

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 33 and 35

[Doc. No. AMS-FV-14-0099; FV15-33/35-1]

#### Regulations Issued Under Authority of the Export Apple Act and Export Grapes and Plums; Changes to Export Reporting Requirements; Withdrawal

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

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** This document withdraws a proposed rule to change the reporting of export certificate information under regulations issued pursuant to the Export Apple Act and the Export Grape and Plum Act. After reviewing and considering the comments received, the agency has decided not to proceed with this action.

**DATES:** As of October 5, 2017, the proposed rule published on December 5, 2016, at 81 FR 87486, is withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Shannon Ramirez, Compliance and Enforcement Specialist, or Vincent Fusaro, Compliance and Enforcement Branch Chief, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (202) 720-2491, Fax: (202) 720-8938, or Email: [Shannon.Ramirez@ams.usda.gov](mailto:Shannon.Ramirez@ams.usda.gov) or [Vincent.Fusaro@ams.usda.gov](mailto:Vincent.Fusaro@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This withdrawal is issued under the Export Apple Act (7 U.S.C. 581-590) and the Export Grape and Plum Act (7 U.S.C. 591-599) (together hereinafter referred to as the "Export Fruit Acts"). The Export Fruit Acts promote foreign trade of fruit grown in the United States by authorizing the implementation of regulations related to quality, container markings, and inspection requirements. These regulations are contained in 7 CFR part 33 (Regulations Issued under the Export Apple Act) and 7 CFR part 35 (Export Grapes and Plums).

This action withdraws a proposed rule published in the **Federal Register** on December 5, 2016, (81 FR 87486) and reopened for further comment on January 23, 2017, (82 FR 7733) and February 23, 2017, (82 FR 11413) on changes to the reporting of export certificate information under regulations issued under the Export Fruit Acts. Specifically, the proposed rule would have required shippers of apples and grapes exported from the United States that are subject to inspection to enter the certificate number from inspection certificates (*i.e.*, Export Form Certificates) into the Automated Export System (AES). For apples shipped to Canada in bulk containers, which are exempt from inspection requirements, shippers would have been required to enter a special exemption code defined by the Department of Agriculture (USDA) in lieu of entering an Export Form Certificate number. Shippers would also have been required to maintain paper or electronic copies of the certificates and to provide copies of the certificates to the Agricultural Marketing Service (AMS) upon request. AMS is responsible for monitoring apple and grape export shipments, and these proposed regulatory changes would help ensure that these shipments comply with inspection and certification requirements.

In addition, the proposed rule would have defined "shipper" and removed the requirement that carriers of exported apples and grapes retain certificates on file (because the requirement to retain the certificates would have shifted to shippers of exported apples and grapes). It would have also removed regulations that are no longer applicable to grape exports and would have added structure and language to clarify the regulations.

Plums are not currently regulated under the Export Grape and Plum Act; therefore, this change would not have impacted shipments of plums exported from the United States.

During the proposed rule's initial 30-day comment period (December 5, 2016, through January 4, 2017), six comments were received. Two of those comments included requests to extend the comment period. To allow further public review of the proposed changes, USDA reopened the comment period for 60 days on January 23, 2017, and then further extended the comment period for an additional 30 days, through April

24, 2017. Four comments were received during the reopened comment period. Two comments were also received on May 1, 2017, one week after the close of the comment period (these two comments, which were in letter form, were dated before the end of the comment period: March 22, 2017, and April 10, 2017). All the comments may be viewed on the internet at <http://www.regulations.gov>. Of the twelve comments received, two requested an extension of the initial comment period (as noted above), five were in support, and five were opposed.

In summary, the five supporting comments were generally brief and in favor of the proposed changes. The opposing comments detailed concerns about the impact of the proposed changes on shippers, specifically, and the export industry, generally. Some commenters noted that the changes would result in a substantive increase in burden and costs to shippers without adding quality benefits, stating that this could lead to reduced efficiency and vitality of export operations. One commenter indicated that requiring a shipper to maintain the export certificates on file would be a duplication of recordkeeping, because those same certificates are maintained for five years by the commenter's state agricultural department. Another commenter noted that the changes would represent a major barrier to trade because of the complicated logistics of ocean shipments of exported apples and could cause economic harm.

Some commenters stated that the proposed rule did not contain quantifiable data that demonstrated non-compliance with the existing requirements, observing that shipments appear to have been properly inspected and certified for years without the proposed additional monitoring to ensure compliance with these requirements. One commenter questioned using a special USDA-defined code in AES for exempt bulk shipments of apples to Canada because it appears to be a temporary workaround that would be used only until a new harmonized tariff code could be developed to identify these exempt shipments; the commenter suggested delaying the change until a permanent solution was developed in light of the non-urgent nature of the change. Some commenters also raised issues about the

entry of information in AES, such as whether shipments bound for Canada require such entry and that it is a shipper's agent or freight forwarder—not a shipper—who enters data into AES. One commenter also recommended that the proposed "shipper" definition be more descriptive to provide further clarity in the regulations.

Given the opposing comments received, AMS has determined that the proposed rule changing the reporting requirements under the Export Fruit Acts should not be finalized. AMS intends to conduct outreach with export industry stakeholders and consider other compliance monitoring activities as it reconsiders whether changes will be proposed in the future. Accordingly, the proposed rule to change the reporting of export certificate information under regulations issued pursuant to the Export Fruit Acts published in the **Federal Register** on December 5, 2016, (81 FR 87486) is hereby withdrawn.

#### List of Subjects in 7 CFR Part 33

Apples, Exports, Pears, Reporting and recordkeeping requirements.

**Authority:** 48 Stat. 124; 7 U.S.C. 581–590.

#### List of Subjects in 7 CFR Part 35

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

**Authority:** 74 Stat. 734; 75 Stat. 220; 7 U.S.C. 591–599.

Dated: September 28, 2017.

**Bruce Summers,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2017–21183 Filed 10–4–17; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2017–0523; Airspace Docket No. 17–ACE–9]

#### Proposed Amendment of Class E Airspace; Fort Scott, KS; and Phillipsburg, KS

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to modify Class E airspace extending upward from 700 feet above the surface

at Fort Scott Municipal Airport, Fort Scott, KS, and Phillipsburg Municipal Airport, Phillipsburg, KS. The FAA is proposing this action due to the decommissioning of the Fort Scott non-directional beacon (NDB) and the Phillipsburg NDB and the cancellation of the associated instrument approach procedures. This action would enhance the safety and management of instrument flight rules (IFR) operations at these airports.

**DATES:** Comments must be received on or before November 20, 2017.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2017–0523; Airspace Docket No. 17–ACE–9 at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [http://www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator.

Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 700 feet above the surface at Fort Scott Municipal Airport, Fort Scott, KS, and Phillipsburg Municipal Airport, Phillipsburg, KS, to support IFR operations at these airports.

#### 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, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers 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 Docket No. FAA–2017–0523/Airspace Docket No. 17–ACE–9." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified 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 the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at [http://www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received, and any final disposition in