

guidance, this part applies to any contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the contract is to be funded or provided by the DOS under a covered nonprocurement transaction and the amount of the contract is expected to equal or exceed \$25,000. This extends the coverage of the DOS nonprocurement suspension and debarment requirements to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB guidance at 2 CFR 180.220(c) (see optional lower tier coverage in the figure in the appendix to 2 CFR part 180).

Subpart C—Responsibilities of Participants Regarding Transactions

§ 601.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You, as a participant, must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of the OMB guidance in 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 601.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435 of the OMB guidance, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subpart E Through H [Reserved]

Subpart I—Definitions

§ 601.930 Debaring official (Department of State supplement to government-wide definition at 2 CFR 180.930).

The Debaring Official for the Department of State is the Procurement Executive, Office of the Procurement Executive (A/OPE).

§ 601.1010 Suspending official (Department of Energy supplement to government-wide definition at 2 CFR 180.1010).

The Debaring Official for the Department of State is the Procurement Executive, Office of the Procurement Executive (A/OPE).

Subpart J [Reserved]

Title 22—Foreign Relations

Chapter I—Department of State

PART 133—[AMENDED]

- 2. The authority citation for part 133 continues to read as follows:

Authority: 22 U.S.C. 2658; 41 U.S.C. 701, *et seq.*

§ 133.510 [Amended]

- 3. Section 133.510, paragraph (c) is amended by revising the citation, “2 CFR part 137” to read: “2 CFR Part 601.”

PART 137 [Removed]

- 4. Part 137 is removed.

PART 145 [Amended]

- 5. The authority citation for part 145 continues to read as follows:

Authority: 22 U.S.C. 2658.1; OMB Circular A-110 (64 FR 54926, October 8, 1999).

§ 145.13 [Amended]

- 4. Section 145.13 is amended by revising the citation, “22 CFR part 137” to read, “2 CFR 601.”

§ 145.44 [Amended]

- 5. Section 145.44 is amended by revising the citation, “22 CFR part 137” to read, “2 CFR 601.”

§ 145.62 [Amended]

- 6. Section 145.62 paragraph (d) is amended by revising the citation, “22 CFR part 137” to read, “2 CFR 601.”

Appendix A to Part 145 [Amended]

- 7. Appendix A to part 145 is amended by revising the second sentence of paragraph (8) to read, “No contract shall be made to parties listed on the General Services Administration’s Excluded Parties List System (<http://www.epls.gov>) from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, ‘Debarment and Suspension.’”

Dated: February 26, 2007.

Georgia Hubert,

Director, Office of the Procurement Executive, Federal Assistance Division, Department of State.

[FR Doc. E7-3872 Filed 3-6-07; 8:45 am]

BILLING CODE 4710-24-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[Docket # AMS-FV-07-0025; FV-05-379]

RIN 0581-AC56

Processed Fruits and Vegetables

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the regulations governing inspection and certification for processed fruits, vegetables, and processed products by increasing the fees charged for these products by 19 to 26 percent. Furthermore, it revises the regulations so applicants entering into an in-plant inspection contract with the Agricultural Marketing Service (AMS) will incur the costs for the plant survey and sanitation inspection. Finally, the revision provides that applicants entering into a year-round inspection contract, less than year-round (four or more consecutive 40 hour weeks) contract, or lot inspection will incur costs for Sunday differential when an employee works on Sunday. Also affected are the fees charged to persons required to have inspections on imported commodities in accordance with the Agricultural Marketing Agreement Act of 1937. In addition, various editorial changes are being made to enhance clarity. 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 and to ensure the program's financial stability.

DATES: Effective April 6, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Terry B. Bane at the Office of the Branch Chief, Processed Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0247, Washington, DC 20250-0247, telephone, (202) 720-4693, or e-mail Terry.Bane@usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Regulatory Flexibility Act

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.

Also, pursuant to the requirements of the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. AMS regularly reviews its user fee financed programs to determine if the fees are adequate. The Agency has and will continue to identify and implement appropriate changes to reduce its costs. Such actions can reduce the need for fee increases. The processed fruit and vegetable grading and inspection service administers a number of user fee programs with established fee schedules to offset the cost of the service. The fee schedule for the subject lot, year-round, and less than year-round processed fruit and vegetable inspection programs was last revised on October 30, 2003 (68 FR 61733). However, even with cost control efforts, the existing fee schedule for these programs will not generate sufficient revenues to cover costs and sustain an adequate reserve balance, 4 months of costs, as called for by Agency policy (AMS Directive 408.1).

At the start of Fiscal Year (FY) 2006, the processed fruit and vegetable grading and inspection service had a reserve balance of \$8 million, of which, the lot, year-round, and less than year-round programs accounted for \$3.4 million. AMS projects that the costs for the services covered by this final rule will rise from \$15 million in FY 2005 to \$15.4 million in FY 2006. Revenues for FY 2006 are projected to be at \$15.0 million. The increase in costs is primarily a result of rising employee salaries and benefits. For example, since the last fee schedule change, employees have received a 3.1 and 3.4 percent pay increase effective January 2005 and January 2006, respectively.

For FY 2006, the end-of-year reserve balance will decline from \$3.4 million to \$3.0 million, and the months of reserve will fall from 2.6 months to 2.4 months. For FY 2007, without a fee increase, the end-of-year reserve balance would be \$2.5 million; the months of reserve will be 1.9; with the projected costs of \$15.8 million and revenues of \$15.3 million.

With the fee increase, these services will generate sufficient revenue so that by the end of FY 2007, the reserve balance will be \$5.3 million and 4.0 months. AMS will perform fee analyses to determine if further fee adjustments

in FY 2007 are necessary to maintain an adequate reserve and ensure fiscal stability.

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 first action increases user fee revenue generated under the lot inspection program and the year-round and less than year-round inspection programs by an estimated \$1.5 million in FY 2007. The second action will recoup the cost for a plant survey and sanitation inspection performed in plants entering into an in-plant inspection contract with AMS. Currently, fees that are charged for a plant survey and sanitation inspection under § 52.48 are credited back to plants entering into an in-plant inspection contract with AMS within 60 days of the survey. There are presently 239 plants with an in-plant inspection contract not being charged for the plant survey and sanitation inspection. Billing for the plant survey and sanitation inspection will increase user fee revenue generated under the year-round and less than year-round inspection programs by approximately \$143,000 annually. The third action will recoup the cost for Sunday differential when an employee works on Sunday for plants entering into a year-round in-plant contract, entering into a less than year-round in-plant (four or more consecutive 40 hour weeks) contract, and not under contract. During calendar year 2004, there were 3,562 Sunday differential hours not charged at premium rate to applicants. Billing applicants for Sunday differential will increase user fee revenue generated under the lot inspection program, the year-round inspection program, and the less than year-round inspection program by approximately \$35,000 annually. The fourth action will change the word "approval" to "approved" in § 52.2, Inspection Services; types of, paragraph (d) Pack certification.

These actions are authorized under the AMA of 1946 [7 U.S.C. 1622(h)] which provides that the Secretary of Agriculture 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 1,250 users of Processed Products Branch's lot, year-round, and less than year-round inspection services (including applicants who must meet import requirements,¹ inspections which

amount to under two 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 121.201).

There are no additional reporting, recordkeeping, or other compliance requirements imposed upon small entities as a result of this rule. AMS has not identified any other federal rules which may duplicate, overlap, or conflict with this final rule. The impact on all businesses, including small entities, is very similar. Further, even though fees will be increased, the amount of the increase should not significantly affect these entities.

This fee increase moves the program towards an adequate reserve and financial stability. Considering the alternatives, without the fee increase, this result would not be accomplished. Finally, except for those applicants who are required to obtain inspections in connection with certain imports, these businesses are under no obligation to use these inspection services.

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 doesn't 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 final rule.

Final Action

The AMA authorizes official inspection, grading, and certification for processed fruits, vegetables, and processed products made from them. The AMA provides that the Secretary collect reasonable fees from the users of the services to cover, as nearly as practicable, the costs of the services rendered. This final rule amends the schedule for fees for inspection services rendered to the processed fruit and vegetable industry to reflect the costs necessary to operate the program.

AMS regularly reviews its user fee programs to determine if the fees are

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. 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 in 7 CFR Parts 944 and 999.

¹ Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-

adequate. While AMS continues to pursue opportunities to reduce its costs, the existing fee schedule will not generate sufficient revenues to cover lot, year-round, and less than year-round inspection program costs while maintaining an adequate reserve balance.

Based on the Agency's analysis of increasing program costs, AMS is (1) increasing the fees relating to lot, year-round, and less than year-round inspection services, (2) billing in-plant applicants for plant survey and sanitation inspection, and (3) billing applicants for Sunday differential when applicable.

At the start of FY 2006, the processed fruit and vegetable grading and inspection service had a reserve balance of \$8 million, of which, the lot, year-round, and less than year-round programs accounted for \$3.4 million. AMS projects that the costs for the services covered by this final rule will rise from \$15 million in FY 2005 to \$15.4 million in FY 2006. Revenues for FY 2006 are projected to be at \$15.0 million. The increase in costs is primarily a result of rising employee salaries and benefits. For example, since the last fee schedule change, employees have received a 3.1 and 3.4 percent pay increase effective January 2005 and January 2006, respectively.

For FY 2006, the end-of-year reserve balance will decline from \$3.4 million to \$3.0 million, and the months of reserve will fall from 2.6 months to 2.4 months. For FY 2007, without a fee increase, the end-of-year reserve balance would be \$2.5 million; the months of reserve would be 1.9; with the projected costs of \$15.8 million and revenues of \$15.3 million.

With the fee increase these services will generate sufficient revenue so that by the end of FY 2007, the reserve balance will be \$5.3 million and 4.0 months. AMS will perform fee analyses to determine if further fee adjustments in FY 2007 are necessary to maintain an adequate reserve and ensure fiscal stability.

For inspection services charged on a contract basis under § 52.51, overtime work will also continue to be charged as provided in that section. The following fee schedule compares current fees and charges with final fees and charges for processed fruit and vegetable inspection as found in 7 CFR 52.42–52.51. Unless otherwise provided for by written agreement between the applicant and the Administrator, the charges in the schedule of fees as found in § 52.42 are:

Current	Final
\$52.00/hr.	\$62.00/hr.
Charges for travel and other expenses as found in § 52.50 are:	

Current	Final
\$52.00/hr.	\$62.00/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	Final
\$39.00/hr.	\$49.00/hr.

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

Each inspector:

Current	Final
\$52.00/hr.	\$65.00/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	Final
\$52.00/hr.	\$65.00/hr.

Furthermore, AMS will recoup the cost for a plant survey and sanitation inspection performed in plants entering into an in-plant inspection contract with AMS. Currently, fees that are charged for a plant survey and sanitation inspection are credited back to plants entering into an in-plant inspection contract with AMS within 60 days of the survey. There are presently 239 plants with an in-plant inspection contract not being charged for the plant survey and sanitation inspection. Billing for the plant survey and sanitation inspection will increase user fee revenue generated under the year-round and less than year-round inspection programs by approximately \$143,000 annually. In addition, AMS will recoup the cost for Sunday differential for plants entering into a year-round in-plant contract, entering into a less than year-round in-plant (four or more consecutive 40 hour weeks) contract, and not under contract. During calendar year 2004, there were 3,562 Sunday differential hours not charged to plants. Billing plants for Sunday differential will increase user fee revenue generated under the lot inspection program, the year-round inspection program, and the less than year-round inspection program by approximately \$35,000 annually. Finally, the last action will change the

word "approval" to "approved" in § 52.2, Inspection Service; types of, paragraph (d) Pack certification.

A notice of proposed rulemaking was published in the **Federal Register** on July 11, 2006, (71 FR, No. 132, 39017) with a thirty-day comment period. AMS received two comments during this period.

The first comment was received from the Association of Food Industries, Inc. (AFI). AFI asked how this revision would affect imported products. The fee increase applies to the voluntary inspection and certification of processed fruits and vegetables whether domestic or imported. Further, as noted previously under 8e of the Agricultural Marketing Agreement Act of 1937, certain imported processed commodities are subject to import regulations which include inspection requirements.

The second comment was received from an individual who expressed concurrence with the revision.

List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and record keeping requirements, and Vegetables.

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

PART 52—[AMENDED]

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

Authority: 7 U.S.C. 1621–1627.

§ 52.2 [Amended]

■ 2. In § 52.2, under the term "Inspection Service; types of", in paragraph (d) under the term "pack certification" the word "approval" is revised to read "approved".

■ 3. In § 52.42, the figure "\$52.00" is revised to read "\$62.00" and a sentence is added at the end of the section to read as follows:

§ 52.42 Schedule of fees.

* * * A twenty-five (25) percent Sunday differential charge will be made for all work performed on Sunday.

■ 5. Section 52.48 is revised to read as follows:

§ 52.48 Charges for plant survey and inspection.

The fees to be charged for a plant survey and inspection shall be at the rates prescribed in § 52.42 and § 52.51.

§ 52.50 [Amended]

■ 6. In § 52.50, the figure "\$52.00" is revised to read "\$62.00".

■ 7. In § 52.51, paragraph (c)(1), the figure "\$39.00" is revised to read "\$49.00", in paragraph (c)(2), the figure "\$52.00" is revised to read "\$65.00", and in paragraph (d)(1), the figure "\$52.00" is revised to read "\$65.00" and new paragraphs (c)(6) and (d)(6) are added to read as follows:

§ 52.51 Charges for inspection services on a contract basis.

* * * * *

(c) * * *
(6) Sunday differential. A 25 percent Sunday differential will be charged for all work performed on Sunday.

* * * * *

(d) * * *
(6) Sunday differential. A 25 percent Sunday differential will be charged for all work performed on Sunday.

* * * * *

Dated: March 1, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7-3937 Filed 3-6-07; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 431

[Docket Nos. EE-RM/STD-03-100, EE-RM/STD-03-200, and EE-RM/STD-03-300]

RIN Nos. 1904-AB16, 1904-AB17, and 1904-AB44

Energy Efficiency Program for Certain Commercial and Industrial Equipment: Efficiency Standards for Commercial Heating, Air-Conditioning, and Water-Heating Equipment

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

ACTION: Final rule.

SUMMARY: The Energy Policy and Conservation Act, as amended (EPCA), establishes energy conservation standards for various commercial and industrial equipment. EPCA further provides with respect to certain equipment covered by this rule, that if the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) and the Illuminating Engineering Society of North America (IESNA) amend ASHRAE/IESNA Standard 90.1 as in effect on October 24, 1992, then the Department of Energy (DOE) must establish amended national standards at

the ASHRAE/IESNA Standard 90-1 minimum energy efficiency levels unless DOE determines that evidence supports adoption of higher standard levels or certain other circumstances exist. ASHRAE/IESNA amended ASHRAE/IESNA Standard 90.1 on October 29, 1999 (ASHRAE/IESNA Standard 90.1-1999), and DOE initiated this rulemaking to consider amendments to the national standards. DOE has concluded that it lacks authority to pursue higher standards for gas-fired instantaneous water heaters and large commercial packaged boilers. For small commercial packaged boilers with capacities greater than 300,000 Btu/h and less than or equal to 2.5 million British thermal units per hour, DOE is declining to adopt revised efficiency standards contained in the ASHRAE/IESNA Standard 90.1-1999 because the revised levels are less stringent than the current national standard. In addition, DOE has decided to conduct a separate rulemaking to consider whether standards at higher levels than those in the ASHRAE/IESNA Standard 90.1-1999 are warranted for packaged terminal air conditioners and packaged terminal heat pumps. Finally, DOE has concluded it does not have the authority to adopt, as uniform national standards, efficiency standards contained in Addenda f and b, respectively, to ASHRAE/IESNA Standard 90.1-2004 for three-phase air conditioners and heat pumps with cooling capacities less than 65,000 British thermal units per hour, and single-package vertical air conditioners and single-package vertical heat pumps with cooling capacities less than 65,000 Btu/h.

DATES: *Effective Date:* April 6, 2007.

FOR FURTHER INFORMATION CONTACT: Maureen Murphy, Project Manager, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-0598, or e-mail Maureen.Murphy@ee.doe.gov.

Francine Pinto, Esq., U.S. Department of Energy, Office of the General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585-0103, (202) 586-9507, or e-mail Francine.Pinto@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Summary of Today's Actions

B. Authority

C. Background

1. ASHRAE/IESNA Standard 90.1 and the Department of Energy's Response
2. Subsequent Action by the Department of Energy

3. The Energy Policy Act of 2005

II. Discussion of Comments and DOE Final Rule

A. Large Commercial Packaged Boilers (Greater Than 2.5 million British Thermal Units Per Hour) and Gas-Fired Instantaneous Water Heaters

B. Small Commercial Packaged Boilers (Greater Than 300,000 British Thermal Units Per Hour and Less Than or Equal to 2.5 million British Thermal Units Per Hour)

C. Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps

D. Three-Phase Air Conditioners and Heat Pumps less than 65,000 British Thermal Units Per Hour

E. Single-Package Vertical Air Conditioners and Single-Package Vertical Heat Pumps Less Than 65,000 Btu/h

F. Single-Package Vertical Air Conditioners and Single-Package Vertical Heat Pumps Greater Than or Equal to 65,000 Btu/h and Less Than 240,000 Btu/h

III. Procedural Requirements

A. Review Under Executive Order 12866

B. Review Under the Regulatory Flexibility Act

C. Review Under the Paperwork Reduction Act of 1995

D. Review Under the National

Environmental Policy Act of 1969

E. Review Under Executive Order 13132

F. Review Under Executive Order 12988

G. Review Under the Unfunded Mandates Reform Act of 1995

H. Review Under the Treasury and General Government Appropriations Act, 1999

I. Review Under Executive Order 12630

J. Review Under the Treasury and General Government Appropriations Act, 2001

K. Review Under Executive Order 13211

L. Congressional Notification

IV. Approval of the Office of the Secretary

I. Introduction

A. Summary of Today's Actions

Today's final rule addresses five categories of commercial equipment¹: (1) Small and large commercial packaged boilers; (2) gas-fired instantaneous water heaters; (3) packaged terminal air conditioners (PTACs) and packaged terminal heat pumps (PTHPs); (4) three-phase air conditioners (ACs) and heat pumps (HPs) with cooling capacities less than 65,000 British thermal units per hour (Btu/h); and (5) single-package vertical air conditioners (SPVAC) and single-package vertical heat pumps (SPVHP), collectively referred to as single package vertical units (SPVUs).

By today's action, DOE is publishing a final rule that prescribes no amended standard. As discussed in section II.A through II.F of this notice, DOE has decided:

¹ DOE uses the terms "product" and "equipment" interchangeably in this final rule. Where DOE refers to the categories of "residential products" covered by 10 CFR Part 430, DOE uses the phrase "residential products."