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 54, 56, 62, 70, 90, and 91

[Doc. #AMS–SC–18–0062; SC18–062–1 PR]

Quality Systems Verification Programs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to amend regulations on Quality Systems Verification Programs (QSVP) to clarify that all voluntary, user-fee services under this part are applicable to all commodities covered by the Agricultural Marketing Act of 1946 (Act), as amended. Further, AMS proposes to broaden the scope of services to include all current and future AMS voluntary, user-fee audit verification and accreditation programs and services. AMS will also harmonize administrative procedures governing these services and make conforming changes as necessary in other parts of our regulations.

DATES: Comments must be received by April 20, 2020. Pursuant to the Paperwork Reduction Act, comments on the information collection burden that would result from this rulemaking must be received by April 20, 2020.

ADDRESSES: Comments should be submitted electronically at *www.regulations.gov.* Comments received will be posted without change, including any personal information provided. All comments should reference the docket number AMS–SC–18–0062, the date of submission, and the page number of this issue of the **Federal Register**. Comments may also be submitted to: Jeffrey Waite, Chief, Audit Services Branch, Quality Assessment Division; Livestock and Poultry Program, Agricultural Marketing Service, U.S. Department of Agriculture; Room 3932S, STOP 0258, 1400 Independence Avenue SW; Washington, DC 20250–0258. Comments will be made available for public inspection at the above address during regular business hours or electronically at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jeffrey Waite, Chief, Audit Services Branch, Quality Assessment Division; Livestock and Poultry Program, Agricultural Marketing Service, U.S. Department of Agriculture; Room 3932S, STOP 0258, 1400 Independence Avenue SW; Washington, DC 20250–0258; telephone (202) 720–4411; or email to *jeffrey.waite@usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Orders 12866, 13563 and 13771

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rulemaking has been determined to be not significant for purposes of Executive Order 12866 or Executive Order 13563. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect. The Act prohibits States or political subdivisions of a State from imposing any requirement that is in addition to, or inconsistent with, any requirement of the Act. There are no civil justice implications associated with this proposed rule.

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this proposed regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Civil Rights Review

AMS has considered the potential civil rights implications of this proposed rule on minorities, women and persons with disabilities to ensure that no person or group shall be discriminated against on the basis of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status, or protected genetic information. This proposed rule does not require affected entities to relocate or alter their operations in ways that could adversely affect such persons or groups. Further, this proposed rule will not deny any persons or groups the benefits of the program or subject any persons or groups to discrimination.

Executive Order 13132

This proposed rule has been reviewed under Executive Order 13132, Federalism. This Order directs agencies to construe, in regulations and otherwise, a federal statute to preempt State law only when the statute contains an express preemption provision. There are no federalism implications associated with this proposed rule.

Background and Proposed Revisions

The Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), hereinafter referred to as the ''Act,'' directs and authorizes the Secretary of Agriculture to facilitate the efficient and competitive marketing of agricultural products. AMS programs support a strategic marketing perspective that adapts product and marketing decisions to consumer demands, changing domestic and international marketing practices, and new technology. Under this directive, AMS provides impartial verification services that ensure agricultural products meet specified requirements, both tangible (such as meeting USDA grade standards) and intangible (such as a feeding regime or

production system). Services also include audit verification programs, laboratory approval and accreditation programs, and audit activities based on government-to-government agreements with international trading partners regarding specific foreign market requirements. These services are voluntary, with users paying for the cost of the requested service.

Currently, AMS voluntary, user-fee audit verification and accreditation programs and services are collectively regulated by: 7 CFR part 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS(INSPECTION, CERTIFICATION, AND STANDARDS); 7 CFR part 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS; 7 CFR part 56—VOLUNTARY GRADING OF SHELL EGGS; 7 CFR part 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS; 7 CFR part 62—LIVESTOCK, MEAT, AND OTHER AGRICULTURAL COMMODITIES (QUALITY SYSTEMS VERIFICATION PROGRAMS); 7 CFR part 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS; 7 CFR part 75—PROVISIONS FOR INSPECTION AND CERTIFICATION OF QUALITY OF AGRICULTURAL AND VEGETABLE SEEDS; and 7 CFR Chapter I, Subchapter E—COMMODITY LABORATORY TESTING PROGRAMS, parts 90 and 91. Each part of the CFR is applicable to a different group of agricultural commodities and their products. AMS proposes to incorporate the commodities and program services for audit verification and accreditation programs currently regulated by the aforementioned parts of the CFR into a single regulatory reference: 7 CFR part 62.

The amendments proposed by AMS would expand the current definition of ''product'' in 7 CFR part 62, which currently references livestock, meat, seed and feedstuffs, to include all commodities covered under the Act. Additionally, proposed amendments would clarify the scope of existing and future voluntary, fee-for-service audit verification and accreditation programs offered by AMS and would house all such programs under one part.

With these proposed amendments, AMS seeks to maintain uniformity, transparency, and efficiency of service delivery of the QSVP and other AMS voluntary, user-fee audit verification and accreditation programs. Without the proposed amendments, AMS will be required to maintain similar or duplicate programs in each commodity area that carries out comparable functions.

Other proposed changes are administrative in nature. For example, AMS is proposing to amend the title of part 62 from ''LIVESTOCK, MEAT, AND OTHER AGRICULTURAL COMMODITIES (QUALITY SYSTEMS VERIFICATION PROGRAMS)'' to ''AGRICULTURAL MARKETING SERVICE AUDIT VERIFICATION AND ACCREDITATION PROGRAMS (AVAAP).'' Additional changes would be made to the part's terminology in order to reflect the broader scope of commodities and program services, and to better coordinate administrative service provisions within AMS. Lastly, AMS proposes to make conforming changes to parts 54, 56, 70, 90 and 91 to remove duplicative or conflicting language and to update terminology.

Initial Regulatory Flexibility Analysis

The purpose of the Regulatory Flexibility Act (RFA)(5 U.S.C. 601–612) is to fit regulatory actions to the scale of businesses subject to such actions so small businesses will not be unduly or disproportionately burdened. The U.S. Small Business Administration's Table of Small Business Size Standards matched to the North American Industry Classification System Codes identifies small business size by average annual receipts or by the average number of employees at a firm. This information can be found at 13 CFR parts 121.104, 121.106, and 121.201.

AMS has determined that this proposed rule will not have a significant impact on a substantial number of small entities, as defined by the RFA, because the services are voluntary, are provided on a fee-for-service basis, and are not subject to scalability based on the business size. Nonetheless, this analysis is provided.

All applicants for audit services provide information about their companies for processing payment invoices. Information collected from an applicant includes company name, business name if different from company name, Federal Tax Identification Number, billing address, contact information of the accounts payable department, and the name of the person filing the application. The Federal Tax Identification number is required by the Federal Debt Collection Procedure Act of 1990 (28 U.S.C. 3101 *et seq.*). All entities doing business with the Federal Government are required to provide the Federal Tax Identification number before an account can be set up.

AMS does not collect information about the size of a business that applies for a service. However, based on working knowledge of the USDA personnel assigned to oversee these operations, AMS estimates the following based on the number of employees:

Livestock and Poultry Program

Approximately 950 livestock and poultry industry applicants subscribe to AMS's voluntary, fee-for-service program that would be subject to the requirements of this regulation. Roughly 25 percent of those applicants may be classified as small entities.

Dairy Program

Approximately 550 dairy industry applicants subscribe to AMS's voluntary, fee-for-service program that would be subject to the requirements of this regulation. Roughly 10 percent of those applicants may be classified as small entities.

Fruit, Vegetable and Specialty Crop Program

Approximately 4,300 fruit, vegetable, and specialty crop industry applicants subscribe to AMS's voluntary, fee-for-service audit verification and accreditation programs that would be subject to the requirements of this regulation. Roughly 33 percent of those applicants may be classified as small entities.

Laboratory Approval and Accreditation Programs

Approximately 84 agricultural laboratory applicants subscribe to AMS's voluntary, fee-for-service testing that would be subject to the requirements of this regulation. Roughly 80 percent of those applicants may be classified as small entities.

Accredited Seed Programs

Approximately 24 agricultural seed applicants subscribe to AMS's voluntary, fee-for-service program that would be subject to the requirements of this regulation. Roughly 80 percent of those applicants may be classified as small entities.

It is not anticipated that this action would impose additional costs to applicants, regardless of size. Current applicants will not be required to provide any additional information to receive service. The effects of this proposed rule are not expected to be disproportionately greater or less for small applicants than for larger applicants. As described above, these programs are voluntary, fee-for-service activities.

AMS is committed to complying with the E-Government Act of 2002 (44 U.S.C. 101) to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

USDA has not identified any relevant federal rules that duplicate, overlap, or conflict with this rulemaking.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this proposed rule will not change the current information collection and recordkeeping requirements previously approved but will increase the number of respondents upon completion of the rulemaking process.

The information collection and recordkeeping requirements pertaining to the commodities and services proposed to be covered under part 62 that have been approved by OMB under 44 U.S.C. Chapter 35 include: ''Regulations for Voluntary Grading, Certification and Standards'' under OMB Control Number 0581–0128; ''Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products, and the Certification of Sanitary Design and Fabrication of Equipment Used in the Slaughter, Processing, and Packaging of Livestock and Poultry Products'' under OMB Control Number 0581–0283; ''Regulations Governing Inspection and Certification Standards and Audit Services for Fresh and Processed Fruit, Vegetable and Other Products'' under OMB Control Number 0581–0125; and ''Laboratory Approval Programs'' under OMB Control Number 0581–0251.

Approximately 50 inquiries for existing QSVP services using forms under OMB Control Number 0581–0128 have been received by AMS in the past year. Approximately three-fourths of these inquiries (roughly 37) represented new commodities which could potentially increase the overall reporting and recordkeeping burden. Accordingly, if this proposed rule is adopted, and if two-thirds of those 37 inquirers seek service, the number of respondents using these forms would increase by 25, thereby increasing the overall reporting and recordkeeping burden by 606.25 hours, from 10,784.63 hours to 11,390.88 hours annually.

Similarly, AMS's Dairy Program, which uses forms under OMB Control Number 0581–0283, estimates the number of respondents would increase by 10 if this rule is adopted, thereby increasing the overall reporting and recordkeeping burden by 1,740.36 hours, from 17,403.6 hours to 19,107.96 hours annually.

The AMS Fruit, Vegetable and Specialty Crop Audit Services Branch, which uses forms under OMB Control Number 0581–0125, estimates the number of respondents will increase by 25 if this proposed rule is adopted, thereby increasing the overall reporting and recordkeeping burden specific to the auditing services by approximately 214 hours, from 11,976.22 hours to 12,190.22 hours annually.

The AMS Laboratory Approval and Testing Division, Science and Technology Programs, which uses forms under OMB Control Number 0581–0251, estimates the number of respondents would increase by 5 if this proposed rule is adopted. The overall reporting and recordkeeping burden specific to these services would increase by approximately 382.9 hours, from 4,157.3 hours to 4,540.2 hours annually.

USDA has considered the reporting and recordkeeping burden on applicants for these AMS services that would be impacted if this proposed rule were adopted. Currently, applicants are required to complete an application for service and submit additional documentation. Recordkeeping requirements on each applicant would remain the same, though the overall burden is expected to increase due to an increase in applications received.

Since this action proposes to expand the scope of covered commodities, which is expected to increase the number of respondents, the already approved OMB Control Numbers 0581–0128, 0581–0283, 0581–0125 and 0581–0251 must be revised to reflect the anticipated increase in the reporting and recordkeeping burden. Therefore, AMS is in the process of submitting a Justification for Change to OMB to reflect burden of the potential increase in the number of respondents affected by the proposed amendments to Part 62.

A 60-day comment period is provided to allow interested persons an opportunity to respond to this proposal. AMS will summarize all responses to this notice and address them in the request for OMB approval. All written comments received will be considered before a final determination is made on this matter. All comments will become a matter of public record.

List of Subjects

7 CFR Part 54

Food grades and standards, Food labeling, Meat and meat products.

7 CFR Part 56

Grading of shell eggs, Inspections, Marketing practices, Standards.

7 CFR Part 62

Inspections, Marketing practices, Quality Systems Verification, Standards.

7 CFR Part 70

Inspections, Marketing practices, Standards, Voluntary Grading of Poultry Products and Rabbit Products.

7 CFR Part 90

Agricultural commodities, Laboratories, Reporting and recordkeeping requirements.

7 CFR Part 91

Administrative practice and procedure, Agricultural commodities, Laboratories, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, AMS proposes to amend 7 CFR parts 54, 56, 62, 70, 90 and 91 as follows:

■ 1. The authority citation for 7 CFR parts 54, 56, 70, 90 and 91 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

§ 54.17 [Amended]

■ 2. Amend § 54.17 by removing and reserving paragraph (i).

PART 56—VOLUNTARY GRADING OF SHELL EGGS

§ 56.1 [Amended]

■ 3. Amend § 56.1 by removing the term ''Auditing services.''

■ 4. Amend § 56.46 by:

■ a. Revising paragraph (a);

■ b. Revising paragraphs (b)(1)(i) through (iii);

■ c. Removing paragraph (d).

The revisions read as follows:

§ 56.46 Charges for service on an unscheduled basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on an unscheduled basis shall be based on the applicable formulas specified in this section. For each calendar year or crop year, AMS will calculate the rate for grading services, per hour per program employee using the following formulas:

(1) *Regular rate.* The total AMS grading program personnel direct pay divided by direct hours, which is then

multiplied by the next year's percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service.

(2) *Overtime rate.* The total AMS grading program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5 plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(3) *Holiday rate.* The total AMS grading program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(b)(1) * * *

(i) *Benefits rate.* The total AMS grading program direct benefits costs divided by the total hours (regular, overtime, and holiday) worked, which is then multiplied by the next calendar year's percentage cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(ii) *Operating rate.* The total AMS grading program operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(iii) *Allowance for bad debt rate.* Total AMS grading program allowance for bad debt divided by total hours (regular, overtime, and holiday) worked.

* * * * *

■ 5. Revise part 62 to read as follows:

PART 62—AGRICULTURAL MARKETING SERVICE AUDIT VERIFICATION AND ACCREDITATION PROGRAMS (AVAAP)

Sec.

Subpart A—Definitions

62.000 Meaning of terms.

Subpart B—Administration.

62.100 Administrator.

Subpart C—Audit and Accreditation Services.

62.200 Services.

Subpart D—Administrative Provisions.

62.201 Availability of service.
62.202 How to apply for service.
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62.204 Authority to request service.
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62.206 Access to program documents and activities.
62.207 Official assessment.
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62.211 Appeals.
62.212 [Reserved]
62.213 Official identification.
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Subpart E—Fees.

62.300 Fees and other costs of service.
62.301 Payment of fees and other charges.

Subpart F—OMB control number.

62.400 OMB control number assigned pursuant to the Paperwork Reduction Act.

Authority: 7 U.S.C. 1621–1627.

Subpart A—Definitions

§ 62.000 Meaning of terms.

Words used in this subpart in the singular form shall be deemed to impart the plural, and vice versa, as the case may demand. For the purposes of such regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

Accreditation. The action or process of officially recognizing an entity as being qualified to perform a specific activity(s).

Act. The Agricultural Marketing Act of 1946, as amended, (AMA) (7 U.S.C. 1621–1627).

Administrator. The Administrator of the Agricultural Marketing Service, or any officer or employee of AMS to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in the Administrator's stead.

Agricultural Marketing Service. The Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture.

Applicant. Any individual, commodity board, trade association, marketing order or agreement administrative body and its program signatories, or business with a financial interest in audit verification and accreditation services who has applied for service under this part.

Assessment. A systematic review of the adequacy and implementation of a documented program or system.

Audit. A systematic, independent, and documented process for obtaining evidence and evaluating it objectively to determine the extent to which criteria are fulfilled.

Auditor. Person authorized by AMS to conduct official audits or assessments.

Conformance. The condition or fact of an applicant meeting the requirements of a standard, contract, specification, or other documented service requirements.

Export certificate. An official paper or electronic document issued as part of an export certification program, which describes and attests to attributes of consignments of commodities or food destined for international trade.

Nonconformance. The condition or fact of an applicant not meeting the requirements of a standard, contract, specification, or other documented service program requirements.

Official mark of conformance. Any form of mark or other identification used under the regulations to show the conformance of products with applicable service requirements, or to maintain the identity of products for which service is provided under the regulations.

Products. Includes all agricultural commodities and services within the scope of Agricultural Marketing Act of 1946. This includes the processes involving the production, handling, processing, packaging, and transportation of these products, agricultural product data storage, and product traceability and identification.

Program. Any and all individual auditing or accrediting procedures, systems, or instructions developed and administered under the services authorized under § 62.200.

Service. The AMS auditing and accreditation functions authorized under the Act and the provisions of this part.

Service documentation. All requirements, guidelines, manuals, forms, and supporting documentation needed to effectuate the administration and operation of services authorized under this part.

USDA. The U.S. Department of Agriculture.

Subpart B—Administration

§ 62.100 Administrator.

The Administrator is charged with the administration of official assessments conducted according to the regulations in this part and approved program procedures.

Subpart C—Audit and Accreditation Services

§ 62.200 Services.

Services shall be based upon the authorities under the Act and applicable standards prescribed by USDA, the laws of the State where the particular product was produced, specifications of any governmental agency, voluntary audit

program requirements in effect under federal marketing orders and/or agreements, written buyer and seller contract specifications, service documentation, or any written specification by an applicant. Services are administered through voluntary, fee-for-service, audit-based programs by AMS auditor(s) and other USDA officials under this part. Services authorized under this part, and programs administered under such, shall include:

(a) *Quality Systems Verification Programs.* Quality Systems Verification Programs (QSVP) assess an applicant's business (quality) management system of program documentation and program processes regarding quality of products. Such programs include, but are not limited to:

(1) *Food Safety Management Systems.* A formalized system of documents, processes, procedures, and responsibilities for preventing foodborne illnesses.

(i) *Good Agricultural Practices (GAP).* A formalized system of documents, processes, and procedures used by primary producers to minimize the risk of contamination during the production, harvesting, and handling of crops.

(ii) *GroupGAP.* A quality management system approach to GAP certification undertaken by a group of producers.

(iii) *Good Manufacturing Practices.* A formalized system of documents, processes, and procedures used to ensure that products are consistently produced and controlled according to quality standards and regulatory requirements.

(2) *Export Certification Program.* A formalized system of documents, processes, and procedures used to validate that a given product meets the specific requirements of a foreign country, in addition to applicable Federal requirements.

(3) *USDA Process Verified Program (PVP).* A comprehensive quality management system verification program whereby applicants establish their own standards to describe products or processes.

(4) *USDA Quality Assessment Program.* A quality management system verification service that is designed to aid in the marketing of products that have undergone specific processes and is limited in scope to those specific items associated with the product or process.

(i) *Export Verification Programs.* A formalized system of documents, processes and procedures used to validate specific requirements of a foreign country are being met, in addition to applicable Federal requirements.

(ii) [Reserved]

(5) *USDA Accredited Seed Program.* A specialized quality management system verification service for the seed industry that offers applicants a way to market their product using industry-recognized processes, rules, and standards.

(b) *Audit Verification Programs.* Audit verification programs assess an applicant's documentation of their business management system with regard to the production or handling of products. Such programs include, but are not limited to:

(1) *Food Defense Verification Program.* A service that evaluates operators of food establishments that maintain documented and operational food defense measures to minimize the risk of tampering or other malicious criminal actions against the food under their control.

(2) *Domestic Origin Verification.* A service that evaluates a farm's and/or a facility's ability to maintain processes, procedures, and records to demonstrate products are grown in the United States of America, its territories, or possessions.

(3) *Plant System Audit.* A service that evaluates the ability of operators of food establishments to implement a sanitation program and/or requirement outlined in good manufacturing practices regulations.

(4) *Audits performed for other government agencies.* Audits performed for other government agencies under the Economy Act (31 U.S.C. 1535). A service that provides quality-based audit services to other government agencies such as the Department of Defense or the U.S. Agency for International Development.

(5) *Export Audit Programs.* An audit intended to ensure that information submitted for an export certificate request is complete, accurate, and in compliance with the export certification program. In some cases, these requirements may include compliance with country-specific attestations or product requirements.

(6) *Child Nutrition Labeling Program.* An audit is intended to ensure manufacturers properly apply and document effective procedures to monitor and control the production of their Child Nutrition products.

(c) *Accreditation Programs.* Accreditation programs include voluntary, user-fee accreditation services performed by a USDA evaluator or accreditation body to conduct assessments of applicant programs, services, facilities or equipment, and their ability to achieve planned results. Such programs include, but are not limited to:

(1) *USDA ISO Guide 17065 Program.* A service that assesses certification bodies to determine conformance to the International Organization for Standardization (ISO) Guide 17065. These assessments are available to U.S. and international certification bodies operating a third-party certification system that perform conformity assessment activities.

(2) *Laboratory Approval Programs.* Laboratories are approved, or accredited, to perform testing services in support of domestic and international trade. At the request of industry, other Federal Agencies, or foreign governments, USDA administers programs to verify that the analysis of food and agricultural products meets country and customer-specific requirements and that the testing of marketed products is conducted by qualified and approved laboratories.

Subpart D—Administrative Provisions

§ 62.201 Availability of service.

Services under this part are available to applicants, including international and domestic government agencies, private agricultural businesses, and any financially interested person.

§ 62.202 How to apply for service.

Applicants may apply for services authorized under this part by contacting the Administrator's office and requesting specific service or program information at USDA, AMS, 1400 Independence Avenue SW, Room 3069–S, Washington, DC 20250–0294; by fax to: (202) 720–5115, or email to: *AMSAdministratorOffice@usda.gov*. Applicants may also visit: *www.ams.usda.gov*.

§ 62.203 How to withdraw application for service.

An application for service may be withdrawn, all or in part, by the applicant at any time; *Provided,* That the applicant notifies the USDA service office in writing of their desire to withdraw the application for service and pays any expenses USDA has incurred in connection with such application.

§ 62.204 Authority to request service.

Any person requesting service may be required to prove his/her financial interest in the product or service at the discretion of USDA.

§ 62.205 [Reserved]

§ 62.206 Access to program documents and activities.

(a) The applicant shall make its products, records, and documentation available and easily accessible for assessment, with respect to the requested service. Auditors and other USDA officials responsible for maintaining uniformity and accuracy of service authorized under this part shall have access to all areas of facilities covered by approved applications for service under the regulations, during normal business hours or during periods of production, for the purpose of evaluating products or processes. This includes products in facilities which have been or are to be examined for program conformance or which bear any USDA official marks of conformance. This further includes any facilities or operations that are part of an approved program.

(b) Documentation and records relating to an applicant's program must be retained as prescribed under each service program authorized under this part.

§ 62.207 Official assessment.

Official assessment of an applicant's program shall include:

(a) *Documentation assessment.* Auditors and other USDA officials shall review the applicant's program documentation and issue the finding of the review to the applicant.

(b) *Program assessment.* Auditors and USDA officials shall conduct an onsite assessment of the applicant's program to ensure provisions of the applicant's program documentation have been implemented and conform to program procedures.

(c) *Program determination.* Applicants determined to meet or not meet program procedures or requirements shall be notified of their approval or disapproval.

(d) *Corrective and/or preventative actions.* Applicants may be required to implement corrective and/or preventative actions upon completion of an assessment. After implementation of the corrective and/or preventative actions, the applicant may request another assessment.

§ 62.208 Publication of assessment status.

Approved programs shall be posted for public reference on: *http://www.ams.usda.gov.* Such postings shall include:

(a) Program name and contact information;

(b) Products or services covered under the scope of approval;

(c) Effective dates of approval;

(d) Control numbers of official assessments, as appropriate; and

(e) Any other information deemed necessary by the Administrator.

§ 62.209 [Reserved]

§ 62.210 Denial, suspension, cancellation or rejection of service.

(a) *Denial of services.* Services authorized under this part may be denied if an applicant fails to meet or conform to a program's requirements including, but not limited to, a failure to:

(1) Adequately address any program requirement resulting in a nonconformance for the program.

(2) Demonstrate capability to meet any program requirement, thereby resulting in a major nonconformance.

(3) Present truthful and accurate information to any auditor or other USDA official; or

(4) Allow any auditor or other USDA official access to facilities and records within the scope of the program.

(b) *Suspension of services.* Services may be suspended if the applicant fails to meet or conform to a program's requirements including, but not limited to, a failure to:

(1) Adequately address any program's requirement, thereby resulting in a major nonconformance;

(2) Demonstrate capability to meet any program requirement, thereby resulting in a major nonconformance;

(3) Follow and maintain its approved program or procedures;

(4) Provide corrections and take corrective actions as applicable in the timeframe specified;

(5) Submit significant changes to and seek approval from USDA prior to implementation of significant changes to an approved program;

(6) Allow any auditor or other USDA official access to facilities and records within the scope of the approved program;

(7) Accurately represent the eligibility of agricultural products or services distributed under an approved program;

(8) Remit payment for services;

(9) Abstain from any fraudulent or deceptive practice in connection with any application or request for service; or

(10) Allow any auditor or other USDA official to perform their duties under the provisions of this part or program requirements established under one of the authorized services of this part.

(c) *Cancellation of services.* Services may be cancelled, an application may be rejected, or program assessment may be terminated if the Administrator or their designee determines that a nonconformance has remained uncorrected beyond a reasonable amount of time.

(d) *Rejection of services.* Services may be rejected when it appears that to perform audit and accreditation services would not be to the best interests of the USDA. The applicant shall be promptly notified of the reason for such rejection.

§ 62.211 Appeals.

(a) *Appeals of adverse decisions.* Appeals of adverse decisions under this part may be made in writing to the AMS Administrator, Rm 3069–S, 1400 Independence Avenue SW, Washington, DC 20250–0249 or to the director of the applicable service office. Appeals must be made within the timeframe specified by each program or within 30 calendar days of receipt of an adverse decision, whichever is sooner.

(b) *Procedure for Appeals.* Actions under this subparagraph concerning appeals of adverse decisions to the Administrator shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth at 7 CFR 1.130 through § 1.151 and the Administrative Procedures Governing Withdrawal of Inspection and Grading Services in 7 CFR part 50. The procedure for appeals is specified by each program and/or by an overarching USDA AMS administrative procedure.

§ 62.212 [Reserved]

§ 62.213 Official identification.

Some programs offered under this subpart allow for the use of official identification or marks of conformance. A program's specific documented procedure will indicate whether official marks of conformance apply.

(a) *Use of official identification marks.* Products or services produced under a program authorized under this part may use an official identification mark of approval for that program, such as the ''USDA Process Verified'' statement and the ''USDA Process Verified'' shield. Use of program official identification must be in accordance with program requirements.

(b) *Approval.* Use of a program's official identification mark must be approved in writing by USDA prior to use by an applicant.

(c) *USDA Process Verified Program shield.* Products or services produced under an approved USDA PVP may use the ''USDA Process Verified'' statement and the ''USDA Process Verified Program'' shield (Figure 1 to paragraph (c)), so long as each is used in direct association with a clear description of

the process verified points approved by USDA.

Figure 1 to paragraph (c):

(1) The USDA Process Verified shield must replicate the form and design of the example in Figure 1 and must be printed legibly and conspicuously:

(i) On a white background with a gold trimmed shield, with the term ''USDA'' in white overlaying a blue upper third of the shield, the term ''PROCESS'' in black overlaying a white middle third of the shield, and term ''VERIFIED'' in white overlaying a red lower third of the shield; or

(ii) On a white or transparent background with a black trimmed shield, with the term ''USDA'' in white overlaying a black upper third of the shield, the term ''PROCESS'' in black overlaying a white middle third of the shield, and the term ''VERIFIED'' in white overlaying a black lower third of the shield.

(2) [Reserved].

§ 62.214 Voluntary participation.

Applying for services, or enrollment in any service program, is voluntary. Once an applicant receives a service or is accepted into a program, compliance with that service or program's terms is mandatory unless the applicant withdrawals its application as provided in § 62.203 or participation is denied, suspended, cancelled, or rejected subject to the terms of § 62.210.

Subpart E—Fees

§ 62.300 Fees and other costs of service.

(a) *Rate formula.* For each calendar year, AMS will calculate the rate for services per hour per program employee using the following formulas:

(1) *Regular rate.* The total AMS service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service.

(2) *Overtime rate.* The total AMS service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5 plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(3) *Holiday rate.* The total AMS service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(b) *Other rate factors.* (1) For each calendar year, based on previous fiscal year/historical actual costs, AMS will calculate the benefits, operating, and allowance for bad debt components of the regular, overtime, and holiday rates as follows:

(i) *Benefits rate.* The total AMS service program direct benefits costs divided by the total hours (regular, overtime, and holiday) worked, which is then multiplied by the next calendar year's percentage cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(ii) *Operating rate.* The total AMS service program operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(iii) *Allowance for bad debt rate.* Total AMS service program allowance for bad debt divided by total hours (regular, overtime, and holiday) worked.

(2) The calendar year cost of living expenses and percentage of inflation factors used in the formulas in this section are based on OMB's most recent Presidential Economic Assumptions.

(c) *Transportation costs.* Applicants are responsible for paying actual travel costs incurred to provide services including but not limited to: Mileage charges for use of privately owned vehicles, rental vehicles and gas, parking, tolls, and public transportation costs such as airfare, train, and taxi service.

(d) *Per diem costs.* The applicant is responsible for paying per diem costs incurred to provide services away from the auditor's or USDA official's official duty station(s). Per diem costs shall be calculated in accordance with existing travel regulations (41 CFR, subtitle F—Federal Travel Regulation System, chapter 301).

(e) *Other costs.* When costs other than those costs specified in paragraphs (a) through (c) of this section are involved in providing the services, the applicant shall be responsible for these costs. The amount of these costs shall be determined administratively by AMS. However, the applicant will be notified of these costs before the service is rendered.

§ 62.301 Payment of fees and other charges.

Fees and other charges for services shall be paid in accordance with each service or program's policy(ies) and documentation. The applicant shall remit payment by the date indicated on the invoice. Payment may be made by automated clearing house (ACH) transitions; credit card, debit card, or

direct debit via *Pay.gov* or PayPal; electronic funds transfer (EFT); check; or money order. Remittance must be to USDA, AMS and include the customer number (*i.e.,* account number) from the invoice. Check or money orders must be mailed to the remit address indicated on the invoice. Wire transfers are exclusive to foreign customers. Fees and charges shall be paid in advance if required by the service or program's authorized USDA official. Failure to pay fees can result in denial, suspension, or cancellation of service.

Subpart F—OMB Control Number

§ 62.400 OMB control number assigned pursuant to the Paperwork Reduction Act.

The information collection and recordkeeping requirements of this part have been approved by OMB under 44 U.S.C. Chapter 35 and have been assigned OMB Control Numbers: 0581–0125, 0581–0128, 0581–0251, and 0581–0283.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

§ 70.1 [Amended]

■ 6. Amend § 70.1 by removing the definition of ''Auditing services.''

§ 70.4 [Amended]

■ 7. Amend § 70.4 by removing paragraph (c).

■ 8. Revise § 70.71 to read as follows:

§ 70.71 Charges for services on an unscheduled basis.

Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on an unscheduled basis shall be based on the applicable formulas specified in this section.

(a) For each calendar year, AMS will calculate the rate for grading services, per hour per program employee using the following formulas:

(1) *Regular rate.* The total AMS grading program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service.

(2) *Overtime rate.* The total AMS grading program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(3) *Holiday rate.* The total AMS grading program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(b)(1) For each calendar year, based on previous fiscal year/historical actual costs, AMS will calculate the benefits, operating, and allowance for bad debt components of the regular, overtime and holiday rates as follows:

(i) *Benefits rate.* The total AMS grading program direct benefits costs divided by the total hours (regular, overtime, and holiday) worked, which is then multiplied by the next calendar year's percentage cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(ii) *Operating rate.* AMS' grading program total operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(iii) *Allowance for bad debt rate.* Total AMS grading program allowance for bad debt divided by total hours (regular, overtime, and holiday) worked.

(2) The calendar year cost of living expenses and percentage of inflation factors used in the formulas in this section are based on OMB's most recent Presidential Economic Assumptions.

(c) Fees for unscheduled grading services will be based on the time required to perform the services. The hourly charges will include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate. Charges to plants are as follows:

(1) The regular hourly rate will be charged for the first 8 hours worked per grader per day for all days except observed legal holidays.

(2) The overtime rate will be charged for hours worked in excess of 8 hours per grader per day for all days except observed legal holidays.

(3) The holiday hourly rate will be charged for hours worked on observed legal holidays.

PART 90—[Removed and Reserved]

■ 10. Remove and reserve part 90.

PART 91—SERVICES AND GENERAL INFORMATION

■ 11. Revise § 91.1 to read as follows:

§ 91.1 General.

This part consolidates the procedural and administrative rules of the Science and Technology Program of the Agricultural Marketing Service for conducting the analytical testing and laboratory audit verification and accreditation services. It also contains the fees, charges, and laboratories applicable to such services.

■ 12. Amend § 91.2 by revising the definition of applicant to read as follows:

* * * * *

Applicant. Any individual or business requesting services provided by the Science and Technology (S&T) programs.

* * * * *

■ 13. Amend § 91.4 by revising paragraph (c) to read as follows:

§ 91.4 Kinds of services.

* * * * *

(c) Agricultural Marketing Service Audit Verification and Accreditation Programs as described in 7 CFR 62.200.

* * * * *

■ 14. Amend § 91.5 by:

■ a. Removing and reserving paragraph (a)(6);

■ b. Revising paragraph (a)(8).

The revision to read as follows:

§ 91.5 Where services are offered.

(a) * * *

(8) Laboratory Approval Service. The Laboratory Approval Service (LAS) provides technical, scientific, and quality assurance support services to Agency programs, other agencies within the USDA, and private entities. In addition, the LAS provides audit verification and approval or accreditation services, including laboratory approval and accreditation programs of Federal and State government laboratories and private/commercial laboratories in support of domestic and international trade. The programs administered by LAS verify analyses of food and agricultural products showing that said food and products meet country or customer-specific requirements and that the testing of marketed products is conducted by qualified and approved laboratories. The LAS is located and can be reached by mail at: USDA, AMS, S&T, Laboratory Approval Service, 1400 Independence Ave. SW, South Building, Mail Stop 0272, Washington, DC 20250–0272.

* * * * *

Dated: February 10, 2020.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020–02952 Filed 2–18–20; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2017–BT–TP–0004]

RIN 1904–AD84

Energy Conservation Program: Test Procedures for Consumer Refrigerators, Refrigerator-Freezers, and Freezers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Extension of public comment period.

SUMMARY: On December 23, 2019, the U.S. Department of Energy (''DOE'') published a test procedure notice of proposed rulemaking (''NOPR'') for consumer refrigeration products. The NOPR stated that written public comments would be accepted until February 21, 2020. On January 27, 2020, DOE received a joint request from the Northwest Energy Efficiency Alliance (NEEA), the Natural Resources Defense Council (NRDC), and Pacific Gas and Electric Company (PG&E) to extend the comment period for the NOPR by 60 days so that the data their teams are collecting and analyzing could be submitted to the docket and considered by the DOE. On February 5, 2020, DOE received a request from the Association of Home Appliance Manufacturers (AHAM) to extend the comment period for the Test Procedure NOPR for Consumer Refrigeration Products by 30 days. DOE has reviewed this request and will be granting a 45 day extension of the public comment period until April 6, 2020.

DATES: The comment period for the NOPR published on December 23, 2019 (84 FR 70842), is extended. DOE will accept comments, data, and information regarding this request for information received no later than April 6, 2020.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2017–BT–TP–0004, by any of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: ConsumerRefrigFreezer2017TP0004@ee.doe.gov.* Include the docket number EERE–2017–BT–TP–0004 in the subject line of the message.

3. *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, 6th Floor, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *http://www.regulations.gov/#!docketDetail;D=EERE-2017-BT-TP-0004.* The docket web page contains instructions on how to access all documents, including public comments in the docket. See section III for information on how to submit comments through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Stephanie Johnson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1943. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Pete Cochran, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9496. Email: *Peter.Cochran@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

Signed in Washington, DC, on February 6, 2020.

Alexander N. Fitzsimmons,

Acting Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2020–03230 Filed 2–18–20; 8:45 am]

BILLING CODE 6450–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 36, 37, and 43

RIN 3038–AE94

Swap Execution Facility Requirements and Real-Time Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') proposes to amend certain parts of its regulations relating to the execution of package transactions on swap execution facilities (''SEFs''); the execution of block trades on SEFs; and the resolution of error trades on SEFs. These matters are currently the subject of relief in certain no-action letters from Commission staff.

DATES: Comments must be received on or before April 20, 2020.

ADDRESSES: You may submit comments, identified by RIN 3038–AE94, by any of the following methods:

- *CFTC Comments Portal: https://comments.cftc.gov.* Select the ''Submit Comments'' link for this rulemaking and follow the instructions on the Public Comment Form.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Follow the same instructions as for Mail, above.

Please submit your comments using only one of these methods. Submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an