flammable mixtures rule does apply to products that are a combination of less than 87.5 percent propane and other release-flammable COI, since such mixtures are not themselves the COI propane.[7]

**Robert Stephan,**

*Assistant Secretary for Infrastructure Protection, Department of Homeland Security.*

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## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## 7 CFR Part 51

**[Docket #AMS–2006–0136; FV–06–303]**

## Potatoes; Grade Standards

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule revises the United States Standards for Grades of Potatoes. These standards are issued under the Agricultural Marketing Act of 1946. The rule provides en route or at destination tolerances for the U.S. No. 1 and U.S. No. 2 grades, revises current tolerances in all grades, deletes the U.S. Extra No. 1 grade and ''Unclassified'' section, and defines damage and serious damage by the following defects which will be added to Table III of the External Defects section: Cuts, Clipped Ends, Elephant Hide, Flattened or Depressed Areas/Pressure Bruises, Grub Damage, Nematode (Root Knot), Rodent or Bird Damage, Russeting, Silver Scurf, Sunken Discolored Areas, and Surface Cracks. The following defects and scoring guidelines that are currently listed in Table III of the External Defects section are also revised to reflect current inspection instructions: Air Cracks, Bruises, External Discoloration, Flea Beetle Injury, Greening, Growth Cracks, Rhizoctonia, Pitted Scab, Russet Scab, Surface Scab, and Wireworm or Grass Damage. Also, changes to the current scoring guide for sprouts are being made. In the Internal Defects section, Internal Black Spot is revised by implementing a color chip to assist in the scoring of this defect. Also, Table IV in this section is redesignated as Table I. Additionally, a revised large size is added as well as the inclusion of Chef and Creamer sizes. Most of the changes were the result of the detailed work performed by the Joint U.S./Canadian Potato Council that was charged with harmonizing the U.S. and Canadian Potato Grade Standards. This rule updates and revises the standards to more accurately reflect today's marketing practices.

**DATES:** Effective April 21, 2008.

**FOR FURTHER INFORMATION CONTACT:** Vincent J. Fusaro, Standardization Section, Fresh Products Branch, (202) 720–2185. The United States Standards for Grades of Potatoes are available through the Fresh Products Branch Web site at: *http://www.ams.usda.gov/standards/stanfrfv.htm.*

**SUPPLEMENTARY INFORMATION:**

### Executive Order 12866 and 12988

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action. 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 the rule.

### Regulatory Flexibility Act and Paperwork Reduction Act

The Joint U.S./Canadian Harmonization Council (Council) which was established by the United States Secretary of Agriculture and the Canadian Minister of Agriculture, is charged with harmonizing the U.S. and Canadian grade standards. The United States Standards for Grades of Potatoes was last revised in 1991. The Council, which consists of representatives from the industry and government, meets annually to discuss issues concerning cross border marketing and trade of potatoes. AMS and the Canadian Food Inspection Agency (CFIA) have been working with the Council for the past 14 years in the harmonizing of the standards. To complete the harmonization process, both the Canadian and U.S. grade standards, require revisions. The revision will benefit all aspects of the potato industry and make the standards current with today's marketing trends and practices.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA), AMS has considered the economic impact of this action on 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. Accordingly, AMS has prepared this final regulatory flexibility analysis. Interested parties are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This rule revises the U.S. Standards for Grades of Potatoes that were issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) (Act). Standards issued under the Act are voluntary.

Small agricultural service firms, which include handlers and importers, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. Using annual data from the National Agricultural Statistics Service (NASS), the average potato crop value for 2002–2004 is $2.538 billion. Dividing that figure by 9,408 farms yields an average potato crop value per farm of just under $270,000. Since this is well under the SBA threshold of annual receipts of $750,000, it can be concluded that the majority of these producers may be classified as small entities. Additionally, there are approximately 180 handlers of potatoes which are classified as small entities, that may be affected by this rule.

Additional evidence comes from examining the Agricultural Census acreage breakdown more closely. Out of a total of 9,408 potato farms in 2002, 60 percent were under 5 acres and 76 percent were under 100 acres. An estimate of the number of acres that it would take to produce a crop valued at $750,000 can be made by dividing the 2002–04 average crop value of $2.538 billion by three-year average bearing acres (1.227 million), yielding an average potato revenue per acre estimate of $2,068. Dividing $750,000 by $2,068 shows that farms with at least 363 acres that received at least the average price in 2002–04 would have produced crops valued at $750,000 or more, and would therefore be considered large potato

flammable mixtures provision, as little as 10,000 pounds of that product would meet the STQ for butane, and thus trigger the Top-Screen reporting requirement of CFATS. This effect would be inconsistent with the purpose of the special 10,000 pound counting rule and the 60,000 pound STQ for the COI propane and with DHS's express intent not to subject facilities to the Top-Screen requirement when the only COI that would otherwise trigger that requirement is less than 60,000 pounds of COI propane. *See* 72 FR 65406–65407, 65409–65410.

[7] The statement in the Appendix A Final Rule preamble that the mixtures provisions for propane are the same as for all other release-flammables, 72 FR 65407, should be read in this intended context. Since it would not be logical or reasonable to apply the release-flammable mixtures provision to the COI propane (products containing at least 87.5% propane), the preamble statement was intended to cover mixtures containing less than 87.5% propane.

farms under the SBA definition. Looking at farm numbers for additional census size categories shows that 8,084 potato farms (86 percent) are under 250 acres and 8,735 (92 percent) are under 500 acres. Since a farm with 363 acres of potatoes falls into the middle of this range, it can be concluded that the proportion of small potato farms under the SBA definition is likely to be between 86 and 90 percent of all U.S. potato farms.

In addition, an estimated 168 importers of potatoes may be affected by this rule. Many of these importers may be classified as small entities.

This rule develops en route or at destination tolerances for the U.S. No. 1 and U.S. No. 2 grades, revises the current tolerances in all grades, deletes the ''Unclassified'' section, and defines damage and serious damage by the following defects which will be added to Table III of the External Defects section: Cuts, Clipped Ends, Elephant Hide, Flattened or Depressed Areas/ Pressure Bruises, Grub Damage, Nematode (Root Knot), Rodent or Bird Damage, Russeting, Silver Scurf, Sunken Discolored Areas, and Surface Cracks. The following defects and scoring guidelines that are currently listed in Table III of the External Defects section are revised to reflect current inspection instructions: Air Cracks, Bruises, External Discoloration, Flea Beetle Injury, Greening, Growth Cracks, Rhizoctonia, Pitted Scab, Russet Scab, Surface Scab, and Wireworm or Grass Damage. Also, a revision to the current scoring guide for sprouts was proposed. In the Internal Defects section, Internal Black Spot is revised by implementing a color chip to assist in the scoring of this defect. Also, Table IV in this section is redesignated as Table I. Additionally, a revised large size as well as a Chef and Creamer sizes are added to the size section of the standard.

The effects of this rule are not expected to be disproportionately greater or smaller for small handlers, producers, or importers than for larger entities. This action would make the standard more consistent and uniform with marketing trends and practices. This action will not impose any additional reporting or recordkeeping requirements on either small or large potato producers, handlers, or importers. USDA has not identified any Federal rules that duplicate, overlap, or conflict with this rule. However, there are marketing programs which regulate the handling of potatoes under 7 CFR parts 945–948 and 953. Potatoes under a marketing order have to meet certain requirements set forth in the grade standards. In addition, potatoes are subject to section 8e import requirements under the Agricultural Marketing Act of 1937, as amended (7 U.S.C. 601–674) which requires imported potatoes to meet grade, size, and quality under the applicable marketing order (7 CFR part 980).

A proposed rule regarding these revisions to the United States Standards for Grades of Potatoes was published in the **Federal Register** on September 22, 2006 [71 FR 55356]. A comment period of sixty days was issued which closed on November 21, 2006.

**Comments**

In response to the request for comments, AMS received comments from twenty-five respondents in regards to the proposed revisions. One response was from a potato committee, and fifteen additional comments were received from the committee's members, all supporting the proposal. Four comments were received from a potato council representing growers and producers of potatoes, of which three of the comments supported the proposal. One supporting comment was from a national trade association representing independent produce receivers, and two supporting comments were received from two State potato committees. One comment was received from a shipper supporting the proposed rule, while another shipper's comments opposed the entire proposed rule. In addition to commenting in support or opposition to the proposed rule, some commentors also proposed additional revisions.

A comment received from a potato shipper opposing the entire proposed rule stated while the shipper supported revisions to the standards that make the inspection process more consistent, the shipper did not agree with relaxing the U.S. standards in order to harmonize them with Canada's standards. The proposed revisions are generally for defects and scoring guidelines that were defined as materially detracting from the appearance of the potato. The intent of these revisions is not to relax the standards or allow for inferior product. The revised scoring guidelines were adopted by the harmonization committee to make the two standards more consistent and uniform with one another; which would also assist in the importing and exporting of potatoes between the two countries. Accordingly, AMS is proceeding with the revision as proposed.

AMS proposed the deletion of the U.S. Extra No. 1 and the ''Unclassified'' section. One comment was received from a national trade association supporting the deletion of the U.S. Extra No. 1 grade, but was opposed to deleting the ''Unclassified'' section because they believe that it serves a useful purpose in categorizing ungraded lots of potatoes. Some sectors of the industry have assumed that ''Unclassified'' is an actual grade. However, ''Unclassified'' is not an actual grade. Further, unclassified is being deleted from all standards that are revised because this category is not a grade and only serves to show that no grade has been applied to the lot. It is no longer considered necessary. Therefore, to avoid further confusion all references to this term are eliminated.

AMS proposed adding a ''Chef'' and ''Creamer'' size as well as increasing the maximum diameter and weight in the Large size from 4¼ inches or 16 ounces to 4½ inches or 28 ounces. One comment was received from a State committee also supporting the proposal, but recommended the USDA change the creamer maximum diameter from the proposed 1⅝ inches to 1⅞ inches. The commentor believes the 1⅞ inches corresponds to what is currently being used in the industry for ''C'' or creamer type potatoes. The proposed maximum diameter of 1⅝ inches was determined to be best suited to be used by the U.S. and Canada for national and international trade. Additionally, the committee asks that the ''Chef'' designation be reevaluated as it has a very similar size profile encompassing both the medium and the proposed large size. This size was proposed by the industry and has been in practice by some members of both U.S. and Canadian industry, prior to this proposal. Therefore, AMS is proceeding with the chef and creamer sizes as proposed.

AMS proposed ''en route'' or ''at destination'' tolerances in the U.S. No. 1 and No. 2 grades as well as deleting the 3 percent tolerance for potatoes which are affected by freezing, southern bacterial wilt, ring rot, late blight, soft rot or wet breakdown. An opposing comment was received from a national trade association stating that its members opposed the en route or at destination tolerances because they believe it would dilute the grades and allow for a lesser quality product to enter the marketplace. We disagree. ''en route'' or ''at destination'' tolerances are generally applicable to all lots and will make this standard consistent with other U.S. standards. The tolerances are intended to better reflect product quality in the marketplace. The comment also stated that good delivery tolerances under the Perishable Agricultural Commodities Act (PACA) already allowed for damage en route or at destination. While there is PACA suitable shipping condition guidelines

in place, they are a separate set of guidelines which are not applicable to these standards. Furthermore, ''en route'' or ''at destination'' tolerances are generally applicable to all lots and will make this standard consistent with other U.S. standards. Therefore, AMS is proceeding with the revisions as proposed.

AMS proposed defining damage and serious damage for the following defects as well as adding them to Table III in the External Defects section: Cuts, Clipped Ends, Elephant Hide, Flattened or Depressed Areas/Pressure Bruises, Grub Damage, Nematode (Root Knot), Rodent or Bird Damage, Russeting, Silver Scurf, Sunken Discolored Areas, and Surface Cracks. Five commenters opposed and requested tighter scoring criteria. One commenter said its members were dissatisfied with the proposed scoring criteria even though the intent is to provide an objective means of evaluating defects, beyond materially/seriously detracting from the appearance of the potato. In their view the proposed changes are too lenient. Additionally, two commenters believed the proposed 50 percent of the surface area allowed for silver scurf was too strict and recommended it be set at 55 percent of the surface area. They also suggested the term aggregate be used when referencing removal of damage caused by root knot nematodes. The proposed scoring guidelines, including silver scurf, as well as the current application of the potato inspection instructions reflect the results of studies conducted under the U.S./Canadian Harmonization Project. As such, the standards should be updated to reflect current market practices. Damage caused by root knot nematodes is currently scored on a waste basis by weight, therefore the use of the term aggregate is not necessary. Therefore, AMS is proceeding with the revisions as proposed.

AMS also proposed the following defects and scoring guidelines, which are currently listed in Table III of the External Defects section, be modified to reflect current inspection instructions: Air Cracks, Bruises, External Discoloration, Flea Beetle Injury, Greening, Growth Cracks, Rhizoctonia, Pitted Scab, Russet Scab, Surface Scab, and Wireworm or Grass Damage.

One commentor opposed the proposed scoring guide for growth cracks because he believes the depth guide is too lenient and doesn't take into account how growth cracks can alter the shape as to materially detract from the form of the potato. Growth cracks and misshapen tubers are two separate defects with individual scoring guidelines. If the shape of the potato is altered or compromised, the scoring guidelines for shape, which are currently in the standard would apply. Revising the scoring criteria for growth cracks provides an objective means of evaluating this particular defect. Therefore, the scoring guide is revised as proposed.

A comment was received suggesting AMS review the scoring criteria in the proposal for both grub damage and rodent or bird damage due to each defect having the same criteria for damage and serious damage. After reviewing these proposed scoring criteria, AMS has identified errors that were made in the proposed scoring criteria for serious damage. The scoring criteria for serious damage in both defects incorrectly stated ''i.e. more than ¾ inch on a 2½ inch or 6 ounce potato.'' Therefore, the scoring criteria has been corrected to read, ''i.e. more than 1¼ inch on a 2½ inch or 6 ounce potato.'' This final rule reflects these changes.

Four comments suggested that AMS remove all references to ''appearance'' or ''when materially detracting from appearance of the potato'' when determining scoring criteria for any defect. In their view, this would provide an objective means of evaluating the defects and would avoid the subjectivity of opinion. AMS is removing all references to ''appearance'' or ''when materially detracting from appearance of the potato'' when possible. However, these references can not be removed from all the defects or their scoring guidelines due to several factors associated with these defects and their progression. For example, some defects will progress more rapidly than others when they are exposed to any moisture, therefore making it more difficult to meet specific scoring criteria when more time is needed during storage and/or transportation. Also, the proposed references to ''appearance'' or ''when materially detracting from appearance of the potato'' in the scoring criteria for bruising, were made in error. Therefore, AMS is removing in this final rule, the references to ''appearance'' or ''when materially detracting from appearance of the potato'' in the scoring guidelines for bruising.

One comment received concerned internal black spot. The comment asked for a comment period to be opened on color chip POT–CC–2 (internal black spot). The comments asserted that it would be difficult for the industry to make a reasonable comment on the chip itself when there are no alternatives. Prior to the developing of this rule, AMS, Fresh Product Branch field offices presented three alternative color chips were distributed to a large number of potato growers, packers, and wholesale marketers to determine which color chip was appropriate to use in the standards. The color chip that was selected reflects a consensus of industry feedback. Therefore, the color chip POT–CC–2 will be referenced as stated in the proposal.

Several commenters also suggested that color chips or visual aids be developed for external discoloration, greening, and elephant hide. They believe this would be a useful tool for identifying and scoring these defects. AMS develops color chips or visual aids continuously and will evaluate the needs for developing color chips or visual aids for the proposed defects. Color chips for the suggested defects above require additional research which can not be addressed in this action. However, AMS will review and evaluate the issue at a later date.

AMS proposed revising the scoring guidelines for sprouts to read as follows: Score as damage when not more than 5 percent of the potatoes in a lot may have individual or clusters of sprouts not more than ¼ inch at shipping point and ½ inch at destination. Score as serious damage when not more than 10 percent of the potatoes in a lot may have individual or clusters of sprouts not more than ½ inch at shipping point and 1 inch at destination. AMS received four comments opposing this revision. They believe the existence of a ¾ inch sprout constitutes a level of damage unacceptable to the industry. They also believe there should be no distinction between shipping point and destination. While there are measures in place throughout the marketing chain to control the development of sprouts, sprouts can nonetheless naturally progress while potatoes are in transit. An en route or at destination tolerance takes into account the natural progression of this defect, but should not compromise the quality of the U.S. No. 1 grade. Therefore, AMS is revising the scoring guideline for sprouts as proposed.

Additionally, a comment was received suggesting AMS give special consideration to allow for packing a U.S. No. 1 mixed variety of potato. This change is outside the scope of this rulemaking but will be considered separately at a later time.

Based on all the comments received and information gathered, AMS believes these revisions to the standards will foster marketing of fresh potatoes.

The official grade of a lot of potatoes covered by these standards are determined by the procedures set forth

in the Regulations Governing Inspection, Certification, and Standards of Fresh Fruits, Vegetables and Other Products (Sec. 51.1 to 51.61).

**List of Subjects in 7 CFR Part 51**

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

## PART 51—[AMENDED]

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

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

**Authority:** 7 U.S.C. 1621—1627.

## Subpart—United States Standards for Grades of Potatoes § 51.1540 [Removed and Reserved]

■ 2. Remove and reserve § 51.1540.

### § 51.1544 [Removed and Reserved]

■ 3. Remove and reserve § 51.1544.

■ 4. In § 51.1545, Table I is revised to read as follows:

### § 51.1545 Size.

* * * * *

TABLE I

| Size designation | Minimum diameter [1] or weight | | Maximum diameter [1] or weight | |
|---|---|---|---|---|
| | Inches | Ounces | Inches | Ounces |
| Creamer | ¾ | ([3]) | 1⅝ | ([3]) |
| Chef | 2¾ | 8 | 4½ | 28 |
| Size A [2] | 1⅞ | ([3]) | ([3]) | ([3]) |
| Size B | 1½ | −3 | 2¼ | −3 |
| Small | 1¾ | −3 | 2½ | 6 |
| Medium | 2¼ | 5 | 3¼ | 10 |
| Large | 3 | 10 | 4½ | 28 |

[1] Diameter means the greatest dimension at right angles to the longitudinal axis, without regard to the position of the stem end.
[2] In addition to the minimum size specified, a lot of potatoes designated as Size A shall contain at least 40 percent of potatoes which are 2½ inches in diameter or larger or 6 ounces in weight or larger.
[3] No requirement.

* * * * *

■ 5. In § 51.1546, paragraph (a) is revised to read as follows:

### § 51.1546 Tolerances.

* * * * *

(a) *For defects—(1) U.S. No. 1. At Shipping Point.* A total of 8 percent for potatoes in any lot which fail to meet the requirements for the grade: *Provided*, that included in this tolerance not more than the following percentages shall be allowed for the defects listed:

(i) 5 percent for external defects;

(ii) 5 percent for internal defects;

(iii) Including therein not more than 1 percent for potatoes which are frozen or affected by soft rot or wet breakdown.

(2) *En route or at Destination.* A total of 10 percent for potatoes in any lot which fail to meet the requirements for the grade: *Provided*, that included in this tolerance not more than the following percentages shall be allowed for the defects listed:

(i) 7 percent for external defects;

(ii) 7 percent for internal defects;

(iii) Including therein not more than 2 percent for potatoes which are frozen or affected by soft rot or wet breakdown. See § 51.1547.

(3) *U.S. Commercial.* A total of 20 percent for potatoes in any lot which fail to meet the requirements for the grade: *Provided*, that included in this tolerance not more than the following percentages shall be allowed for the defects listed:

(i) 10 percent for potatoes which fail to meet the requirements for U.S. No. 2 grade, including therein not more than:

(ii) 6 percent for external defects;

(iii) 6 percent for internal defects; or,

(iv) Including therein not more than 1 percent for potatoes which are frozen or affected by soft rot or wet breakdown. See § 51.1547.

(4) *U.S. No. 2. At Shipping Point:* A total of 10 percent for potatoes in any lot which fail to meet the requirements for the grade: *Provided,* that included in this tolerance not more than the following percentages shall be allowed for the defects listed:

(i) 6 percent for external defects;

(ii) 6 percent for internal defects;

(iii) Including therein not more than 1 percent for potatoes which are frozen or affected by soft rot or wet breakdown.

(5) *En route or at Destination:* A total of 12 percent for potatoes in any lot which fail to meet the requirements for the grade: *Provided*, that included in this tolerance not more than the following percentages shall be allowed for the defects listed:

(i) 8 percent for external defects;

(ii) 8 percent for internal defects;

(iii) Including therein not more than 2 percent for potatoes which are frozen or affected by soft rot or wet breakdown. See § 51.1547.

* * * * *

■ 6. In § 51.1564, Table III is revised, and new Tables IV, V, and VI are added to read as follows:

### § 51.1564 External defects.

* * * * *

TABLE III.—EXTERNAL DEFECTS

| Defect | Damage | Serious damage |
|---|---|---|
| Air Cracks | When removal causes a loss of more than 5 percent of the total weight of the potato or when the air crack(s) affects more than ⅓ the length or diameter of the potato (whichever is greater) in the aggregate. | When removal causes a loss of more than 10 percent of the total weight of the potato or when the air crack(s) affects more than ¾ the length or diameter of the potato (whichever is greater) in the aggregate. |

TABLE III.—EXTERNAL DEFECTS—Continued

| Defect | Damage | Serious damage |
|---|---|---|
| Artificial Coloring | When unsightly or when concealing any defect causing damage or when penetrating the flesh and removal causes loss of more than 5 percent of total weight of potato. | When concealing a serious defect or when penetrating into the flesh and removal causes loss of more than 10 percent of total weight of potato. |
| Bruises (Not including pressure bruise and sunken discolored areas). | When removal causes a loss of more than 5 percent of the total weight of the potato or when the area affected is more than 5 percent of the surface in the aggregate (i.e. ¾ inch on a 2½ inch or 6 oz. potato). Correspondingly lesser or greater areas in smaller or larger potatoes. | When removal causes a loss of more than 10 percent of the weight of the potato or when the area affected is more than 10 percent of the surface in the aggregate (i.e. 1¼ inches on a 2½ inch or 6 oz. potato). Correspondingly lesser or greater areas in smaller or larger potatoes. |
| Cuts | When one smooth cut affects more than 5 percent of the surface area. | Cut(s) that affect more than 10 percent of the surface area in the aggregate or when a single side cut extends beyond ½ the length of the potato. |
| Dirt | When materially detracting from the appearance of the potato. | When seriously detracting from the appearance of the potato. |
| Elephant Hide | When affecting over 10 percent of the surface area of the potato. | When affecting over 25 percent of the surface area. |
| Enlarged Lenticels | When materially detracting from the appearance of the potato. | When seriously detracting from the appearance of the potato. |
| External Discoloration (Areas that are light tan or lighter in color and blends should be ignored). | When more than 30 percent of the surface is affected by light tan or light brown colors which do not blend or when more than 15 percent of the surface is affected by colors darker than light tan or light brown. | When more than 60 percent of the surface is affected by light tan or light brown colors which do not blend or when more than 30 percent of the surface is affected by colors darker than light tan or light brown. |
| Flattened or Depressed Areas/Pressure Bruises. | When removal of underlying discolored flesh causes a loss of more than 5 percent of the total weight of the potato or when the flattened or depressed area(s) covers more surface area than allowed in Table IV. (See Table IV.). | When removal of underlying discolored flesh the causes a loss of more than 10 percent of the weight of the potato or when the flattened depressed area(s) covers more surface area than allowed in the Table IV. (See Table IV.) |
| Flea Beetle Injury | When materially detracting from the appearance or when removal causes a loss of more than 5 percent of the total weight of the potato or when the area affected is more than 5 percent of the surface in the aggregate. | When seriously detracting from the appearance of the potato or when removal causes a loss of more than 10 percent of the weight of the potato or when the area affected is more than 10 percent of the surface in the aggregate. |
| Greening | When removal causes a loss of more than 5 percent of the total weight of the potato or when green color affects more than 25 percent of the surface in the aggregate. | When removal causes a loss of more than 10 percent of the weight of the potato or when green color affects more than 50 percent of the surface in the aggregate. |
| Growth Cracks | When the growth crack(s) affects more than ½ the length of the potato in the aggregate on round varieties or more than ⅓ the length in the aggregate on long varieties; or, when the depth is greater than that as outlined in Table V. (See Table V.). | When the growth crack(s) affects more than ¾ the of the length potato in the aggregate or when the depth is greater than that as outlined in Table V. (See Table V.) |
| Grub Damage | When removal causes a loss of more than 5 percent of the total weight of the potato or when affecting more than 5 percent of the surface area (i.e. more than ¾ inch on a 2½ inch or 6 ounce potato). Correspondingly lesser or greater areas in smaller or larger potatoes. | When removal causes a loss of more than 10 percent of the total weight of the potato or when affecting more than 10 percent of the surface area (i.e. more than 1¼ inch on a 2½ inch or 6 ounce potato). Correspondingly lesser or greater areas in smaller or larger potatoes. |
| Insects or Worms | (See Serious Damage.) | When present inside the potato. |
| Nematode (Root Knot) | When removal causes loss of more than 5 percent of total weight of potato. | When removal causes loss of more than 10 percent of total weight of potato. |
| Rhizoctonia | When affecting more than 15 percent of the surface in the aggregate. | When affecting more than 50 percent of the surface in the aggregate. |
| Russeting (On Non Russet Type). | When more than 50 percent of the surface is affected in the aggregate. | N/A. |
| Rodent or Bird Damage | When removal causes a loss of more than 5 percent of the total weight of the potato or when affecting more than 5 percent of the surface area (i.e. more than ¾ inch on a 2½ inch or 6 ounce potato). Correspondingly lesser or greater areas in smaller or larger potatoes. | When removal causes a loss of more than 10 percent of the total weight of the potato or when affecting more than 10 percent of the surface area (i.e. more than 1¼ inch on a 2½ inch or 6 ounce potato). Correspondingly lesser or greater areas in smaller or larger potatoes. |
| Scab, Pitted | When removal causes a loss of more than 5 percent of the total weight of the potato or when scab affects an aggregate area of more than ½ inch. (Based on a potato 2½ inches in diameter or 6 oz. in weight.) Correspondingly lesser or greater areas in smaller or larger potatoes. | When the removal causes a loss of more than 10 percent of the total weight of the potato or when scab affects an aggregate area of more than 1 inch. (Based on a potato 2½ inches in diameter or 6 oz. in weight.) Correspondingly lesser or greater areas in smaller or larger potatoes. |
| Scab, Russet | Smooth and affecting more than ⅓ of the surface or rough russet scab which affects more than 10 percent of the surface in the aggregate. | Rough and affecting more than 25 percent of the surface in the aggregate. |

TABLE III.—EXTERNAL DEFECTS—Continued

| Defect | Damage | Serious damage |
|---|---|---|
| Scab, Surface | When more than 5 percent of the surface in the aggregate is affected. | When more than 25 percent of the surface in the aggregate is affected. |
| Second Growth | When materially detracting from the appearance of the potato. | When seriously detracting from the appearance of the potato. |
| Silver Scurf | When affecting more than 50 percent of the surface area of the potato. | When its severity causes a wrinkling of the skin over more than 50 percent of the surface. |
| Sprouts | Not more than 5 percent of the potatoes in a lot may have individual or clusters of sprouts not more than ¼ inch at shipping point and ½ inch at destination. | Not more than 10 percent of the potatoes in a lot may have individual or clusters of sprouts not more than ½ inch at shipping point and 1 inch at destination. |
| Sunburn | When removal causes loss of more than 5 percent of total weight of potato. | When removal causes loss more than 10 percent of total weight of potato. |
| Sunken Discolored Areas | SEE TABLE VI | SEE TABLE VI. |
| Surface Cracks (Areas affected by fine net-like cracking should be ignored.). | When smooth shallow cracking affects more than ⅓ of the surface or when rough deep cracking affects more than 5 percent of the surface. | When rough deep cracking affects more than 10 percent of the surface. |
| Wireworm or Grass Damage | When affecting the flesh of the potato and removal causes loss of more than 5 percent of total weight of potato.. | When affecting the flesh of the potato and removal causes loss of more than 10 percent of total weight of potato. |

The following defects are considered serious damage when present in any degree: 1. Freezing. 2. Late blight. 3. Ring rot. 4. Southern bacterial wilt. 5. Soft rot. 6. Wet breakdown.

TABLE IV.—FLATTENED OR DEPRESSED AREAS—PRESSURE BRUISES MAXIMUM AREA ALLOWED

| Diameter | Weight | No. 1 (aggregate area) | No. 2 (aggregate area) |
|---|---|---|---|
| Potato is: | Potato is: | Not more than: | Not more than: |
| Less than 2 in | Less than 4 oz | ½ in | 1 in |
| 2 to 2½ in | 4 to 6 oz | 1 in | 1½ in |
| More than 2½ to 3 in | More than 6 to 8 oz | 1¼ in | 1¾ in |
| More than 3 to 3½ in | More than 8 to 14 oz | 1½ in | 1⅞ in |
| More than 3½ to 4 in | More than 14 to 20 oz | 1¾ in | 2 in |
| More than 4 to 4½ in | More than 20 to 28 oz | 2 in | 2¼ in |
| More than 4½ to 5 in | More than 28 to 36 oz | 2¼ in | 2¾ in |
| More than 5 in | More than 36 oz | 2½ in | 3¼ in |

TABLE V—DEPTH ALLOWED FOR GROWTH CRACKS

| Diameter | Weight | No. 1 (depth) | No. 2 (depth) |
|---|---|---|---|
| Potato is: | Potato is: | Not more than: | Not more than: |
| Less than 2 in | Less than 4 oz | ⅛ in | ¼ in |
| 2 to 2½ in | 4 oz to 6 oz | ¼ in | ⅜ in |
| More than 2½ to 3 in | More than 6 oz to 8 oz | ⅜ in | ½ in |
| More than 3 in | More than 8 oz | ½ in | ⅝ in |

TABLE VI.—SUNKEN DISCOLORED AREAS MAXIMUM AREA ALLOWED

| Diameter | Weight | No. 1 (aggregate area) | No. 2 (aggregate area) |
|---|---|---|---|
| Potato is: | Potato is: | Not more than: | Not more than: |
| Less than 2 in | Less than 4 oz | ⅜ in | ¾ in |
| 2 to 2½ in | 4 to 6 oz | ¾ in | 1 in |
| More than 2½ to 3 in | More than 6 to 8 oz | 1 in | 1¼ in |
| More than 3 to 3½ in | More than 8 to 14 oz | 1¼ in | 1½ in |
| More than 3½ to 4 in | More than 14 to 20 oz | 1½ in | 1¾ in |
| More than 4 to 4½ in | More than 20 to 28 oz | 1¾ in | 2 in |
| More than 4½ to 5 in | More than 28 to 36 oz | 2 in | 2¼ in |
| More than 5 in | More than 36 oz | 2¼ in | 2½ in |

■ 7. In § 51.1565, Table IV is redesignated as Table I and revised to read as follows:

**§51.1565 Internal Defects.**

* * * * *

TABLE I.—INTERNAL DEFECTS

| Defects | Damage maximum allowed | Serious damage maximum allowed |
|---|---|---|
| **Occurring outside of or not entirely confined to the vascular ring** | | |
| Ingrown Sprouts, Internal Discoloration, Vascular Browning, Fusarium Wilt, Net Necrosis, Other Necrosis, Stem End Browning. | 5 percent waste ..... | 10 percent waste. |
| Internal Black Spot ..... | When the spot(s) are darker than the official color chip (POT–CC–2) after removing 5 percent of the total weight of the potato. | When the spot(s) are darker than the official color chip (POT–CC–2) after removing 10 percent of the total weight of the potato. |
| **Occurring entirely within the vascular ring** | | |
| Hollow Heart or Hollow Heart with Discoloration. | Area affected not to exceed that of a circle ½ inch in diameter in a potato 2½–inches in diameter or 6 ounces in weight.[1] | Area affected not to exceed that of a circle ¾ inch in diameter in a potato 2½–inches in diameter or 6 ounces in weight.[1] |
| Light Brown Discoloration (Brown Center) ..... | Area affected not to exceed that of a circle ½ inch in diameter in a potato 2½–inches in diameter or 6 ounces in that of weight.[1] | Area affected not to exceed a circle ¾ inch in diameter in a potato 2–½ inches in diameter or 6 ounces in weight.[1] |
| **Occurring entirely within the vascular ring** | | |
| Internal Brown Spot and Similar Discoloration (Heat Necrosis). | Not more than the equivalent of 3 scattered spots ⅛ inch in diameter in a potato 2½–inches in diameter or 6 ounces in weight.[1] | Not more than the equivalent of 6 scattered spots ⅛ inch in diameter in a potato 2½–inches in diameter or 6 ounces in weight.[1] |

[1]Note: Correspondingly lesser or greater areas in smaller or larger potatoes.

**Authority:** 7 U.S.C. 1621–1627.

Dated: March 17, 2008.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 08–1058 Filed 3–18–08; 2:27 pm]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2007–0246; Airspace Docket No. 07–ASO–26]**

## Amendment of Class E Airspace; Danville, KY

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

**ACTION:** Direct final rule, request for comments.

**SUMMARY:** This action modifies Class E Airspace at Danville, KY. Additional airspace is required to support new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAPs) that have been developed for Stuart Powell Field Airport. This action enhances the safety and management of Instrument Flight Rule (IFR) operations in the area by providing the required controlled airspace to support these approaches around Danville, KY. This action also imparts a technical amendment to change the airport's name from Goodall Field Airport to Stuart Powell Field Airport.

**DATES:** Effective 0901 UTC, June 5, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments for inclusion in the Rules Docket must be received on or before May 5, 2008.

**ADDRESSES:** Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2007–0246; Airspace Docket No. 07–ASO–26, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

**FOR FURTHER INFORMATION CONTACT:** Daryl Daniels, Airspace Specialist, System Support Group, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 305–5581, Fax 404–305–5572.

**SUPPLEMENTARY INFORMATION:**

### The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on