

increase fresh utilization. This change will improve the marketing of these varieties and increase returns to producers.

Based on available information, the Administrator of the AMS has determined that this interim final rule will not have a significant economic impact on a substantial number of small entities and that the action set forth will benefit producers and handlers of the Black Corinth variety of grapes. This action relaxes the requirements for small and large exporters exporting shipments of Black Corinth grapes by exempting that variety of grapes from the minimum bunch and berry size requirements.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) This action relaxes the requirements for export shipments of Black Corinth grapes; (2) The Board unanimously recommended this rule at a public meeting and all interested persons had an opportunity to provide input; (3) shipments of the Black Corinth variety of grapes have begun and this rule should apply to the entire season's shipments; (4) handlers and producers of the Black Corinth variety of grapes are aware of this rule and they need no additional time to comply with the relaxed requirements; and (5) this rule provides a 30-day comment period and any comments will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 35

Administrative practice and procedure, Exports, Grapes, Plums, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 35 is amended as follows:

PART 35—REGULATIONS ISSUED UNDER AUTHORITY OF THE EXPORT GRAPE AND PLUM ACT

1. The authority citation for 7 CFR part 35 continues to read as follows:

Authority: 7 U.S.C. 591–599.

2. In § 35.11, paragraphs (a) and (b) are amended by adding a sentence immediately following the existing text to read as follows:

§ 35.11 Minimum requirements.

* * * * *

(a) * * * The Black Corinth variety shall be exempt from bunch and berry size requirements.

(b) * * * The Black Corinth variety shall be exempt from bunch and berry size requirements.

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Dated: October 10, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–26654 Filed 10–16–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 51

[Docket Number FV–95–306]

Fresh Fruits, Vegetables and Other Products (Inspection, Certification, and Standards)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the regulations governing inspection and certification for fresh fruits, vegetables and other products by increasing the fees charged for the inspection of these products at destination markets. These revisions are necessary in order to recover, as nearly as practicable, the costs of performing inspection services at destination markets under the Agricultural Marketing Act of 1946.

EFFECTIVE DATE: November 10, 1996.

FOR FURTHER INFORMATION CONTACT: Robert J. Huttenlocker, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, PO Box 96456, Room 2049 South Building, Washington, DC 20090–6456, (202) 720–0297.

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

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

There are more than 2,000 users of Fresh Products Branch's destination market grading services. Some of these are small entities under the criteria established by the Small Business Administration (13 CFR 121.601). This rule will raise the fees charged to businesses for voluntary inspection services for fresh fruits and vegetables. Even though fees will be raised, the increase is small (approximately five percent) and will not significantly affect these entities. These businesses are

under no obligation to use these inspection services, and any decision on their part to discontinue the use of the services would not prevent them from marketing their products.

The Agricultural Marketing Service (AMS), has certified that this action will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, (5 U.S.C. 601). The final rule reflects certain fee increases needed to recover the costs of inspection services rendered in accordance with the Agricultural Marketing Act (AMA) of 1946.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The AMA authorizes official inspection, grading, and certification on a user-fee basis, of fresh fruits, vegetables, and other products such as raw nuts, Christmas trees, and flowers. The AMA provides that reasonable fees be collected from the user of the program services to cover, as nearly as practicable, the costs of services rendered. This final rule will amend the schedule for fees and charges for inspection services rendered to the fresh fruit and vegetable industry to reflect the costs currently associated with the program.

AMS regularly reviews these programs to determine if fees are adequate. Employee salaries and benefits are major program costs that account for approximately 86 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 3.09 to 6.25 percent depending on locality, effective January 1995, has materially affected program costs. Another general and locality salary increase, ranging from 2.39 to 2.87 percent depending upon locality (amounting to approximately \$253,000), was effective January 1996. Further, since FY 94, the costs associated with the development of U.S. grade standards have been and will continue to be covered from user fee revenues (prior to this, these costs were funded by Federal appropriation). Standardization activities increase the cost of this program by approximately \$100,000 per year.

While a concerted effort to cut costs resulted in overhead savings of \$350,000 in FY 95 over FY 94, the last

fee increase of June 1994 did not result in the collection of enough additional revenue to cover all these increases and still maintain an adequate reserve balance (four months of costs) as called for by Agency policy (AMS Directive 407.1) and principles of prudent financial management. Projected FY 96 revenues for market inspection are \$12.6 mil with costs projected at \$11.6 mil and a reserve of \$3.1 mil. However, the Fresh Products Branch (FPB) trust fund reserve balance for the market program is approximately \$900,000 under the desired level of \$4 mil. Further action is necessary to meet rising costs and maintain adequate reserve balances. This action will assist in moving the FPB trust fund toward a more adequate level and will result in an estimated \$600,000 in additional revenues per year.

A notice of proposed rulemaking was published in the Federal Register (61 FR 24247) on May 14, 1996, with a 60 day comment period. The comment period closed July 15, 1996. Interested persons were invited to participate in this rulemaking by submitting written comments on the proposal to AMS. Two comments were received regarding this rulemaking.

One comment was received by a State agency with which AMS has a cooperative agreement for providing official certification in that State. The comment was in favor of the increase and suggested that an additional increase may be appropriate for additional lots of the same product. While this option was considered, the proposed fee increases should be sufficient to meet the current financial needs of the program. Further, an effort was made to avoid increases which would be unnecessarily burdensome on the industry.

The second comment was received from an industry association of receivers. They support the proposed increase, provided that “* * * the Fresh Products Branch improve performance with respect to inspection process, issuing certificates, and reduce the period of time between the inspection request and the time that the inspection is performed.” FPB has responded to industry’s concerns relating to the timeliness and efficiency of inspections by developing and implementing analytical procedures for assessing workload at various market offices (i.e., inspection points). Information obtained during these analyses is being used to audit staffing levels at the markets to ensure that inspection workload is being effectively managed. The industry association also suggests “* * * that a committee

composed of government officials, terminal market receivers and other interested persons should be created to discuss these issues, in order to realize the highest return on the fees paid by the perishable industry for inspection services.” FPB officials routinely interact with industry participants to discuss alternatives for improving inspection services. AMS officials frequently meet to discuss industry’s recommendations and improvements are implemented where appropriate.

In light of the continuing need to maintain this AMS grading program on a financially sound basis, the Agency has decided to proceed with the fee increase as set forth in the proposal.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because the fiscal year 1996 reserve balance of the program’s trust fund is projected to be approximately \$1 million under the desired level necessary to ensure the program’s fiscal viability and the effective date will correspond to the first available billing cycle.

List of Subjects in 7 CFR Part 51

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

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

PART 51—[AMENDED]

1. The authority citation for 7 CFR part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 51.38 is revised to read as follows:

§ 51.38 Basis for fees and rates.

(a) When performing inspections of product unloaded directly from land or air transportation, the charges shall be determined on the following basis:

(1) For products in quantities of 51 or more packages:

(i) Quality and condition inspection of 1 to 4 products unloaded from the same conveyance:

(A) \$78 for over a half carlot equivalent of an individual product.

(B) \$65 for a half carlot equivalent or less of an individual product.

(C) \$13 for each additional lot of the same product.

(ii) Condition only inspection of 1 to 4 products unloaded from the same conveyance:

(A) \$65 for over a half carlot equivalent of an individual product.

(B) \$60 for a half carlot equivalent or less of an individual product.

(C) \$13 for each additional lot of the same product.

(iii) Quality and condition inspection and/or condition only inspection of 5 or more products unloaded from the same conveyance:

(A) \$277 for the first 5 products.

(B) \$39 for each additional product.

(C) \$13 for each additional lot of any of the same product.

(2) For quality and condition inspection and/or condition only inspection of products in quantities of 50 or less packages unloaded from the same conveyance:

(i) \$39 for each individual product.

(ii) \$13 for each additional lot of any of the same product.

(b) When performing inspections of palletized products unloaded directly from sea transportation or when palletized product is first offered for inspection before being transported from the dock-side facility, charges shall be determined on the following basis:

(1) For each package inspected according to the following rates:

(i) 1 cent per package weighing less than 15 pounds;

(ii) 2 cents per package weighing 15 to 29 pounds; and,

(iii) 3 cents per package weighing 30 or more pounds.

(2) \$13 for each additional lot of any of the same product.

(3) A minimum charge of \$78 for each product inspected.

(c) When performing inspections of products from sea containers unloaded directly from sea transportation or when palletized products unloaded directly from sea transportation are not offered for inspection at dockside, the car-lot fees in § 51.38(a) shall apply.

(d) When performing inspections for Government agencies, or for purposes other than those prescribed in the preceding paragraphs, including weight-only and freezing-only inspections, fees for inspection shall be based on the time consumed by the grader in connection with such inspections, computed at a rate of \$39 an hour: Provided, that:

(1) Charges for time shall be rounded to the nearest half hour;

(2) The minimum fee shall be two hours for weight-only inspections, and one-half hour for other inspections;

(3) When weight certification is provided in addition to quality and/or condition inspection, a one-hour charge shall be added to the carlot fee.

(4) When inspections are performed to certify product compliance for Defense Personnel Support Centers, the daily or weekly charge shall be determined by multiplying the total hours consumed to

conduct inspections by the hourly rate. The daily or weekly charge shall be prorated among applicants by multiplying the daily or weekly charge by the percentage of product passed and/or failed for each applicant during that day or week. Waiting time and overtime charges shall be charged directly to the applicant responsible for their incurrence.

(e) When performing inspections at the request of the applicant during periods which are outside the grader's regularly scheduled work week, a charge for overtime or holiday work shall be made at the rate of \$19.50 per hour or portion thereof in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Overtime or holiday charges for time shall be rounded to the nearest half hour.

(f) When an inspection is delayed because product is not available or readily accessible, a charge for waiting time shall be made at the prevailing hourly rate in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Waiting time shall be rounded to the nearest half hour.

Dated: October 10, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 270, 275, 285, and 295

[T.D. 384]

Manufacture of Cigarette Papers and Tubes and Recodification of Regulations Covering Manufacture of Tobacco Products and Cigarette Papers and Tubes (88D001)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: ATF is revising and recodifying the regulations governing the operations of cigarette papers and tubes manufacturers. These revisions consist of a clear definition of the term "set," as such term is applied to cigarette papers. This term is clearly defined in ATF Ruling 81-2, A.T.F.Q.B. 1981-3 75, and is being incorporated in this final rule to provide its ready reference. We have also eliminated

obsolete terms and updated the regulations through the use of modernized language. ATF believes that these revisions will clarify requirements, thus simplifying compliance and relieving some regulatory burden on the industry.

EFFECTIVE DATE: October 17, 1996.

FOR FURTHER INFORMATION CONTACT:

Clifford A. Mullen, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Room 5000, 650 Massachusetts Avenue NW, Washington, DC 20226; (202) 927-8210.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995, President Clinton announced a regulatory reform initiative. As part of this initiative, each Federal agency was instructed to conduct a page by page review of all agency regulations to identify those regulations which are obsolete or burdensome and those regulations whose goals could be better achieved through the private sector, self-regulation or state and local governments. In cases where the agency's review disclosed regulations which should be revised or eliminated, the agency was instructed to propose changes to its regulations as soon as possible.

The Bureau completed the page by page review of all regulations as directed by the President. In addition, on April 13, 1995, the Bureau published a notice in the Federal Register requesting comments from the public regarding which ATF regulations could be improved or eliminated. As a result of both the Bureau's analysis of its regulations and the public comments received, a number of regulatory initiatives were developed which are intended to accomplish the President's goals. However, no public comments were received on part 285. This final rule implements one of the regulatory initiatives identified by ATF personnel: to revise and recodify the regulations governing the operations of cigarette papers and tubes manufacturers from part 285 into 27 CFR part 270, subpart K. This consolidation in one part of all manufacturing regulations relating to tobacco products and cigarette papers and tubes is consistent with the existing consolidated approach in part 275 on the importation of these items.

Definitions

The Bureau held in ATF Ruling 81-2 that any packaging intended for delivery to the consumer as a unit which contains more than 25 cigarette papers is taxable. The definition of the

term "sets" is being added to the definitions in § 270.11. ATF Ruling 81-2 is therefore obsolete since its provisions are covered by these regulations.

Subpart K

Subpart K is added to part 270 and contains separate undesignated center headings for the taxation of cigarette papers and cigarette tubes, special (occupational) tax provisions, general administrative provisions, qualification requirements for manufacturers, changes subsequent to original qualification of manufacturers, bonds and extensions of coverage of bonds, operations by manufacturers, discontinuance of operations by manufacturers, and claims. Referring the reader to this material by means of the undesignated center headings will offer a more convenient method of locating this information. As a result of these changes, references to part 285 contained in parts 275 and 295 have been amended to references to part 270.

Bonds and Extensions of Coverage of Bonds

Section 270.407 in subpart K has been amended to include the title and new number of the "Extension of Coverage of Bond" form, ATF Form 2105 (5000.7).

Operations by Manufacturers

The Records, Reports and Inventory sections (§§ 270.421-270.434) of amended subpart K have also been amended to include new form numbers. To assist the industry in the transition to the new numbering system, the old form numbers will remain in these regulations. However, immediately after the old form number, the new number will appear enclosed in parentheses. These amendments do not make any substantive changes and are only intended to improve the clarity of Title 27 CFR or relieve regulatory requirements.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice because no new requirement to collect information is imposed. This final rule only transfers 27 CFR part 285 to 27 CFR subpart K.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the agency was not