

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 52

[Doc. No. FV-00-326]

RIN 0581-AB85

#### Processed Fruits and Vegetables

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would revise the regulations governing inspection and certification for processed fruits, vegetables, and processed products made from them by increasing by approximately three to nine percent fees charged for the inspection services. These revisions are necessary in order to recover, as nearly as practicable, the costs of performing inspection services under the Agricultural Marketing Act of 1946. The fees charged to persons required to have inspections on imported commodities in accordance with the Agricultural Marketing Act of 1937 would also be affected.

**DATES:** Comments must be submitted on or before August 28, 2000.

**ADDRESSES:** Interested persons are invited to submit comments on the internet or written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Branch Chief, Processed Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 0709 South Building, Washington, DC 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 and on the internet at <http://www.ams.usda.gov/fv/ppbdocketlist.htm>.

**FOR FURTHER INFORMATION CONTACT:** Mr. James R. Rodeheaver at the above address, call (202) 720-4693, or e-mail [James.Rodeheaver@usda.gov](mailto:James.Rodeheaver@usda.gov).

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been determined not significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. Also, pursuant to the requirements of the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

AMS regularly reviews its user fee financed programs to determine if the fees are adequate. The Processed Products Branch (PPB) of the Fruit and Vegetable Programs, AMS, has and will continue to seek out cost savings opportunities and implement appropriate changes to reduce its costs. Such actions can provide alternatives to fee increases. The fee schedule was last revised on October 4, 1998 (63 FR 50745). However, even with such efforts, the existing fee schedule will not generate sufficient revenues to cover lot, and year round and less than year round inspection program costs and sustain an adequate reserve balance. PPB programs for lot, year round, and less than year round will have obligations in FY 2000 of approximately \$12.9 million, necessitating a reserve of \$4.3 million. The current reserve is \$2.6 million. Current revenue projections for FY 2000 without a fee increase are \$12.0 million as program costs increase to approximately \$13.1 million in FY 2001. These cost increases will result primarily from increases in salaries and benefits. Accounting for a significant portion of the total operating budget, salaries rose from 3.54 to 4.02 percent, effective January 1999, increasing the cost of operating these programs by \$295,000. A 4.8 percent pay increase effective January 1, 2000, increased program costs another \$385,000. The revenue projections, that include proposed fees, are \$12.3 million for FY 2000 and \$13.5 million for FY 2001. The proposed fee increase of approximately 3 to 9 percent, should result in an estimated \$0.3 million during FY 2000 and an additional approximately \$1.0 million in FY 2001 and should enable

PPB to cover its costs and re-establish adequate program reserves.

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. This action would increase user fee revenue generated under the lot inspection program, and the year round and less than year round inspection programs by approximately \$1,020,000 annually. This action is authorized under the AMA of 1946 (see 7 U.S.C. 1622(h)) which provides that the Secretary of Agriculture assess and collect "such fees as will be reasonable and as nearly as may be to cover the costs of services rendered \* \* \*".

There are more than 1,250 users of PPB's lot, and less than year round and year round inspection services (including applicants who must meet import requirements<sup>1</sup>, inspections which amount to under 2 percent of all lot inspections performed). A small portion of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.201). There will be no additional reporting, recordkeeping, or other compliance requirements imposed upon small entities as a result of this proposed rule.

PPB has not identified any other federal rules which may duplicate, overlap or conflict with this proposed rule.

Inspection services covered by this proposed rule are voluntary, except when required for certain imported commodities under 7 CFR parts 944 and 999. The total fees charged to users of these services vary with usage. The impact on all businesses, including small entities, is very similar. Further, even though fees will be increased, the amount of the increase is small (three to nine percent), and should not

<sup>1</sup> Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-604), requires that whenever the Secretary of Agriculture issues grade, size, quality or maturity regulations under domestic marketing orders for certain commodities, the same or comparable regulations on imports of those commodities must be issued. Import regulations apply only during those periods when domestic marketing order regulations are in effect.

Currently, there are 4 processed commodities subject to 8e import regulations: canned ripe olives, dates, prunes, and processed raisins. A current listing of the regulated commodities can be found under 7 CFR parts 944 and 999.

significantly affect these entities. Finally, except for those applicants who are required to obtain inspections in connection with certain imports these businesses are under no obligation to use these inspection services.

**Executive Order 12988**

The rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect and 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 this rule.

**Proposed Action**

The AMA authorizes official inspection, grading and certification for processed fruits, vegetables, and processed products made from them. The AMA provides that the Secretary collect reasonable fees from the users of the services to cover, as nearly as practicable, the costs of the services rendered. This proposed rule will amend the schedule for fees for inspection services rendered to the processed fruit and vegetable industry to reflect the costs necessary to operate the program.

AMS regularly reviews its user fee programs to determine if the fees are adequate. While PPB continues to pursue opportunities to reduce its costs, the existing fee schedule will not generate sufficient revenues to cover lot, and less than year round and year round inspection program costs while maintaining an adequate reserve balance.

PPB programs for lot, year round, and less than year round will have obligations in FY 2000 of approximately \$12.9 million, necessitating a reserve of \$4.3 million. The current reserve is \$2.6 million. Current revenue projections for FY 2000 without a fee increase are \$12.0 million as program costs increase to approximately \$13.1 million in FY 2001. These cost increases will result primarily from increases in salaries and benefits. Accounting for a significant portion of the total operating budget, salaries rose from 3.54 to 4.02 percent, effective January 1999, increasing the cost of operating these programs by \$295,000. A 4.8 percent pay increase effective January 1, 2000, increased program costs another \$385,000. The revenue projections, that include proposed fees, are \$12.3 million for FY 2000 and \$13.5 million for FY 2001. The proposed fee increase of approximately 3 to 9 percent, should result in an

estimated \$0.3 million during FY 2000 and an additional approximately \$1.0 million in FY 2001 and should enable PPB to cover its costs and re-establish adequate program reserves.

AMS proposes to increase the fees relating to lot inspection service and the fees for less than year round and year round inspection services. For inspection services charged under § 52.42, overtime and holiday work would continue to be charged as provided in that section. For inspection services charged on a contract basis under § 52.51 overtime work would also continue to be charged as provided in that section. The following fee schedule compares current fees and charges with proposed fees and charges for processed fruit and vegetable inspection as found in 7 CFR 52.42–52.51. Unless otherwise provided for by regulation or written agreement between the applicant and the Administrator, the charges in the schedule of fees as found in § 52.42 are:

<i>Current</i>	<i>Proposed</i>
\$43.00/hr. ....	\$47.00/hr.

Charges for travel and other expenses as found in § 52.50 are:

<i>Current</i>	<i>Proposed</i>
\$43.00/hr. ....	\$47.00/hr.

Charges for year-round in-plant inspection services on a contract basis as found in § 52.51 (c) are:

(1) For inspector assigned on a year-round basis:

<i>Current</i>	<i>Proposed</i>
\$35.00/hr. ....	\$36.00/hr.

(2) For inspector assigned on less than a year-round basis: Each inspector:

<i>Current</i>	<i>Proposed</i>
\$45.00/hr. ....	\$48.00/hr.

Charges for less than year-round in-plant inspection services (four or more consecutive 40 hour weeks) on a contract basis as found in § 52.51 (d) are:

(1) Each inspector:

<i>Current</i>	<i>Proposed</i>
\$45.00/hr. ....	\$48.00/hr.

**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.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 52 be amended as follows:

**PART 52—[AMENDED]**

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

**Authority:** 7 U.S.C. 1621–1627.

**§ 52.42 [Amended]**

2. In § 52.42, the figure “\$43.00” is revised to read “\$47.00”.

**§ 52.50 [Amended]**

3. In § 52.50, the figure “\$43.00” is revised to read “\$47.00”.

**§ 52.51 [Amended]**

4. In § 52.51, paragraph (c)(1), the figure “\$35.00” is revised to read “\$36.00”, in paragraph (c)(2), the figure “\$45.00” is revised to read “\$48.00”, and in paragraph (d)(1), the figure “\$45.00” is revised to read “\$48.00”.

Dated: June 22, 2000.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00–16373 Filed 6–27–00; 8:45 am]

**BILLING CODE 3410–02–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 99–NM–379–AD]

**RIN 2120–AA64**

**Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A330 and A340 series airplanes. This proposal would require revising the Airplane Flight Manual to include new flight operational procedures for the fuel system; repetitive inspections of the trim transfer fuel line in the vicinity of the aft pressure bulkhead located between frame (FR) 77 and FR86 to detect any discrepancy; and corrective actions, if necessary. This proposal also would require modification of the air release valve in the fuel trim tank transfer system, which would constitute terminating action for the requirements of this AD. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. This action is necessary to prevent damage to