

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Parts 57 and 59**

[Docket No. PY-99-001]

Egg Products Inspection Act Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: This rule duplicates, redesignates, and amends the regulations governing egg and egg products inspection under the Egg Products Inspection Act (EPIA). The Department of Agriculture (USDA) has re delegated most, but not all, functions under the EPIA from the Agricultural Marketing Service (AMS) to the Food Safety and Inspection Service (FSIS). Shell egg surveillance functions continue to be delegated to AMS. This rule duplicates or redesignates those portions of part 59 pertinent to shell egg surveillance as a new part 57, and it leaves those portions of part 59 pertinent to other functions under the EPIA. This action will assure that each agency has the regulations that it needs to carry out its responsibilities, and it will facilitate the transfer of the EPIA regulations administered by FSIS to the title of the Code of Federal Regulations that includes the Federal Meat Inspection Act and Poultry Products Inspection Act regulations, also administered by FSIS.

EFFECTIVE DATE: December 18, 1998.

FOR FURTHER INFORMATION CONTACT: Douglas C. Bailey, Chief, Standardization Branch, Poultry Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0259, 1400 Independence Avenue, SW, Washington, D.C. 20250-0259 (202) 720-3506.

SUPPLEMENTARY INFORMATION: This rule has been determined to be not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget (OMB).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect, and does not require administrative proceedings before parties may file suit in court challenging this rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5

U.S.C. 601 *et seq.*), AMS has considered the economic impact of this rule on small entities. This rule is technical in nature. It does not change regulatory requirements or the responsibilities of any party. Accordingly, AMS has determined that provisions of this rule would not have any economic impact on small entities.

Background and Changes

AMS was responsible for administering the EPIA (21 U.S.C. 601 *et seq.*) upon its enactment in 1970, and issued the regulations in 7 CFR part 59. The Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub.L. 103-354; 7 U.S.C. 2204e) consolidated food safety responsibilities in FSIS. In 1995, the Department revised its regulations to delegate most functions under EPIA to FSIS, but continued to delegate shell egg surveillance functions under EPIA to AMS.

This rule reorganizes and amends the EPIA regulations as a follow-up action to the Department's re delegation of authority. The changes duplicate and redesignate those portions of part 59 pertinent to shell egg surveillance as a new part 57 and leaves those portions pertinent to other functions under the EPIA in part 59. This will assure that AMS and FSIS have the regulations that they need to carry out their responsibilities, and it will facilitate FSIS' transfer of the regulations remaining in part 59, as part of an upcoming rulemaking, to the same location as other regulations administered by FSIS (chapter III of title 9 of the Code of Federal Regulations, which includes the Federal Meat Inspection Act and Poultry Products Inspection Act regulations). When FSIS published a final rule implementing amendments to the EPIA in August 1998 (63 FR 45663), the Director of the Federal Register charged FSIS and AMS with transferring to 9 CFR the EPIA regulations related to food safety by January 1, 1999.

Because of the technical, nonsubstantive nature of this rule, AMS finds that it has good cause that notice and public procedure required by the Administrative Procedure Act are unnecessary (5 U.S.C. 553). Additionally, AMS finds that there is good cause not to delay the effective date and therefore this rule will be effective on the first day following the date of publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Parts 57 and 59

Eggs and egg products, Exports, Food grades and standards, Food labeling, Imports, Reporting and recordkeeping requirements.

For the reasons set forth above, 7 CFR chapter I, subchapter C is amended as follows:

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946 AND THE EGG PRODUCTS INSPECTION ACT

1. The heading of subchapter C is revised to read as set out above.
2. Part 57 is added to read as follows:

PART 57—INSPECTION OF EGGS (EGG PRODUCTS INSPECTION ACT)

Sec.

Definitions

- 57.1 Meaning of words.
57.5 Terms defined.

Administration

- 57.10 Authority.
57.13 Federal and State cooperation.
57.17 Nondiscrimination.
57.18 OMB control number.

Scope of Inspection

- 57.20 Inspection in accordance with methods prescribed or approved.
57.22 Basis of service.
57.28 Other inspections.

Relation to Other Authorities

- 57.35 Eggs outside official plants.

Eggs and Egg Products Not Intended for Human Food

- 57.45 Prohibition on eggs and egg products not intended for use as human food.

Refrigeration of Shell Eggs

- 57.50 Temperature and Labeling Requirements.

Exemptions

- 57.100 Specific exemptions.
57.105 Suspension or termination of exemptions.

Performance of Service

- 57.110 Licensed inspectors.
57.112 Suspension of license or authority; revocation.
57.114 Surrender of license.
57.116 Activities of inspectors.
57.118 Identification.
57.119 Political activity.
57.120 Financial interest of inspectors.
57.132 Access to plants.
57.134 Accessibility of product.

Records and Related Requirements for Egg Handlers and Related Industries

- 57.200 Records and related requirements.
57.220 Information and assistance to be furnished to inspectors.

Administrative Detention

- 57.240 Detaining product.

Appeal of an Inspection or Decision

- 57.300 Who may request an appeal inspection or review of an inspector's decision.
- 57.310 Where to file an appeal.
- 57.320 How to file an appeal.
- 57.330 When an application for an appeal grading or inspection may be refused.
- 57.340 Who shall perform the appeal.
- 57.350 Procedures for selecting appeal samples.
- 57.360 Appeal inspection certificates.
- 57.370 Cost of appeals.

Identifying and Marking Product

- 57.410 Shell eggs required to be labeled.

Retention

- 57.426 Retention.

Processing Requirements

- 57.504 General operating procedures.

Registration of Shell Egg Handlers

- 57.690 Persons required to register.

Inspection and Disposition of Restricted Eggs

- 57.700 Prohibition on disposition of restricted eggs.
- 57.720 Disposition of restricted eggs.
- 57.760 Inspection of egg handlers.

Identification of Restricted Eggs or Egg Products Not Intended for Human Consumption

- 57.800 Identification of restricted eggs.
- 57.801 Nest run or washed ungraded eggs.
- 59.840 Identification of inedible, unwholesome, or adulterated egg products.
- 57.860 Identification wording.

Imports

- 57.900 Requirements for importation of restricted eggs into the United States.
- 57.905 Importation of restricted eggs or eggs containing more restricted eggs than permitted in the official standards for U.S. Consumer Grade B.
- 57.915 Foreign inspection certificate required.
- 55.920 Importer to make application for inspection of imported eggs.
- 57.925 Inspection of imported eggs.
- 57.930 Imported eggs; retention in customs custody; delivery under bond; movement prior to inspection; sealing; handling; facilities, and assistance.
- 57.935 Means of conveyance and equipment used in handling eggs to be maintained in sanitary condition.

- 57.945 Foreign eggs offered for importation; reporting of findings to customs; handling of products refused entry.

- 57.950 Labeling of containers of eggs for importation.

- 57.955 Labeling of shipping containers of eggs for importation.

- 57.960 Small importations for consignee's personal use, display, or laboratory analysis.

- 57.965 Returned U.S. inspected and marked products; not importations.

- 57.970 Charges for storage, cartage, and labor with respect to products imported contrary to the Act.

Authority: 21 U.S.C. 1031-1056.

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

3. The authority citation for part 59 continues to read as follows:

Authority: 21 U.S.C. 1031-1056.

4. Undesignated center headings and sections in part 59 are duplicated as undesignated center headings and sections in part 57, as set out in the following table:

Part 59	Part 57
Definitions	Definitions
§ 59.1	§ 57.1
§ 59.5	§ 57.5
Administration	Administration
§ 59.10	§ 57.10
§ 59.13	§ 57.13
§ 59.17	§ 57.17
§ 59.18	§ 57.18
Scope of Inspection	Scope of Inspection
§ 59.20	§ 57.20
§ 59.22	§ 57.22
§ 59.28	§ 57.28
Relation to Other Authorities	Relation to Other Authorities
§ 59.35	§ 57.35
Eggs and Egg Products Not Intended for Human Food	Eggs and Egg Products Not Intended for Human Food
§ 59.45	§ 57.45
Refrigeration of Shell Eggs	Refrigeration of Shell Eggs
§ 59.50	§ 57.50
Exemptions	Exemptions
§ 59.100	§ 57.100
§ 59.105	§ 57.105
Performance of Service	Performance of Service
§ 59.110	§ 57.110
§ 59.112	§ 57.112
§ 59.114	§ 57.114
§ 59.116	§ 57.116
§ 59.118	§ 57.118
§ 59.119	§ 57.119
§ 59.120	§ 57.120
§ 59.132	§ 57.132
§ 59.134	§ 57.134
Records and Related Requirements for Eggs and Egg Products Handlers and Related Industries	Records and Related Requirements for Eggs and Egg Products Handlers and Related Industries
§ 59.200	§ 57.200
§ 59.220	§ 57.220
Administrative Detention	Administrative Detention
§ 59.240	§ 57.240
Appeal of an Inspection or Decision	Appeal of an Inspection or Decision
§ 59.300	§ 57.300
§ 59.310	§ 57.310
§ 59.320	§ 57.320
§ 59.330	§ 57.330

Part 59	Part 57
§ 59.340	§ 57.340
§ 59.350	§ 57.350
§ 59.360	§ 57.360
§ 59.370	§ 57.370
Identifying and Marking Product	Identifying and Marking Product
§ 59.410	§ 57.410
Inspection, Reinspection, Condemnation, and Retention	Inspection, Reinspection, Condemnation, and Retention
§ 59.426	§ 57.426 Retention
Sanitary, Processing, and Facility Requirements	Sanitary, Processing, and Facility Requirements
§ 59.504	§ 57.504
Identification of Restricted Eggs or Egg Products Not Intended for Human Consumption	Identification of Restricted Eggs or Egg Products Not Intended for Human Consumption
§ 59.800	§ 57.800
§ 59.840	§ 57.840
§ 59.860	§ 57.860
Imports	Imports
§ 59.900	§ 57.900
§ 59.905	§ 57.905
§ 59.915	§ 57.915
§ 59.920	§ 57.920
§ 59.925	§ 57.925
§ 59.930	§ 57.930
§ 59.935	§ 57.935
§ 59.945	§ 57.945
§ 59.950	§ 57.950
§ 59.955	§ 57.955
§ 59.960	§ 57.960
§ 59.965	§ 57.965
§ 59.970	§ 57.970

5. The duplicated undesignated center headings that precede §§ 57.200, 57.426, and 57.504 and the duplicated headings of §§ 57.35, 57.134, 57.410, 57.900, 57.920, 57.930, 57.935, 57.945, 57.950,

and 57.955 are revised as set out in the table of contents for part 57.

sections in part 57, as set out in the following table:

6. Undesignated center headings and sections in part 59 are redesignated as undesignated center headings and

Part 59	Part 57
Registration of Shell Egg Handlers	Registration of Shell Egg Handlers
§ 59.690	§ 57.690
Inspection and Disposition of Restricted Eggs	Inspection and Disposition of Restricted Eggs
§ 59.700	§ 57.700
§ 59.720	§ 57.720
§ 59.760	§ 57.760
§ 59.801	§ 57.801

PART 57—INSPECTION OF EGGS (EGG PRODUCTS INSPECTION ACT)

7. In duplicated § 57.5, the definition for “official standards” is revised to read as follows:

§ 57.5 Terms defined.

* * * * *

Official standards means the standards of quality, grades, and weight classes for eggs.

* * * * *

8. Duplicated § 57.18 is revised to read as follows:

§ 57.18 OMB control number.

The information collection requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 0581-0113.

§ 57.20 [Amended]

9. Duplicated § 57.20 is amended by removing “and egg products”.

§ 57.28 [Amended]

10. Duplicated § 57.28 is amended by removing and reserving paragraph (a)(2) and by removing, in paragraph (b), “and egg products”.

§ 57.45 [Amended]

11. Duplicated § 57.45 is amended by removing, in paragraph (a), “in paragraphs (c) and (d) of this section or”; by removing, in paragraph (b), “or any egg products which are unwholesome, adulterated, or are otherwise unfit for human food purposes, except as provided in paragraphs (c) and (d) of this section,”; and by removing paragraphs (c) and (d). As revised, § 57.45 reads as follows:

§ 57.45 Prohibition on eggs and egg products not intended for use as human food.

(a) No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation in commerce, any eggs or egg products which are not intended for use as human food, unless they are denatured or decharacterized, unless shipped under seal as authorized in §§ 57.504(c) and 57.720(a) and identified as required by the regulations in this part.

(b) No person shall import or export shell eggs classified as loss, inedible, or incubator rejects unless they are denatured or decharacterized and identified as required by the regulations in this part.

§ 57.1000 [Amended]

12. Duplicated § 57.100 is amended by removing, in the introductory text, "and the provision for continuous inspection of processing operations in section 5(a) of the Act" and by removing and reserving paragraph (b).

§ 57.200 [Amended]

13. Duplicated § 57.200 is amended by removing, in paragraph (a), "or egg products" and "and egg products" and by removing, in paragraph (b), "and egg processing operations", "(1)", and "(2) official egg products plants which use all shell eggs received and do not reship any shell eggs".

§ 57.240 [Amended]

14. Duplicated § 57.240 is amended by removing "or egg products" in the first sentence.

15. Duplicated § 57.310 is amended by removing paragraph (a); by removing, in paragraph (b), "which has left the official plant where it was inspected or"; and by removing the paragraph designation and the heading of paragraph (b). As revised, § 57.310 reads as follows:

§ 57.310 Where to file an appeal.

Any interested party who is not satisfied with the determination of the class, quantity, or condition of product which was inspected other than in an official plant may request an appeal inspection by filing such request with the Regional Director in the region where the product is located or with the Chief of the Grading Branch.

§ 57.340 [Amended]

16. Duplicated § 57.340 is amended by removing paragraph (a), by removing "§ 57.310(b)" and adding in its place "§ 57.310," and by removing the paragraph designation (b).

§ 57.410 [Amended]

17. Duplicated § 57.410 is amended by removing paragraph (b) and the paragraph designation (a).

18. Duplicated § 57.504 is amended by removing and reserving paragraphs (a) and (b); by removing, in paragraph (c) everything after the first two sentences; and by removing paragraphs (d) through (q). As revised, § 57.504 reads as follows:

§ 57.504 General operating procedures.

- (a) [Reserved]
- (b) [Reserved]
- (c) All loss and inedible eggs or egg products shall be placed in a container clearly labeled "inedible" and containing a sufficient amount of approved denaturant or decharacterant, such as FD&C brown, blue, black, or

green colors, meat and fish by-products, grain and milling by-products, or any other substance, as approved by the Administrator, that will accomplish the purposes of this section. Shell eggs shall be crushed and the substance shall be dispersed through the product in amounts sufficient to give the product a distinctive appearance or odor.

§ 57.900 [Amended]

19. Paragraph (a) of duplicated § 57.900 is amended by removing "Egg products and restricted" and adding, in its place, "Restricted" in the first sentence and by removing "or egg product" in the last sentence.

§ 57.915 [Amended]

20. Duplicated § 57.915 is amended by removing and reserving paragraph (a) and by removing the heading of paragraph (b).

§ 57.920 [Amended]

21. Duplicated § 57.920 is amended by removing "or egg products" and "Eggs and Egg Products," in the first sentence.

§ 57.925 [Amended]

22. Paragraph (a) of duplicated § 57.925 is amended by removing "and egg products" in the first sentence.

§ 57.930 [Amended]

23. Paragraph (a) of duplicated § 57.930 is amended by removing "or egg products" in the first sentence.

§ 57.945 [Amended]

24. Duplicated § 57.945 is amended by removing "or egg products" in the first sentence of paragraph (a), in paragraph (b), and in paragraph (c).

§ 57.950 [Amended]

25. Paragraph (a) of duplicated § 57.950 is amended by removing and reserving paragraph (a)(5) and by removing paragraphs (a)(8), and (a)(9).

§ 57.955 [Amended]

26. Paragraph (a) of duplicated § 57.955 is amended by removing and reserving paragraphs (a)(3) and (a)(4) and by removing, in both paragraphs (a)(5) and (a)(6), "For shell eggs, the" and adding, in its place, "The".

§ 57.960 [Amended]

27. Duplicated § 57.960 is amended by removing "or egg products" in the first sentence and "30 pounds of liquid or frozen eggs, or 50 pounds of dried egg products," in the last sentence.

PART 57—[AMENDED]

28. In the duplicated and redesignated sections of part 57, each internal

reference to a section of part 59 is revised as set out in the preceding duplication and redesignation tables.

PART 59—[AMENDED]

29. The authority citation for part 59 continues to read as follows:

Authority: 21 U.S.C. 1031–1056.

30. In § 59.5, the definition for "official standards" is revised to read as follows:

§ 59.5 Terms defined.

* * * * *

Official standard means the standards of quality, grades, and weight classes for eggs.

* * * * *

31. Paragraph (a)(1) of § 59.28 is amended by removing, in the first sentence, "Business premise, facilities, inventories, operations, transport vehicles, and records of egg handlers, and the" and adding, in its place, "The" and by removing the second and third sentences. As revised, paragraph (a)(1) of § 59.28 reads as follows:

§ 59.28 Other inspections.

(a) Periodic inspections shall be made of:

- (1) The records of all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products.

* * * * *

§ 59.35 [Amended]

32. Section 59.35 is amended by removing paragraph (a) and the paragraph designation (b).

§ 59.40 [Amended]

33. Section 59.40 is amended by removing "§§ 59.504(c) and 59.720(a)" in the first sentence and adding, in its place, "§ 59.504(c)".

34. Section 59.100 is amended by revising the introductory text, removing and reserving paragraphs (a), (c), (d), and (f), and by removing paragraph (h). As revised, the introductory text of § 59.100 reads as follows:

§ 59.100 Specific exemptions.

The following are exempt to the extent prescribed as to the provision for continuous inspection of processing operations in section 5(a) of the Act: *Provided*, That the conditions for exemption and provisions of these regulations are met:

* * * * *

§ 59.200 [Amended]

35. Paragraph (b) of § 59.200 is amended by removing "shell egg handlers and" and "(1) producers who

ship all of their production as nest-run eggs without segregation need only to maintain records indicating the amount of shell eggs shipped, date of shipment, and the receivers' name and address, and (2)".

§ 59.240 [Amended]

36. The first sentence of § 59.240 is amended by removing "or whenever any restricted eggs capable of use as human food are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations in this part,".

§ 59.310 [Amended]

37. Paragraph (b) of § 59.310 is amended by removing "or which was inspected other than in an official plant".

§ 59.330 [Amended]

38. Section 59.330 is amended by removing "grading or" in the heading and in the first sentence.

§ 59.800 [Amended]

39. Section 59.800 is amended by removing the last two sentences.

§ 59.905 [Amended]

40. Section 59.905 is amended by removing paragraph (b) and the paragraph designation (a).

§ 59.915 [Amended]

41. Section 59.915 is amended by removing the heading of paragraph (a) and by removing and reserving paragraph (b).

§ 59.920 [Amended]

42. Section 59.920 is amended by removing "upon PY Form 222—Import Request, Eggs and Egg Products," in the first sentence.

§ 59.925 [Amended]

43. Section 59.925 is amended by removing "eggs and" in the heading and in the first sentence of paragraph (a).

§ 59.930 [Amended]

44. Section 59.930 is amended by removing "eggs and" in the heading and by removing "eggs or" in paragraph (a).

§ 59.935 [Amended]

45. The heading of § 59.935 is amended by removing "eggs and".

§ 59.945 [Amended]

46. Section 59.945 is amended by removing "eggs and" in the heading and by removing "eggs or" in the first sentence of paragraph (a), in paragraph (b), and in paragraph (c).

§ 59.950 [Amended]

47. Paragraph (a) of § 59.950 is amended by removing and reserving paragraph (a)(3).

§ 59.955 [Amended]

48. Section 59.955 is amended by removing, in both paragraphs (a)(3) and (a)(4), "For egg products, the" and adding, in its place, "The" and by removing and reserving paragraph (a)(5) and paragraph (c).

§ 59.960 [Amended]

49. Section § 59.960 is amended by removing "eggs or" in the first sentence and by removing "30-dozen shell eggs," in the last sentence.

Dated: December 4, 1998.

Kenneth C. Clayton,
Acting Administrator, Agricultural Marketing Service.

[FR Doc. 98-32738 Filed 12-16-98; 8:45 am]

BILLING CODE 3410-02-P