

## HAZARD PAY DIFFERENTIAL, OF PART 550 PAY ADMINISTRATION (GENERAL)—Continued

Duty					Rate of hazard pay differential (percent)	Effective date
<p>(6) <i>Working at high altitudes.</i> Performing work at a worksite more than 3900 meters (12,795 feet) in altitude, provided the employee is required to commute to the worksite on the same day from a substantially lower altitude under circumstances in which the rapid change in altitude may result in acclimation problems.</p>					8	[Date of effectiveness of the final rule].

[FR Doc. 98-17318 Filed 6-29-98; 8:45 am]

BILLING CODE 6325-01-M

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 52****[FV-98-327]****Processed Fruits and Vegetables****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Proposed rule.

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

**DATES:** Comments must be postmarked or courier dated on or before July 30, 1998.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Branch Chief, Processed Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 0709 South Building, Washington, DC 20090-6456. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made

available for public inspection in the above office during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Mr. James R. Rodeheaver at the above address or call (202) 720-4693.

**SUPPLEMENTARY INFORMATION:****Executive Order 12866 and Regulatory Flexibility Act**

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

AMS regularly reviews its user fee financed programs to determine if the fees are adequate. The existing fee schedule will not generate sufficient revenues to cover lot, and year round and less than year round inspection program costs while maintaining an adequate reserve balance (four months of costs) as called for by Agency policy (AMS Directive 408.1). Current revenue projection for work in regards to these inspection programs during FY 1998 is \$11.7 million with costs projected at \$13.1 million and an end-of-year reserve balance of \$3.9 million. The PPB trust fund reserve balance for these programs will be approximately \$0.5 million under the four-month level of approximately \$4.4 million, which is called for by Agency policy. Further, PPB's cost of operating the user fee financed programs are expected to increase to approximately \$13.5 million during FY 1999 and to approximately \$13.9 million in FY 2000. These cost increases will result from inflationary increases with regard to current PPB operations and services.

The Processed Products Branch (PPB) estimates that without a fee increase the trust fund reserve as called for by

Agency policy (four-months) will significantly decrease, that will result in an operating reserve balance of approximately \$3.0 million in FY 1999 and \$2.6 million in FY 2000. This relates to only 2.9 months and 2.3 months of operating reserve for the respective years.

Employee salaries and benefits are major program costs that account for approximately 85 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 2.30 to 7.11 percent depending on locality, effective January 1997, significantly increased program costs. Another locality salary increase ranging from 2.30 to 7.27 percent depending on locality, effective January 1998, also increased program costs. These increases have increased PPB's cost of operating these programs by \$400,000 per year.

The proposed fee increase of approximately 3 to 7 percent, should result in an estimated \$500,000 in additional revenue per year and should enable PPB to cover its costs and re-establish program reserves (current operating reserves are being maintained at a level below that provided for by Agency policy).

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 objective of the proposed rule is to increase user fee revenue generated under the lot inspection program, and the year round and less than year round inspection programs by approximately \$500,000 annually. This action is authorized under the AMA of 1946 [see 7 U.S.C. 1622(h)] which states that the Secretary of Agriculture may assess and collect "such fees as will be reasonable and as nearly as may be to cover the costs of services rendered \* \* \*".

There are more than 1239 users of PPB's lot, and less than year round and year round inspection services (including applicants who must meet

import requirements,<sup>1</sup> inspections which amount to under 2 percent of all lot inspections performed). A small portion of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601). There will be no additional reporting, recordkeeping, or other compliance requirements imposed upon small entities as a result of this proposed rule. PPB has not identified any other federal rules which may duplicate, overlap or conflict with this proposed rule.

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

Inasmuch as the inspection services are voluntary (except when required for imported commodities), and since the fees charged to users of these services vary with usage, the impact on all businesses, including small entities, is very similar. Further, even though fees will be raised, the increase is small (three to seven percent) and should not significantly affect these entities. Finally, except for those applicants who are required to obtain inspections, most of these businesses are typically under no obligation to use these inspection services, and therefore, any decision to discontinue the use of the services should not prevent them from marketing their products.

#### Executive Order 12988

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

#### Proposed Action

The AMA authorizes official inspection, grading and certification for processed fruits, vegetables, and processed products made from them. The AMA provides that reasonable fees be collected from the users of the

services to cover, as nearly as practicable, the costs of the services rendered. This proposed rule will amend the schedule for fees for inspection services rendered to the processed fruit and vegetable industry to reflect the costs necessary to operate the program and incorporates miscellaneous changes to revise a citation number and to revise a statement in a footnote in regards to sample size.

AMS regularly reviews its user fee programs to determine if the fees are adequate. While PPB continues to search for opportunities to reduce its costs, the existing fee schedule will not generate sufficient revenues to cover lot, and less than year round and year round inspection program costs while maintaining an adequate reserve balance (four months of costs) as called for by Agency policy (AMS Directive 408.1). The current revenue projection for work in regards to these inspection programs during FY 1998 is \$11.7 million with cost projected at \$13.1 million and an end-of-year reserve of \$3.9 million. This will result in a decrease of PPB's trust fund balance of approximately \$0.5 million under the four-month level (\$4.4 million) called for by Agency policy. Further, PPB's cost of operating these inspection programs is expected to increase to approximately \$13.5 million during FY 1999 and to approximately \$13.9 million in FY 2000, resulting in a decrease of the trust fund balance to approximately \$3.0 in FY 1999, and to approximately \$2.6 million in FY 2000. These cost increases will result from inflationary increases with regard to current PPB operations and services.

Employee salaries and benefits are major program costs that account for approximately 85 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 2.30 to 7.11 percent depending on locality, effective January 1997, significantly increased program costs. Another general and locality salary increase ranging from 2.30 to 7.27 percent depending on locality, effective January 1998, also increased program costs. These increases will increase PPB's costs of operating these inspection programs by approximately \$400,000 per year. Therefore, the salary increases necessitate additional funding under the program. This proposed fee increase of approximately 3 to 7 percent should result in an estimated additional revenue of \$500,000 per year, and should enable PPB to cover the costs of doing business and re-establish program reserves (current operating reserves are at a level below that provided for by Agency policy). In order to reach and

maintain a four-month reserve, a further increase in fees may be likely in future years.

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

Current \$41.00/hr.

Proposed \$43.00/hr.

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

Current: \$41.00/hr.

Proposed: \$43.00/hr.

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

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

Current: \$34.00/hr.

Proposed: \$35.00/hr.

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

Current: \$42.00/hr.

Proposed: \$45.00/hr.

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

(1) Each inspector:

Current: \$42.00/hr.

Proposed: \$45.00/hr.

Also, AMS revises §§ 52.21 and 52.38 (Table II, footnote number 2), of 7 CFR part 52 to make editorial changes.

In § 52.21, § 52.50 is referenced as providing information regarding the purchase of additional copies of certificates. This should be revised to read § 52.49.

In § 52.38, Table II, footnote number 2, the statement that describes the sample size for Group 3 containers that weigh over 10 pounds is omitted. Table II, footnote number 2 is revised to include the sample size for Group 3 containers that are over 10 pounds.

#### List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices,

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

Fruits, Reporting and recordkeeping requirements, and Vegetables.

For the reasons set forth in the preamble, 7 CFR part 52 is amended to read as follows:

#### **PART 52—[AMENDED]**

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

**Authority:** 7 U.S.C. 1621–1627.

#### **§ 52.42 [Amended]**

2. In § 52.42, the figure “\$41.00” is revised to read “\$43.00”.

#### **§ 52.50 [Amended]**

3. In § 52.50, the figure “\$41.00” is revised to read “\$43.00”.

#### **§ 52.51 [Amended]**

4. In § 52.51, paragraph (c)(1), the figure “\$34.00” is revised to read “\$35.00”, in paragraph (c)(2), the figure “\$42.00” is revised to read “\$45.00”, and in paragraph (d)(1), the figure “\$42.00” is revised to read “\$45.00”.

#### **§ 52.21 [Amended]**

5. In § 52.21, the words “§ 52.50” is revised to read “§ 52.49”.

#### **§ 52.38 [Amended]**

6. In § 52.38, Table II, footnote number 2 is revised to read as follows:

<sup>2</sup> When a standard sample size is not specified in the U.S. grade standards, the sample units for the various container size groups are as follows: Groups 1 and 2—1 container and its entire contents. Group 3 containers up to 10 pounds—1 container and its entire contents. Group 3 containers over 10 pounds—approximately three pounds of product. When determined by the inspector that a 3-pound sample unit is inadequate, a larger sample unit or 1 or more containers and their entire contents may be substituted for 1 or more sample units of 3 pounds.

Dated: June 24, 1998.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 98–17297 Filed 6–29–98; 8:45 am]

BILLING CODE 3410–02–P

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 71**

[Airspace Docket No. 98–AEA–12]

#### **Proposed Amendment to Class E Airspace; Danville, VA**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to amend the Class E airspace area at Danville, VA. The amendment of a Standard Instrument Approach Procedure (SIAP) based on an Instrument Landing System (ILS) at Danville Regional Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before July 30, 1998.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 98–AEA–12, FAA Eastern Region, Federal Building #111, John F. Kennedy Int’l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, FAA Eastern Region, Federal Building, #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, FAA Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 FAA Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

#### **SUPPLEMENTARY INFORMATION:**

#### **Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: “Comments to Airspace Docket No. 98–AEA–12.” The postcard will be date/time stamped and returned to the commenter. All communications

received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

#### **Availability of NPRMs**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, FAA Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

#### **The Proposal**

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Danville, VA. The ILS RWY 2 SIAP has been amended for the Danville Regional Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic