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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 56

[Docket No. PY-03-005]

RIN 0581-AC33

Voluntary Shell Egg Grading Regulations—Facilities and Equipment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is amending the regulations governing the voluntary shell egg grading program. The revisions will add definitions that describe the official identification and packaging of shell eggs; provide that grading services may be requested or reported by electronic means; clarify the number of samples required for an appeal grading when the original samples are not available; require that plants provide two candling lights in an acceptable candling booth for grade determination; provide an additional method for lot identifying shell eggs; and clarify and update the facility and operating requirements of plants utilizing the voluntary grading service.

DATES: Effective Date: January 20, 2005.

FOR FURTHER INFORMATION CONTACT: Rex A. Barnes, Chief, Grading Branch, (202) 720-3271.

SUPPLEMENTARY INFORMATION:

Background and Proposed Changes

Shell egg grading is a voluntary program provided under the Agricultural Marketing Act of 1946, as amended, (7 U.S.C. 1621 *et seq.*) and is offered on a fee-for-service basis. It is designed to assist in the orderly marketing of shell eggs by providing for the official certification of egg quality,

quantity, size, temperature, packaging, and other factors.

Changing technology in egg production and processing requires that the regulations governing shell egg grading be updated. These revisions will update the requirements to bring them in line with the requirements that applicants utilizing official grading services must meet. After a plant makes an application for grading service, an agency representative conducts a plant survey. The survey determines if the plant premises, facility, equipment, and operation procedures can satisfactorily support the official grading of shell eggs. These prerequisite requirements are based on good manufacturing practices typically associated with food processing and have specific application to shell egg processing. The revisions include the following:

(1) **Definitions.** The definitions of “chief of the grading branch” and “national supervisor” will be revised to reflect the current organizational structure in AMS. New definitions for “Agricultural Marketing Service or AMS”, “consumer grades,” “packaging,” “packing,” and “United States Standards, Grades, and Weight Classes for Shell Eggs” will be added to establish a clear meaning for these terms. (§ 56.1)

(2) **Candling Lights.** This revision will amend the candling light requirement from one to two and will require a candling booth of sufficient size to accommodate at least two candling lights for additional graders and supervisory visits. (§ 56.17)

(3) **Communications.** The revisions will allow alternate forms of electronic communications as are currently available in the market place. (§§ 56.21, 56.58)

(4) **Temporary Grading Service.** This revision will add temporary grading service as a type of grading service that could be requested by an applicant. The regulations will also be revised by providing that certificates may be issued to an applicant who utilizes temporary grading. (§§ 56.17, 56.56)

(5) **Lot Numbering.** This revision will update the regulations to reflect changes in the marking of shell eggs. (§ 56.37)

(6) **Official Identification.** The revision will clarify that only product which is identified with the grademark shall be officially identified under the supervision of a grader or quality assurance inspector. (§ 56.39)

(7) **Types of Grading Services.** The types of grading services available to an applicant will be added. (§ 56.28)

(8) **Appeal Gradings.** The revision will increase the sample size to improve the confidence level of results and properly resolve the issue prompting the applicant’s appeal. (§ 56.65)

(9) **Occupational Safety and Health Regulations.** This revision will update the regulations to reflect that an applicant utilizing the official grading service must be in compliance with all applicable Federal, State, and local government occupational safety and health regulations. (§ 56.76)

(10) **General Premises.** General premise requirements will be added. The revision will specify that the premises of the facility be maintained in an appropriate manner. (§ 56.76)

(11) **Structures and Facilities.** The revision will update the regulations to reflect that all structures and facilities subject to moisture must be readily cleanable, sanitarily maintained, and impervious to moisture and that floors are constructed for proper drainage. (§ 56.76)

(12) **Lavatories and Toilets.** The revisions will also specify that the facilities be located in areas separate and away from the grading and processing rooms. (§ 56.76)

(13) **Storage Areas.** This revision will specify that adequate packing and packaging storage areas be provided and properly maintained in order that packing and packaging are stored in a dry, clean, and sanitary environment. (§ 56.76)

(14) **Grading and Packing Rooms.** The revision will update the requirements of the grading and packing rooms by specifying their sanitary design and construction. Additionally, the revision will specify that during operations the sanitation of the processing areas and equipment be maintained in a satisfactory manner. (§ 56.76)

(15) **Shell Egg Cooler Rooms.** The regulations will continue to provide that humidifying equipment capable of maintaining a relative humidity, which will minimize shrinkage, shall be provided. (§ 56.76)

(16) **Shell Egg Protecting Operations.** The revision will update the regulations by specifying that the requirements for shell egg protecting equipment include its sanitary design, maintenance, and operation. The revision will also

eliminate the requirement that previously used contaminated oil be heat treated prior to its reuse. (§ 56.76)

(17) Shell Egg Washing. The revision will specify that shell egg washing equipment be sanitarily designed and maintained in a clean and sanitary manner. The revision will also specify that shell egg drying equipment be sanitarily designed and maintained, that air used for drying must be filtered, and that filters are to be cleaned and maintained. (§ 56.76)

(18) Shell Egg Wash Water. The revision will clarify that the plant would be responsible for providing an accurate thermometer to measure the temperature of the wash water. (§ 56.76)

(19) Spray Rinse Sanitizer. The revision will revise the regulations to reflect that the spray rinse contains a sanitizer approved by the national supervisor of not less than 100 p/m nor more than 200 p/m of available chlorine or its equivalent. The revision will update the regulations to reflect that shell eggs receive an increased exposure to an approved sanitizer. (§ 56.76)

(20) Shell Egg Washing. The revision will reflect that shell eggs be removed from the processing equipment during any non-processing periods to prevent loss of egg quality from extended exposure to elevated temperatures. (§ 56.76)

(21) Removal of Washing Operation Steam and Vapors. The revision will specify that steam, vapors, or odors originating from washing and rinsing operations shall be exhausted to the outside of the building to prevent the development of an undesirable environment in the shell egg processing room. (§ 56.76)

(22) Shell Egg Packing. The revision will add that eggs that are to be identified with a grademark may be packed in other than fiber packing materials. (§ 56.76)

(23) Approval of Chemicals and Compounds. The regulations will be updated to reflect that the national supervisor, Poultry Programs is responsible for determining acceptance of the intended use of chemicals and compounds for their specified use. (§ 56.76)

Proposed Rule and Comments

The proposed rule was published in the **Federal Register** June 2, 2004 (69 FR 31039). The comment period ended August 2, 2004.

We received four timely comments: one from a shell egg producer, two from an industry organization, and one from a State department of agriculture.

The State department of agriculture suggested that shell egg processing

facilities in the future should comply fully with 21 CFR part 110, giving variances where needed. The Good Manufacturing Practices promulgated by the Food and Drug Administration at 21 CFR part 110 already serve as a foundation for the Agency for the processing and facility requirements of the voluntary shell egg grading regulations. Moreover, the Agency will continue to use them as a source upon which the processing and facility requirements for this program are based.

Both the shell egg producer and the industry organization did not support requiring that cooler rooms holding officially identified shell eggs be capable of maintaining a relative humidity of 70% or higher. Both commenters discussed the difficulty of humidifying ambient air in the colder climates of the United States. The shell egg producer additionally addressed that shell eggs do not remain in egg producer's coolers more than a few days before they enter marketing channels where shell eggs are not subject to humidity requirements. The Agency revisited this issue and after considering the current trend of shell eggs promptly moving through marketing channels is withdrawing this proposal from the final rule. The Agency will not amend the regulations which currently provide the requirements that cooler rooms holding shell eggs that are identified with a consumer grade shall be equipped with humidifying equipment capable of maintaining a relative humidity to minimize shrinkage which affects the quality of shell eggs.

The industry organization suggested that the terms "appropriate manner" and "sanitary" be further clarified in order that shell egg graders apply these terms in a consistent manner. The Agency believes that the descriptors identified by the commenter provide the level of clarity appropriate for our regulatory language. These descriptors also can be found in the product indexes that provide detailed guidance to graders to assure that the regulations are being correctly implemented and to supervisors to assure that the program is being properly administrated.

The industry organization requested that egg producers be able to choose how to lot number shell eggs including continuing to have the option to lot number shell eggs on the carton. The Agency is not restricting how producers lot number shell eggs identified with an official grademark. Moreover, this revision provides producers with an additional option to apply a lot number on an individual shell egg.

The industry organization asked if the Agency will issue levels for quaternary

ammonia and other sanitizers in sanitizer spray rinse. The strength of a sanitizer spray rinse is currently based on the concentration of chlorine or its equivalent. The Agency finds that this is an appropriate manner to describe the required level of concentration of the sanitizing solution.

When the proposed rule was published, the Agency inadvertently overlooked a technical revision of the terms describing the official grademark in § 56.76(g)(1). To clearly describe these marks, in § 56.76(g)(1), the Agency is removing the word "consumer" in the requirements for eggs officially identified with a grademark.

Executive Order 12866 and Effect on Small Entities

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB). In addition, pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS has considered the economic impact of the rule on small entities and has determined that its provisions would not have a significant economic impact on a substantial number of small entities.

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. The Small Business Administration (SBA)(13 CFR 121.201) defines small entities that produce and process chicken eggs as those whose annual receipts are less than \$9,000,000. Approximately 625,000 egg laying hens are needed to produce enough eggs to gross \$9,000,000.

Currently, the Agricultural Marketing Act of 1946, as amended, (7 U.S.C. 1621 *et seq.*) authorizes a voluntary grading program for shell eggs. Shell egg processors that apply for service must pay for the services rendered. So that costs are shared by all users, these user fees are proportional to the volume of shell eggs graded. Shell egg processors are entitled to pack their eggs in packages bearing the USDA grade shield when AMS graders are present to certify that the eggs meet the grade requirements as labeled. Plants in which these grading services are performed are called official plants. Shell egg processors who do not use USDA's grading service may not use the USDA grademark. There are about 558 shell egg processors registered with the Department that have 3,000 or more laying hens. Of these, 161 are official

plants that use USDA's grading service and would be subject to this proposed rule. Of these 161 official plants, 38 meet the small business definition.

Sections of the regulations are affected by changes in egg production and processing technology. This rule is intended to clarify and update this regulation and bring them in line with requirements that applicants utilizing official grading services currently are meeting. The revisions will add definitions that describe the official identification and packaging of shell eggs; provide that grading services may be requested or reported by electronic means; clarify the number of samples required for an appeal grading when the original samples are not available; require that plants provide two candling lights in an acceptable candling booth for grade determination; provide an additional method for lot identifying shell eggs; and clarify and update the facility and operating requirements of plants utilizing the voluntary grading service. Accordingly, the revision will not have a significant economic impact on a substantial number of small entities.

Executive Orders 12988

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.

Paperwork Reduction

The information collection requirements in §§ 56.21(a), 56.21(c), 56.37, 56.56(a), 56.58, 56.76(f)(7), and 56.76(h) amended by this rule have been previously approved by OMB and assigned OMB control number 0581-0128 under the Paper Reduction Act of 1995.

AMS is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

List of Subjects in 7 CFR Part 56

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

■ For reasons set forth in the preamble, 7 CFR part 56 is amended as follows:

PART 56—VOLUNTARY GRADING OF SHELL EGGS

■ 1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

■ 2. In § 56.1, revise the terms *chief of the grading branch* and *national supervisor* and add, alphabetically, the new terms *Agricultural Marketing Service or AMS*, *consumer grades*, *grademark*, *official standards*, *officially identified*, *packaging*, *packing*, and *United States Standards, Grades, and Weight Classes for Shell Eggs* to read as follows:

§ 56.1 Meaning of words and terms defined.

* * * * *

Agricultural Marketing Service or AMS means the Agricultural Marketing Service of the Department.

* * * * *

Chief of the Grading Branch means the Chief of the Grading Branch, Poultry Programs, AMS.

* * * * *

Consumer grades means U.S. Grade AA, A, and B.

* * * * *

Grademark means the official identification symbol (shield) used to identify eggs officially graded according to U.S. consumer grade standards.

* * * * *

National supervisor means (a) the officer in charge of the shell egg grading service of the AMS, and (b) other employees of the Department designated by the national supervisor.

* * * * *

Official standards means the official U.S. standards grades, and weight classes for shell eggs maintained by and available from Poultry Programs, AMS.

Officially identified means eggs that have official marks applied to the product under the authority of the AMS in accordance with the act and its regulations.

* * * * *

Packaging means the primary or immediate container in which eggs are packaged and which serves to protect, preserve, and maintain the condition of the eggs.

Packing means the secondary container in which the primary or immediate container is placed to protect, preserve, and maintain the condition of the eggs during transit or storage.

* * * * *

United States Standards, Grades, and Weight Classes for Shell Eggs (AMS 56) means the official U.S. standards, grades, and weight classes for shell eggs

that are maintained by and available from Poultry Programs, AMS.

* * * * *

§ 56.9 [Amended]

■ 3. Section 56.9 is revised by removing the numbers 56.76(e)(6) and 56.76(g) and adding in their place the numbers 56.76(f)(7) and 56.76(h) and adding the number 56.21(c).

■ 4. Section 56.17 is amended by revising the introductory text and paragraph (a)(5), and by adding a new paragraph (a)(6) to read as follows:

§ 56.17 Facilities and equipment for graders.

Facilities and equipment to be furnished by the applicant for use of graders in performing service on a resident or temporary basis shall include (when deemed necessary) the following:

* * * * *

(a) * * *

(5) Two candling lights that provide a sufficient combined illumination through both the aperture and downward through the bottom to facilitate accurate interior and exterior quality determinations.

(6) A candling booth adequately darkened and located in close proximity to the work area that is reasonably free of excessive noise. The booth must be sufficient in size to accommodate two graders, two candling lights, and other necessary grading equipment.

■ 5. Section 56.21 is amended by revising paragraph (a) and adding (c) to read as follows:

§ 56.21 How application for service may be made; conditions of service.

(a) *Noncontinuous grading service on a fee basis.* An application for any noncontinuous grading service on a fee basis may be made in any office of grading, or with any grader at or nearest the place where the service is desired. Such application may be made orally (in person or by telephone), in writing, or by other electronic means.

* * * * *

(c) *Temporary grading service on a fee basis.* An application for grading service on a temporary basis must be made in writing on forms approved by the Administrator and filed with the Administrator. Such forms may be obtained at the national, regional, or State grading office. In making application, the applicant agrees to comply with the terms and conditions of the regulations (including, but not limited to, such instructions governing grading of products as may be issued from time to time by the Administrator). No member of or Delegate to Congress or Resident Commissioner shall be

admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit.

■ 6. Section 56.28 is added to read as follows:

§ 56.28 Types of grading service.

(a) *Noncontinuous grading service.* This type of service is performed when an applicant requests grading of a particular lot of shell eggs. Requests are made not on a regular basis. Charges or fees are based on the time, travel, and expenses needed to perform the work. This service also may be called the fee grading service. Shell eggs graded under fee grading service are not eligible to be identified with the official grademarks shown in § 56.36.

(b) *Continuous grading service on a resident basis and continuous grading service on a nonresident basis.* Service on a resident basis has a scheduled tour of duty, while service on a nonresident basis has a nonscheduled tour of duty. Both of these services are performed when an applicant requests that a USDA licensed grader be stationed in the applicant's processing plant and grade shell eggs in accordance with U.S. Standards. The applicant agrees to comply with the facility, operating, and sanitary requirements of resident service. The charges for resident grading services are based on the hours of the regular tour of duty and the volume of shell eggs received into the plant, while nonscheduled service is based on the cumulative time required to perform the work and an administrative service charge. Shell eggs graded under resident grading service are only eligible to be identified with the official grademarks shown in § 56.36 when processed and graded under the supervision of a grader or quality assurance inspector as provided in § 56.39.

(c) *Temporary grading service.* This type of service is performed when an applicant requests resident grading on a fee basis. The applicant must meet all of the facility, operating, and sanitary requirements of resident service. Charges or fees are based on the time and expenses needed to perform the work. Shell eggs graded under temporary grading service are only eligible to be identified with the official grademarks when they are processed and graded under the supervision of a grader or quality assurance inspector as provided in § 56.39.

■ 7. Section 56.37 is amended by revising the section heading and first sentence to read as follows:

§ 56.37 Lot marking of officially identified shell eggs.

Shell eggs identified with the grademarks shown in § 56.36 shall be legibly lot numbered on either the individual egg, the carton, or the consumer package. * * *

■ 8. The undesignated center heading that precedes § 56.39 is revised to read as follows:

Prerequisites to Packaging Shell Eggs Identified With Grademarks

■ 9. In § 56.39, the first sentence is revised to read as follows:

§ 56.39 Quality assurance inspector required.

The official identification with the grademark of any product as provided in §§ 56.35 to 56.41, inclusive, shall be done only under the supervision of a grader or quality assurance inspector. * * *

■ 10. Section 56.40 is amended by revising the section heading and paragraph (c) to read as follows:

§ 56.40 Grading requirements of shell eggs identified with grademarks.

(c) Shell eggs which are to bear the grademark shall be packed only from eggs of current production. They shall not possess any undesirable odors or flavors.

■ 11. In § 56.56, the first sentence of paragraphs (a) and (b) are both amended by adding the words "or temporary" between the words "resident grading."

■ 12. Section 56.58 is revised to read as follows:

§ 56.58 Advance information.

Upon request of an applicant, all or part of the contents of any grading certificate issued to such applicant may be telephoned or electronically transmitted to the applicant, or to the applicant's designee, at the applicant's expense.

■ 13. In § 56.65, paragraph (b) is revised to read as follows:

§ 56.65 Procedures for appeal gradings.

(b) When the original samples are not available or have undergone a material change, the appeal sample size for the lot shall consist of double the samples required in § 56.4(b). * * *

■ 14. Section 56.75 is revised to read as follows:

§ 56.75 Applicability of facility and operating requirements.

The provisions of § 56.76 shall be applicable to any grading service that is provided on a resident or temporary basis.

■ 15. Section 56.76 is revised to read as follows:

§ 56.76 Minimum facility and operating requirements for shell egg grading and packing plants.

(a) Applicants must comply with all applicable Federal, State and local government occupational safety and health regulations.

(b) *General requirements for premises, buildings and plant facilities.* (1) The outside premises shall be free from refuse, rubbish, waste, unused equipment, and other materials and conditions which constitute a source of odors or a harbor for insects, rodents, and other vermin.

(2) The outside premises adjacent to grading, packing, cooler, and storage rooms must be properly graded and well drained to prevent conditions that may constitute a source of odors or propagate insects or rodents.

(3) Buildings shall be of sound construction so as to prevent, insofar as practicable, the entrance or harboring of vermin.

(4) Grading and packing rooms shall be of sufficient size to permit installation of necessary equipment and conduct grading and packing in a sanitary manner. These rooms shall be kept reasonably clean during grading and packing operations and shall be thoroughly cleaned at the end of each operating day.

(5) The floors, walls, ceilings, partitions, and other parts of the grading and packing rooms including benches and platforms shall be constructed of materials that are readily cleanable, maintained in a sanitary condition, and impervious to moisture in areas exposed to cleaning solutions or moist conditions. The floors shall be constructed as to provide proper drainage.

(6) Adequate toilet accommodations which are conveniently located and separated from the grading and packing rooms are to be provided. Handwashing facilities shall be provided with hot and cold running water, an acceptable handwashing detergent, and a sanitary method for drying hands. Toilet rooms shall be ventilated to the outside of the building and be maintained in a clean and sanitary condition. Signs shall be posted in the toilet rooms instructing employees to wash their hands before returning to work. In new or remodeled construction, toilet rooms shall be

located in areas that do not open directly into processing rooms.

(7) A separate refuse room or a designated area for the accumulation of trash must be provided in plants which do not have a system for the daily removal or destruction of such trash.

(8) Adequate packing and packaging storage areas are to be provided that protect packaging materials and are dry and maintained in a clean and sanitary condition.

(c) *Grading and packing room requirements.* (1) The egg grading or candling area shall be adequately darkened to make possible the accurate quality determination of the candled appearance of eggs. There shall be no other light source or reflection of light that interfere with, or prohibit the accurate quality determination of eggs in the grading or candling areas.

(2) The grading and candling equipment shall provide adequate light to facilitate quality determinations. When needed, other light sources and equipment or facilities shall be provided to permit the detection and removal of stained and dirty eggs or other undergrade eggs.

(3) The grading and candling equipment must be sanitarily designed and constructed to facilitate cleaning. Such equipment shall be kept reasonably clean during grading and packing operations and be thoroughly cleaned at the end of each operating day.

(4) Egg weighing equipment shall be constructed of materials to permit cleaning; operated in a clean, sanitary manner; and shall be capable of ready adjustment.

(5) Adequate ventilation, heating, and cooling shall be provided where needed.

(d) *Cooler room requirements.* (1) Cooler rooms holding shell eggs that are identified with a consumer grade shall be refrigerated and capable of maintaining an ambient temperature no greater than 45 °F (7.2 °C) and equipped with humidifying equipment capable of maintaining a relative humidity which will minimize shrinkage.

(2) Accurate thermometers and hygrometers shall be provided for monitoring cooler room temperatures and relative humidity.

(3) Cooler rooms shall be free from objectionable odors and from mold, and shall be maintained in a sanitary condition.

(e) *Shell egg protecting operations.* (1) Shell egg protecting (oil application) operations shall be conducted in a manner to avoid contamination of the product and maximize conservation of its quality.

(2) Component equipment within the shell egg protecting system, including holding tanks and containers, must be sanitarily designed and maintained in a clean and sanitary manner, and the application equipment must provide an adequate amount of oil for shell coverage of the volume of eggs processed.

(3) Eggs with excess moisture on the shell shall not be shell protected.

(4) Oil having any off odor, or that is obviously contaminated, shall not be used in shell egg protection operations. Oil is to be filtered prior to application.

(5) The component equipment of the application system shall be washed, rinsed, and treated with a bactericidal agent each time the oil is removed.

(6) Adequate coverage and protection against dust and dirt shall be provided when the equipment is not in use.

(f) *Shell egg cleaning operations.* (1) Shell egg washing equipment must be sanitarily designed, maintained in a clean and sanitary manner, and thoroughly cleaned at the end of each operating day.

(2) Shell egg drying equipment must be sanitarily designed and maintained in a clean and sanitary manner. Air used for drying purposes must be filtered. These filters shall be cleaned or replaced as needed to maintain a sanitary process.

(3) The temperature of the wash water shall be maintained at 90 °F (32.2 °C) or higher, and shall be at least 20 °F (6.7 °C) warmer than the internal temperature of the eggs to be washed. These temperatures shall be maintained throughout the cleaning cycle. Accurate thermometers shall be provided for monitoring wash water temperatures.

(4) Approved cleaning compounds shall be used in the wash water.

(5) Wash water shall be changed approximately every 4 hours or more often if needed to maintain sanitary conditions, and at the end of each shift. Remedial measures shall be taken to prevent excess foaming during the egg washing operation.

(6) Replacement water shall be added continuously to the wash water of washers. Chlorine or quaternary sanitizing rinse water may be used as part of the replacement water, provided, they are compatible with the washing compound. Iodine sanitizing rinse water may not be used as part of the replacement water.

(7) Only potable water may be used to wash eggs. Each official plant shall submit certification to the national office stating that their water supply is potable. An analysis of the iron content of the water supply, stated in parts per million, is also required. When the iron

content exceeds 2 parts per million, equipment shall be provided to reduce the iron content below the maximum allowed level. Frequency of testing for potability and iron content shall be determined by the Administrator. When the water source is changed, new tests are required.

(8) Waste water from the egg washing operation shall be piped directly to drains.

(9) The washing, rinsing, and drying operations shall be continuous and shall be completed as rapidly as possible to maximize conservation of the egg's quality and to prevent sweating of eggs. Eggs shall not be allowed to stand or soak in water. Immersion-type washers shall not be used.

(10) Prewetting shell eggs prior to washing may be accomplished by spraying a continuous flow of water over the eggs in a manner which permits the water to drain away or other methods which may be approved by the Administrator. The temperature of the water shall be the same as prescribed in this section.

(11) Washed eggs shall be spray-rinsed with water having a temperature equal to, or warmer than, the temperature of the wash water. The spray-rinse water shall contain a sanitizer that has been determined acceptable for the intended use by the national supervisor and of not less than 100 p/m nor more than 200 p/m of available chlorine or its equivalent. Alternate procedures, in lieu of a sanitizer rinse, may be approved by the national supervisor.

(12) Test kits shall be provided and used to determine the strength of the sanitizing solution.

(13) During non-processing periods, eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a buildup of heat that may diminish the quality of the egg.

(14) Washed eggs shall be reasonably dry before packaging and packing.

(15) Steam, vapors, or odors originating from the washing and rinsing operation shall be continuously and directly exhausted to the outside of the building.

(g) *Requirements for eggs officially identified with a grademark.* (1) Shell eggs that are officially identified with a grademark shall be placed under refrigeration at an ambient temperature no greater than 45 °F (7.2 °C) promptly after packaging.

(2) Eggs that are to be officially identified with the grademark shall be packed only in new or good used packing material and new packaging materials that are clean, free of mold,

mustiness and off odors, and must be of sufficient strength and durability to adequately protect the eggs during normal distribution. When packed in other than fiber packing material, the containers must be of sound construction and maintained in a reasonably clean manner.

(h) *Use of approved chemicals and compounds.* (1) All egg washing and equipment cleaning compounds, defoamers, destainers, sanitizers, inks, oils, lubricants, or any other compound that comes into contact with the shell eggs shall be approved by the national supervisor for their specified use and handled in accordance with the manufacturer's instructions.

(2) All pesticides, insecticides, and rodenticides shall be approved for their specified use and handled in accordance with the manufacturer's instructions.

Dated: December 15, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04-27906 Filed 12-20-04; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 04-045-2]

Citrus Canker; Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the citrus canker regulations by updating the list of areas in the State of Florida quarantined because of citrus canker. The interim rule was necessary to prevent the spread of citrus canker into noninfested areas of the United States and to relieve restrictions that were no longer warranted.

EFFECTIVE DATE: The interim rule became effective on September 14, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Evans-Goldner, Assistant Staff Officer, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737-1236, (301) 734-7228.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on September 14, 2004 (69 FR 55315-55320, Docket No. 04-045-1), we amended the regulations in "subpart—Citrus Canker" (7 CFR 301.75 through 301.75-16) by updating the list in § 301.75-4 of areas in the State of Florida quarantined because of citrus canker. Specifically, to reflect the detection of citrus canker in an area adjacent to but outside of one current quarantined area in Florida, as well as in eight additional counties, we expanded the boundaries of one existing quarantined area and added several new areas to the list of quarantined areas. We also removed portions of three counties from the list of quarantined areas because regular surveys showed them to have been free of citrus canker for at least 2 years. These actions were necessary to prevent the spread of citrus canker into noninfested areas of the United States and to relieve restrictions that were no longer warranted.

Comments on the interim rule were required to be received on or before November 15, 2004. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 69 FR 55315-55320 on September 14, 2004.

Done in Washington, DC, this 14th day of December, 2004.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04-27878 Filed 12-20-04; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 371

[Docket No. 04-120-1]

Delegation of Authority

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document delegates the authority given to the Administrator of the Animal and Plant Health Inspection Service to administer section 101(k) of the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1988, more commonly known as the Act of December 22, 1987. Authority is delegated from the Administrator of the Animal and Plant Health Inspection Service to the Deputy Administrator of Wildlife Services. This delegation has already been made, however it is not reflected in the Code of Federal Regulations. Therefore, this document corrects that oversight.

EFFECTIVE DATE: December 21, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. John A. Sinclair, Staff Officer, Operational Support Staff, WS, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737-1231; (301) 734-7921.

SUPPLEMENTARY INFORMATION:

Background

On January 10, 2000, the Animal and Plant Health Inspection Service (APHIS) published a final rule in the **Federal Register** (65 FR 1298-1302, Docket No. 97-025-1) that revised the statement of organization, functions, and delegations of authority of APHIS in 7 CFR part 371 to reflect changes in internal APHIS organization. The rule included delegations of authority from the Administrator of APHIS to the Deputy Administrator of Wildlife Services. However, we inadvertently omitted the delegation of authority from the Administrator to the Deputy Administrator of Wildlife Services for section 101(k) of the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1988, also known as the Act of December 22, 1987. This delegation of authority had already been made, however it is not reflected in the Code of Federal Regulations. Therefore we are amending 7 CFR 371.6(b)(2) to correct this oversight.

This rule relates to internal agency management. Therefore, this rule is exempt from the provisions of Executive