grows, or handles more than just one variety) it is estimated that there are approximately 900 Fuji apple handlers and producers in the United States. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000 and small agricultural producers are defined as those having annual receipts of less than \$500,000. A majority of handlers and producers of Fuji apples may be classified as small entities.

Information provided by the United States Apple Association (USAA) indicates that U.S. holdings of Fuji variety apples as of November 1, 1992 (figures are in millions of boxes), were 1.4 million and has steadily increased to approximately 8.7 million as of November 1, 1996. The Fuji variety has become Washington State's third largest variety this year. The USAA also reports that there are storages with Fuji holdings in approximately 19 other States.

This rule will revise the U.S. Standard for Grades of Apples and the U.S. Condition Standards. This rule specifically revises the U.S. Extra Fancy and U.S. Fancy grades basic requirements section, the definition of damage by invisible water core, and the U.S. Condition Standards for Export to exempt the Fuji variety of apples from damage by invisible water core. These revisions will be a benefit to handlers and producers of Fuji apples, regardless of the size, by allowing more fruit to be marketed which would otherwise be graded as defective.

The U.S. Standards for Grades of Apples and the U.S. Condition Standards for Export are both voluntary grade standards. There are no regulatory provisions that require the use of these standards with the exception of the Export Apple and Pear Act (7 U.S.C. 581

et seq.) and its regulations (7 CFR Part 33) in regard to the U.S. Standards for Grades of Apples. Under the Export Apple and Pear Act shipments of apples to foreign countries must meet a minimum requirement of the U.S. No. 1 grade (there are exemptions to this Act based on lot size, destination, etc.) However, the grade changes being made in this rule-making only affect the U.S. Extra Fancy and U.S. Fancy grades of the U.S. Standards for Grades of Apples and the U.S. Condition Standards for Export; none of which are contingent upon the Export Apple and Pear Act.

AMS has determined that this action would not impose any additional reporting or recordkeeping requirements on either small or large apple handlers. Accordingly, AMS has determined that the issuance of this interim final rule will not have a significant economic impact on a substantial number of small entities.

AMS recently received a request from the Northwest Horticultural Council (NHC) and the USAA, requesting relief from scoring damage by invisible water core in the Fuji variety of apples. The NHC represents the deciduous tree fruit industry in the States of Washington, Oregon, and Idaho on Federal and international trade policy issues and the USAA represents the apple industry on a nation-wide basis. According to the NHC and the USAA, the production of the Fuji variety has steadily been on the increase in the U.S. over the past several years. As previously mentioned, U.S. holdings of the Fuji variety as of November 1, 1992, were (figures are in millions of boxes) 1.4 million and has increased to 8.7 million as of November 1, 1996. The Fuji variety has become the third largest variety this year for Washington State.

In addition, the U.S. Fuji holdings have traditionally experienced a history of heavy export. Of the three million boxes of Fuji's produced in Washington State in 1995, two million were exported. Therefore, two-thirds of Washington State's Fuji crop and almost half of the entire U.S. Fuji crop was exported in 1995.

The Fuji apple is a relatively new variety of apple in the United States. The Fuji variety is a cross between the Red Delicious and Ralls Janet varieties and was bred in Japan over 50 years ago. Although it was named in 1962, the variety was not highly marketed in the U.S. until the mid to late 1980's. According to the NHC and the USAA, Fuji apples are prone to a condition known as "invisible water core." Invisible water core manifests itself as translucent or glassy areas of tissue in the flesh of the apple. The location of

these translucent or glassy areas is not necessarily in the core region as its name would indicate but may be located sometimes around the vascular bundles or scattered in the flesh toward the calyx-end of the fruit. Mild to moderate symptoms may even disappear.

Alternatively, if water core is severe, however, it may be followed by an irreversible breakdown of the flesh.

According to one expert of post harvest diseases and disorders of apples, Anna L. Snowden, Ph.D., in all types of water core the characteristic water-soaking results from a leakage of cell sap into the intercellular spaces (which are normally filled with air), following an abnormally rapid conversion of starch to sugar. It is this apparent conversion to sugar that may soon yield to internal breakdown in most apple varieties. Therefore, watercore has traditionally been considered an undesirable or pathological defect.

However, proponents of this interim final rule have suggested that not only do certain consumers find this condition of Fuji apples desirable, but that this variety may store longer and without internal breakdown complications as with other apple varieties. Eugene M. Kupferman, Ph.D., Extension Horticulturalist at the Washington State University Tree Fruit Research and Extension Center in Wenatchee, Washington, stated in a letter to the NHC that, "'Fuji' apples have a very sweet flavor and a good sugar/acid balance. One of the attributes of 'Fuji' is their ability to accumulate sugar, called 'watercore' in the flesh of the fruit. 'Fuji' apples with watercore are prized by Asian consumers, and growers perform a number of cultural practices in the orchard to promote watercore * * *. Japanese consumers prefer watercored to non-watercored 'Fuji'. They will reject apples without watercore during the first 3-4 months after harvest."

Dr. Kupferman further maintains that, "'Fuji' apples of the appropriate maturity with moderate levels of watercore, can be stored and marketed for at least 6 months. 'Fuji' with slight watercore can be stored up to 12 months without problems in Controlled Atmosphere.

Furthermore, watercore is far less of a problem with 'Fuji' than with 'Red Delicious' apples, which can be stored for only 3 months with moderate watercore. This appears to be due to differences in the rate of metabolism of the two varieties. Research is underway to study this further. Of course, with either variety, when very heavily watercored fruit are stored excessively long, internal browning can result."

Presently, scoring invisible water core on apples includes the following: First, water core is separated into two different types, based on whether it may be seen externally or not; Second, if the water core exists as "invisible water core" it is only scored against certain grades during certain times of the year; Finally, if the U.S. Condition Standards for Export are requested to be applied, damage by invisible water core is considered a defect at anytime of the year regardless of the "grade."

If water core is visible externally, that is, it may be seen without the need for cutting the apple, it is referred to in the U.S. Standards for Grades of Apples as "visible water core" by definition (section 51.320 Serious damage, paragraph (f)). Visible water core is scored as serious damage if the apple demonstrates an area which is visible externally, and is greater than the area of a circle one-half inch in diameter. Serious damage by visible water core is scored as a defect against all apple grades, and when applying the U.S. Condition Standards, at any time of the year.

If water core occurs within the flesh of the apple and cannot be seen externally, i.e. the apple must be cut in a plane perpendicular to, and midway between, a straight line from the stem and calyx end, it is scored as "damage by invisible" water core if any of three particular conditions are met. These three conditions are: If the invisible water core exists around the core of the apple and extends outward to any vascular bundle(s); if the affected areas surround the vascular bundles (and does not extend into the core) such that three or more vascular bundles meet or coalesce; or if it exists in more than a slight degree outside the circular area formed by the vascular bundles.

However, damage by invisible water core may only be scored against the U.S. Extra Fancy or U.S. Fancy grades, and is not considered as a scoreable defect against the U.S. No. 1 or U.S. Utility grade. Further, damage by invisible water core is scored as a defect under the U.S. Extra Fancy and U.S. Fancy grades, only after January 31, of the year following the year of production.

The U.S. Condition Standards for Export are additional requirements that may be applied to domestic shipments of apples as well as export lots. These extra requirements are not an extension of, or a part of the United States Standards for Grades of Apples or of the U.S. Apple and Pear Export Act. The U.S. Condition Standards for Export, 7 CFR Part 51 Section 51.323 appear in the CFR immediately following the U.S.

Standards for Grades of Apples, 7 CFR Part 51 Sections 51.300-51.322.

These standards are provided as an additional set of requirements for application to lots of apples. They were originally designed to be voluntarily used as an additional set of standards which would primarily cover condition defects only for export shipments. At their inception they were simply referred to as the "Export Standards." However, over a period of many years the title given to these regulations is now the "U.S. Condition Standards for Export" also known simply as the "U.S. Condition Standards" and, due in part to their increased popularity among receivers, are now used when ever two parties involved in shipping and receiving lots of apples so designate. Since these U.S. Condition Standards are not part of the Export Apple and Pear Act, nor are they incorporated in any other regulatory article, they are a voluntary set of standards which provide for additional tolerances primarily in reference to condition defects. When applying the U.S. Condition Standards for Export, regardless of the grade, invisible water core is considered as a defect at anytime of the year. The U.S. Condition Standards allow five percent for apples damaged by invisible water core.

The U.S. Export Apple and Pear Act (7 U.S.C. 581 *et seq.*) and its regulations (7 CFR part 33), requires that apples being exported from the U.S. meet a minimum grade requirement of U.S. No. 1. There are no specific requirements in the Act pertaining to invisible water core. Although the U.S. Condition Standards for Export do have requirements pertaining to invisible water core, the U.S. Condition Standards for Export are a voluntary set of standards separate and apart from the Export Apple and Pear Act and are not incorporated by the Act or the U.S. Standards for Grades of Apples, i.e. there are no requirements on behalf of the U.S. Export Apple and Pear Act or the U.S. Standards for Grades of Apples that state that apples must meet the requirements of the U.S. Condition Standards for Export.

When shippers from the U.S. attempt to ship lots of Fuji apples to foreign markets the receiver generally requests that lots meet a U.S. Extra Fancy or Fancy grade. Presently, apples exported from the U.S. which contain more than 10 percent damage by invisible water core, may attain no higher than the U.S. No. 1 grade (because invisible water core is not considered a defect under the U.S. No. 1 grade but is considered a defect under the U.S. Extra Fancy and U.S. Fancy grades). The Fuji apple

shippers feel that since the presence of invisible water core is usually required for Asian markets, and since the standards presently define invisible water core in the U.S. Extra Fancy and U.S. Fancy grades as a defect, the standards prevent them from providing the buyer with a high quality product.

In addition, the Canadian government maintains Canadian Import Requirements on certain commodities shipped from the U.S. into Canada. One of these commodities is apples. Due to U.S. requirements, apples shipped to Canada must meet the requirements of the U.S. Apple and Pear Export Act. However, in addition, apples shipped to Canada must also meet Canadian Import requirements which in turn require the apples meet the U.S. Condition Standards for Export. According to the NHC, "As a consequence, our industry's efforts to meet current Canadian demand for Fuji apples are being severely curtailed." Furthermore, the USAA has requested "that you (USDA) make this change immediately since the regulation currently serves as an administrative barrier to trade with Canada, which is the industry's third largest export market behind Taiwan and Mexico."

Therefore, as a result of a request made by both the NHC and the USAA, the following changes are being made to the U.S. Standards for Grades of Apples and the U.S. Condition Standards for Export. Sections 51.300 and 51.301, U.S. Extra Fancy and U.S. Fancy grades respectively, will be revised by changing the statement for "free from damage by invisible water core after January 31st of the year following the year of production" by adding "except for the Fuji variety of apples. Invisible water core shall not be scored against the Fuji variety of apples under any circumstances."

Section 51.319, paragraph (f), the definition for damage by invisible water core, shall be revised by adding the following sentence: "Invisible water core shall not be scored as damage against the Fuji variety of apples under any circumstances."

In addition, section 51.323, paragraph (c) of the U.S. Condition Standards for Export states that "Not more than 5 percent of the apples in any lot shall be affected by scald, internal breakdown, freezing injury, or decay; or damage by water core, * * *" This paragraph will be revised by moving water core to the end of the paragraph and adding a statement to allow an exemption for Fuji variety apples. Thus, paragraph (c) will now read, "Not more than a total of 5 percent of the apples in any lot shall be affected by scald, internal breakdown,

freezing injury, or decay; or damage by bitter pit, Jonathan spot, water core, except that invisible water core shall not be scored as damage when these standards are applied to the Fuji variety of apples, or other condition factors: Provided, That:"

The Agency will make copies of this rulemaking readily available for any interested person or party upon request. In addition, it is intended that this action will be publicized through various actions and committees of the NHC and the USAA. Also, the Agency will distribute copies of this rulemaking to various apple industry members. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

AMS has considered alternatives to issuing this interim final rule. The Agency has considered conducting no action at all in regard to the request. However, as present reports indicate, the Fuji volume production is increasing on a yearly basis as well as exports of Fuji apples from this country. No action at all by the Agency could result in further lost foreign market sales for Fuji growers, shippers, or handlers.

Pursuant to 5 U.S.C. 553, it is 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 and that good cause exists for not postponing the effective date of this rule 30 days after publication in the **Federal Register** because: (1) This year's holdings as well as projected holdings for the Fuji apple are on the increase. Therefore more apples are available longer; (2) it would not be beneficial for the quality of the fruit to withstand storage for the length of a 30 day effective date as well as a comment period; (3) the changes being made in this interim final rule only affect the Fuji variety of apple and the requests for these changes is being made by two trade associations that represent the majority of the Fuji handlers; (4) this interim final rule provides a 60 day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

For reasons set forth in the preamble, 7 CFR Part 51 is amended as follows:

PART 51—[AMENDED]

1. The authority citation for Part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 51.300 is revised to read as follows:

§ 51.300 U.S. Extra Fancy.

"U.S. Extra Fancy" consists of apples of one variety which are mature but not overripe, carefully hand-picked, clean, fairly well formed; free from decay, internal browning, internal breakdown, scald, scab, bitter pit, Jonathan spot, freezing injury, visible water core, and broken skins and bruises except those which are slight and incident to proper handling and packing. The apples are also free from injury caused by smooth net-like russetting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, disease, insects, or other means; and free from damage by smooth solid, slightly rough or rough russetting, or stem or calyx cracks, and free from damage by invisible water core after January 31st of the year following the year of production except for the Fuji variety of apples. Invisible water core shall not be scored against the Fuji variety of apples under any circumstances. Each apple of this grade has the amount of color specified in § 51.305 for the variety. (See §§ 51.305 and 51.307.)

3. Section 51.301 is revised to read as follows:

§ 51.301 U.S. Fancy.

"U.S. Fancy" consists of apples of one variety which are mature but not overripe, carefully hand-picked, clean, fairly well formed; free from decay, internal browning, internal breakdown, bitter pit, Jonathan spot, scald, freezing injury, visible water core, and broken skins and bruises except those which are incident to proper handling and packing. The apples are also free from damage caused by russetting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, disease, insects, damage by other means, or invisible water core after January 31st of the year following the year of production, except for the Fuji variety of apples. Invisible water core shall not be scored against the Fuji variety of apples under any circumstances. Each apple of this grade has the amount of color specified in § 51.305 for the variety. (See §§ 51.305 and 51.307.)

4. In § 51.319, paragraph (f) is revised to read as follows:

§ 51.319 Damage.

* * * * *

(f) Invisible water core existing around the core and extending to water core in the vascular bundles; or surrounding the vascular bundles when the affected areas surrounding three or more vascular bundles meet or coalesce; or existing in more than slight degree outside the circular area formed by the vascular bundles. Provided, That invisible water core shall not be scored as damage against the Fuji variety of apples under any circumstances.

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5. In § 51.323 paragraph (c) introductory text is revised to read as follows.

§ 51.323 U.S. Condition Standards for Export.⁴

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(c) Not more than a total of 5 percent of the apples in any lot shall be affected by scald, internal breakdown, freezing injury, or decay; or damage by bitter pit, Jonathan spot, water core except that invisible water core shall not be scored as damage when these condition standards are applied to the Fuji variety of apples, or other condition factors: *Provided, That:*

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Dated: May 22, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97-13968 Filed 5-28-97; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1930, 1944, 1951, and 1965

Notice of Public Hearing on Rural Rental Housing (RRH) Assistance

AGENCIES: Rural Housing Service (RHS), Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Notice of public hearing on interim final rule.

SUMMARY: This Notice announces a Public Hearing on Congressionally mandated reforms to the Section 515 Rural Rental Housing new construction loan program. The intent of this hearing is to receive public comments on the Interim Final Rule, "Rural Rental

Housing (RRH) Assistance," which was published in the Federal Register on May 7, 1997, at page 25062. Interested users of the Section 515 Rural Rental Housing Program are invited.

ADDRESSES: The Hearing will be conducted at the Jamie L. Whitten Federal Building, located at 1400 Independence Avenue, S.W., Washington, DC 20250, room 107-A.

DATES: The Hearing will be conducted on June 11, 1997, from 10:00 a.m. to 2:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Persons wishing to attend the Hearing should contact Cynthia L. Reese-Foxworth, Senior Loan Officer, Multi-Family Housing Processing Division, USDA, Stop 0781, Washington, DC 20250, telephone (202) 720-1940 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Programs Affected

The Rural Rental Housing Program is listed in the Catalog of Federal Domestic Assistance under Number 10.415, Rural Rental Housing Loans. Rental assistance for the Rural Rental Housing Program is listed in the Catalog under Number 10.427, Rural Rental Assistance Payments.

Discussion of Notice

The Rural Housing Service (RHS), formerly Rural Housing and Community Development Service (RHCD), a successor Agency to the Farmers Home Administration (FmHA), has amended its regulations for the Rural Rental Housing (RRH) Program to implement legislative reforms mandated by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1997, Public Law 104-180, enacted August 6, 1996 (herein referred to as the Act.) The Act included reforms in six areas of the Multi-Family Housing Program. The Act required that one of these reforms, determining the amount of assistance necessary to develop the proposed rental housing, be implemented within 60 days through negotiated rulemaking as a means of assuring that the public was both informed and consulted regarding the Agency's intentions and requirements that would impact them as potential users of the program. Unfortunately, such process takes an estimated 18 months and could not be accomplished within the confines of the Act. In order to meet the spirit of negotiated rulemaking, the Agency sought extensive public input through several informal meetings with developers, major housing groups, and Agency personnel so that the Agency

would gain a full measure of public input before developing the regulations. Based on these meetings, regulations were developed and published as an Interim Final Rule in the **Federal Register** on May 7, 1997. The Act further required the Agency to promulgate regulations in accordance with the provisions of 5 U.S.C. 557 if negotiated rulemaking could not be timely accomplished. As part of that process, the Agency is conducting a public hearing to receive feedback and comments from developers, major housing groups, Agency personnel, and other interested parties in a public hearing format to complement the 60-day comment period provided by the Interim Rule. Persons making presentations are requested to leave a written copy of their comments with the hearing official to assure accuracy of the public record.

Dated: May 22, 1997.

Jan E. Shadburn,

Acting Administrator, Rural Housing Service.

[FR Doc. 97-14063 Filed 5-28-97; 8:45 am]

BILLING CODE 3410-XV-U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 543

[No. 97-48]

RIN 1550-AA76

De Novo Applications for a Federal Savings Association Charter; Correction

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule; correction.

SUMMARY: The Office of Thrift Supervision (OTS) is issuing a correction to its final regulation on *de novo* applications for federal savings association charters published on May 19, 1997 to remove a reference to an OTS regulation that will expire on the day the final *de novo* regulation becomes effective.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Gary Masters, Financial Analyst, Corporate Activities Division (202) 906-6729; Edward O'Connell, Project Manager, Thrift Policy (202) 906-5694; Kevin Corcoran, Assistant Chief Counsel, Business Transactions Division, Chief Counsel's Office (202) 906-6962; or Valerie J. Lithotomos, Counsel (Banking and Finance), Regulations and Legislation Division, Chief Counsel's

⁴ These standards may be applied to domestic shipments of apples as well as export lots, and may be referred to as "U.S. Condition Standards."