

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 Parts 55 and 59

[Docket No. PY-93-001]

RIN 0581-AA58

Voluntary and Mandatory Egg and Egg Products Inspection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: A review of the regulations implementing the voluntary and mandatory egg and egg products inspection programs authorized by the Agricultural Marketing Act of 1946, as amended, and the Egg Products Inspection Act identified a number of changes which are proposed to clarify and update the subject regulations. The proposed revisions redefine dirty eggs; define nest-run eggs, washed ungraded eggs, egg products split samples, and recognized laboratories; and clarify the type of facilities and equipment to be supplied to the grader/inspector, scheduling operations, officially identifying products, appeal procedures, equipment requirements, sanitizing shell eggs prior to breaking, and general operating procedures. The revisions would also provide for less than quarterly visits to hatcheries and update the types of nonallowed discrimination in providing service.

DATES: Comments must be received on or before June 23, 1995.

ADDRESSES: Send written comments, in duplicate, to Janice L. Lockard, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, Room 3944-South, P.O. Box 96456, Washington, DC 20090-6456. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except holidays. State that your comments refer to Docket No. PY-93-001.

FOR FURTHER INFORMATION CONTACT:

Larry W. Robinson, Chief, Grading Branch, 202/720-3271.

SUPPLEMENTARY INFORMATION: This rule has been determined to be not significant for purpose of Executive Order 12866 and therefore has not been reviewed by OMB.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would 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.

The AMS Administrator has determined that these proposed rules, if promulgated, will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the proposed changes are primarily to remove obsolete material, correct erroneous wording and otherwise clarify, update, and simplify the regulations. Further, the revisions reflect sound manufacturing practices currently in use by most segments of industry and impose no major new requirements.

The information collection requirements contained in 7 CFR parts 55 and 59 have been approved by the Office of Management and Budget and assigned OMB Control Numbers 0581-0146 and 0581-0113, respectively, under the Paperwork Reduction Act of 1980.

Background

The proposed rule encompasses amendments for two separate, but related regulations. Regulations for voluntary inspection of egg products and grading (7 CFR part 55) are authorized by the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627). These regulations cover several types of inspection and grading activities and product identification or certification which are not covered by the mandatory inspection regulations. Regulations for the mandatory inspection of eggs and egg products (7 CFR part 59) are authorized by the Egg Products Inspection Act. (21 U.S.C. 1034). The regulations require and provide for the

continuous inspection of the processing of egg products and the control and disposition of restricted eggs. The Act and regulations were designed to provide a safe food source for the consuming public. The proposed amendments for both regulations serve to clarify and update provisions commensurate with changes in industry technology and marketing practices, or are editorial in nature.

Proposed Changes

For the voluntary inspection program, the proposal would update the types of prohibited discrimination (§ 55.11). It would specify the facilities and equipment to be provided for sampling, weighing, and examination of product and the office space and equipment to be furnished (§ 55.95). Alternative work schedules also would be provided (§ 55.96). The proposal would provide for application of the official plant number at alternative locations on official labels (§ 55.310) and specify the permitted disposition of labels and packaging materials bearing official identification when inspection service is terminated by USDA (§ 55.330). The proposed revision also would clarify appeal gradings and inspections including certificate issuance (§ 55.410 through § 55.460).

For the mandatory inspection program, the proposal would redefine dirty eggs by deleting the term prominent stains. The proposal would also define nest-run eggs, washed ungraded eggs, egg products split samples, and recognized laboratories. (§ 59.5). It also would update the types of nonallowed discrimination (§ 59.17). The proposal would provide a minimum of one visit each fiscal year to hatcheries since present operating practices pose minimal risk of incubator reject eggs or other restricted eggs entering consumer channels (§ 59.28). In official egg products plants, it would define or specify the following: time of inspection, schedule of operation, basis of billing, the type of facilities and equipment to be furnished by the plant, application for continuous inspection and the requirements for blueprints, changes and approval (§§ 59.122 through 59.146). The proposal would clarify the conditions under which labeling of product is to be corrected in the appeal procedure (§§ 59.300 through 59.360). It also would clarify the