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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Doc. No. AMS–SC–23–0009]

RIN 0581–AE32

Section 8e Import Inspection Fee Structure

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) is revising the regulations governing the inspection and certification for fresh fruits, vegetables, and other products by amending certain fees charged for Section 8e import inspections from a per-carlot basis to a per-pound basis, reducing the fee for each additional subplot by 50 percent, and establishing a new fee calculation for lots less than a carlot. These revisions recover, as nearly as practicable, the costs of performing inspection services on imported commodities in accordance with the Agricultural Marketing Agreement Act of 1937.

DATES: Effective January 29, 2025.

FOR FURTHER INFORMATION CONTACT: The Standardization Branch, Specialty Crops Inspection Division, Specialty Crops Program, Agricultural Marketing Service, U.S. Department of Agriculture, National Training and Development Center; 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406; fax: (540) 361–1199, or via the internet at: <https://www.regulations.gov>.

SUPPLEMENTARY INFORMATION: This document amends regulations at 7 CFR part 51 issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended.

Executive Orders 12866, 13563, and 14094

The USDA is issuing this rule in conformance with Executive Orders 12866, 13563, and 14094. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 reaffirms, supplements, and updates Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. This final rule falls within a category of regulatory actions that the Office of Management and Budget (OMB) has exempted from review under Executive Order 12866.

Executive Order 13175

This rule has been reviewed under Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” which requires agencies to consider whether their rulemaking actions would have Tribal implications.

AMS has determined that this rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, “Civil Justice Reform.” This action is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Background

On June 20, 2024, a proposed rulemaking was published in the **Federal Register** (89 FR 51850) providing a 60-day comment period for interested parties to comment on proposed changes to Section 8e import inspection charges and revisions to the

fee structure of the Specialty Crop Inspection Division (Division). One comment in support of the proposal was received. Prior to developing proposed revisions to the Section 8e fee structure, AMS engaged in discussions with State partners including Association of Fruit and Vegetable Inspection and Standardization Agencies (AFVISA) members and the Texas Cooperative Inspection Program (TCIP), as well as industry stakeholders. The outcome of those discussions was a positive perception of the fee changes as proposed. AMS is adopting the proposed rulemaking with no changes. Through this final rule, AMS will charge for certain Section 8e import inspections on a per-pound basis and implement additional revisions to the fee structure of the Division.

Currently, fees for all terminal market inspections, including Section 8e import inspections, are charged on a carlot basis (7 CFR 51.37). The current single carlot fee structure charges per conveyance and does not account for sampling and inspection time required for today’s larger conveyances transporting larger volumes. Under this final rule, the fees for Section 8e import inspections for lots qualifying as a full carlot (or a whole lot) or for lots less than a full carlot will no longer be calculated on a per-carlot basis. Instead, those fees will be calculated on a per-pound rate basis. The per-pound fee structure will better ensure full recovery of inspection cost by AMS while mitigating the financial impact on applicants of additional subplot fees.

The per-pound rate will be calculated by dividing the current inspection fee for a full carlot by the average weight by pound of a full carlot (40,000 pounds) (for example: the current inspection fee for a full carlot (\$254) divided by 40,000 will result in a per-pound rate of \$0.00635). The Division will use 40,000 lbs. as the appropriate measurement for calculating the per-pound rate. AMS notes that 40,000 pounds is generally recognized as the standard weight of the measurement used in USDA–AMS inspection practices when identifying a full carlot.

Additionally, AMS will have two separate subplot (or additional lot of the same product) fees: one for Section 8e sublots and one for non-Section 8e sublots. For example, under this rule, the fee for a Section 8e subplot is reduced

by 50 percent, from the current \$116 per subplot fee (the FY 2025 rate) to \$58 per subplot. All non-8e inspection fees remain unchanged by this rule. The per-pound rate for a full carlot or for lots less than a full carlot, and the 8e subplot fee, are subject to the annual updated Specialty Crops Program’s inspections fee schedule.

Under this rule, for all Section 8e import inspections, AMS will apply the current lot separation and sampling rates at 7 CFR 51.2(d)(1) through (3). To calculate inspection fees for a full carlot, AMS will multiply the current per-pound rate, using the calculation as noted above, by the total weight of the full carlot, plus any applicable subplot fees. To calculate the inspection fee for lots less than a carlot, AMS will multiply the current per-pound rate, using the per-pound rate calculation as noted above, by the total weight of the lot, with a minimum charge equivalent

to 2-hours computed at the current established hourly rate, whichever is greater, plus any subplot fee(s) as applicable. As shown in Table 1, applicants importing typical 40,000-pound loads comprising one lot will see no change in inspection fees under this new rule. Table 2 shows that larger size loads, which typically require increased sampling and inspection, will see a proportional increase in fees under this new rule. However, loads currently subject to additional subplot fees will see a significant decrease in fees per subplot under this new rule. The fee calculation changes under this final rule more accurately assess fees on inspected volume, better aligning the Division’s ability to ensure cost recovery while significantly reducing additional subplot fees charged to applicants. The following comparison of the Section 8e fee structure is based on FY 2025 fees. Any increase or decrease to Section 8e

fees will be included in the annual fee structure package in subsequent years.

Columns 1 and 2 of Table 1 compare the currently scheduled FY 2025 fee structure to the new fee structure for a standard 40,000-pound lot. As shown in row 1, column 1, the currently scheduled FY 2025 fee structure for one lot is \$254. Row 1, column 2 shows that under the new fee structure, the fee for one lot will remain at \$254 but will be expressed at the per pound rate of \$0.00635 (multiplied by 40,000 pounds).

Column 1 (rows 2 through 5) shows that without the new fee structure, the inspection fee for each additional 40,000-pound increases by \$116. Column 2 shows that with the new fee, the incremental cost per additional lot will be cut in half to \$58. Column 3 shows the cost savings for additional lots.

TABLE 1—SCI SEC. 8e INSPECTION FEES FOR STANDARD 40,000 POUND LOT: COMPARISON OF FY 2025 FEE TO NEW FEE STRUCTURE
[Showing reduced cost for additional lots]

Number of lots	FY 2025 fee	New fee ¹	Reduced cost to importer applicant
	(1)	(2)	(3)
1	\$254	\$254	\$0.
2	\$370	\$297	\$58.
3	\$486	\$355	\$116.
4	\$602	\$413	\$174.
5	\$718	\$471	\$232.
Each additional subplot	Plus \$116	Plus \$58	\$58 savings per additional subplot.

¹ The fee for one standard lot under this rule is \$254, unchanged from the FY 2025 fee, but will be expressed as the per-pound equivalent of \$0.00605. (\$254 inspection cost per 40,000-pound lot divided by 40,000 pounds equals \$0.00635 per pound). Each additional lot will cost an additional \$58, a 50% reduction from the FY 2025 incremental cost of \$116.

Table 2 shows the new fee structure for alternative lot sizes under this final rule. Row 2 shows again that the 40,000-pound lot fee will remain \$254. Row 3 shows that for a 50,000-pound lot, the \$317.50 inspection fee will be

determined by multiplying the proposed per-pound rate (\$0.00635) by 50,000 pounds. Row 1 shows that for any lot weighing less than 40,000 pounds, the applicable fee will be a 2-hour minimum charge at the currently

established FY 2025 hourly inspection rate of \$123 (\$123 multiplied by 2 equals \$246). Any increase or decrease to the hourly inspection rates will be included in the annual fee structure package in subsequent years.

TABLE 2—SCI 8e INSPECTION FEES FOR ALTERNATIVE LOT SIZES
[Proposed inspection rate per pound]

	Alternative lot sizes	Pounds per lot	Inspection fee per lot ^{1 2}
1	Less than full (standard) lot	(¹)	\$246.00 minimum.
2	Standard Lot	40,000	\$254.00.
3	Lot 25% larger than standard	50,000	\$317.50.

¹ For lots less than a standard lot, the fees are computed by multiplying pounds per lot by rate per pound (\$0.00635) with a minimum charge equivalent to 2-hours applied at the current established FY 2025 hourly inspection rate of \$123.

² Inspection fee per lot for standard lot or larger ((2) and (3)) are computed by multiplying pounds per lot by rate per pound (\$0.00635).

Final Regulatory Flexibility Analysis

Pursuant to the requirement set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS provides this final regulatory flexibility analysis. 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 action described herein is being taken for several reasons, including that additional user fee revenues are needed to cover the costs of (1) providing current program operations and services; (2) improving the timeliness in

which inspection services are provided; and (3) improving the work environment. AMS regularly reviews its user-fee financed programs to determine if the fees are adequate.

This rule revises the regulations governing the inspection and certification for fresh fruits, vegetables, and other products by increasing certain

fees charged for Section 8e import inspections on a per-pound basis. These revisions recover, as nearly as practicable, the costs of performing inspection services on imported commodities in accordance with the Agricultural Marketing Agreement Act of 1937.

Since the inspection fees to be charged under this final rule's new rate structure are proportional to size of lots, smaller businesses (importers) are not unduly or disproportionately burdened.

This new fee structure, for imports subject to Section 8e grading requirements, balances cost increases (for lots larger than 40,000 pounds) with cost decreases for additional sublots. The fee for a standard 40,000-pound lot remains unchanged.

Tables 3 and 4 show the impact on the nine Section 8e commodities affected by this rule, using data from USDA's Compliance Enforcement Management System (CEMS) database, which lists the weight of each lot

inspected over the three-year period FY 2021 through FY 2023. Table 3 puts the number of inspections into two categories: column 1 shows the number of lots that weighed 40,000 pounds or less, and column 2 shows the number of lots that weighed more than 40,000 pounds. Column 3 presents the sum of columns 1 and 2. The last row of column 3 shows that the total number of inspections for the three-year period was 611,475.

TABLE 3—8e COMMODITIES IMPORTED: NUMBER OF INSPECTIONS, CATEGORIZED BY SIZE OF LOT INSPECTED, USING 40,000-POUND STANDARD LOT SIZE THRESHOLD [FY2021–FY2023¹]

	≤40,000 lbs. per lot	>40,000 lbs. per lot	Total inspections	Pct of total inspections (percent)	Cumulative percent
	1	2	3	4	5
Avocados	395,812	64,139	459,951	75.2	75.2
Onions	17,026	51,918	68,944	11.3	86.5
Grapes	35,434	5,445	40,879	6.7	93.2
Oranges	9,955	8,219	18,174	3.0	96.2
Kiwifruit	8,208	7,358	15,566	2.5	98.7
Tomatoes	3,925	33	3,958	0.6	99.3
Grapefruit	2,314	1,051	3,365	0.6	99.90
Filberts	240	109	349	0.1	99.95
Potatoes	193	96	289	0.05	100.0
9 commodities	473,107	138,368	611,475

¹Source: Compliance Enforcement Management System (CEMS) database, Market Development Division, Specialty Crops Program, Agricultural Marketing Service, USDA.

TABLE 4—8e COMMODITIES IMPORTED: PERCENT OF INSPECTIONS, CATEGORIZED BY SIZE OF LOT INSPECTED, USING 40,000-POUND STANDARD LOT SIZE THRESHOLD [FY2021–FY2023]

	≤40,000 lbs. per lot (%)	>40,000 lbs. per lot (%)
Avocados	86	14
Onions	25	75
Grapes	87	13
Oranges	55	45
Kiwifruit	53	47
Tomatoes	99	1
Grapefruit	69	31
Filberts	69	31
Potatoes	67	33
9 commodities	77	23

Table 4 shows that for all nine commodities combined, 77 percent of the inspections would have had equal or lower fees if charged with the new fee structure. Twenty-three percent of the lots would have been subject to higher fees. Looking at individual years (not shown), the percentage of inspections representing lots weighing 40,000 pounds or less for FY 2021, FY 2022 and FY 2023 was 73, 75, and 80 percent, respectively. Therefore, for a large majority of annual inspections, the cost per individual inspection would have

been the same or lower than with the previous fee system in place.

The impacts of the revised fee structure vary significantly by commodity. Table 4 shows that for six of the nine commodities, at least two thirds of the lots inspected would have had equal or lower fees (*i.e.*, lots weighing 40,000 pounds or less—avocados, grapes, tomatoes, grapefruit, filberts, potatoes) under the revised fee structure. One commodity, onions, would have had the opposite result, with 25 percent of lots seeing lower

fees, and 75 percent higher. This variation would be offset by the onion industry's prevalence of additional sublots in inspections. See Table 1, "SCI Sec. 8e Inspection Fees for Standard 40,000 Pound Lot: Comparison of FY 2025 Fee to New Fee Structure, Showing Reduced Cost for Additional Lots." For oranges and kiwifruit, the results were about even; slightly more than 50 percent of the lots weighed equal to or less than 40,000 pounds and, therefore, would have been subject to lower fees.

This analysis assumes that each lot is sampled and inspected independently. This may overstate the extent of higher fees because under the new fee structure the cost declines for each additional subplot, as shown in Table 1. To the extent that the lots for which fees were charged in the CEMS database are actually sublots associated with an inspected lot from a particular importer, the value in Table 4, column (2) (*i.e.*, for lots more than 40,000 pounds) overstates the percentage of lots that would have been subject to a higher fee.

It is also important to note that certain commodities represented larger proportions of the lots inspected, as shown in columns (4) and (5) of Table 3. Just over 75 percent of the inspected lots were for avocados. Adding the next four commodities in terms of the magnitude of total inspections (onions, grapes, oranges, and kiwifruit) raises the cumulative percentage up to nearly 99 percent. Four commodities (tomatoes, grapefruit, filbert, and potatoes) represented about 1.3 percent of the total number of lots inspected.

This analysis shows that the fee impacts vary by commodity, with smaller fees per inspected lot expected for eight of the nine commodities, suggesting that for a large majority of annual inspections the cost per individual inspection would be the same or lower than with the fee system that would otherwise be in place in FY 2025 and future years.

Comments

AMS received one comment from the Texas International Produce Association (TIPA) in full support of implementing this rule, noting the changes not only help prevent increased food prices but also reflects a modernization of the fresh produce industry.

USDA has determined that this rule is consistent with and will effectuate the purpose of the Agricultural Marketing Act of 1946. Therefore, AMS is amending certain fees charged for Section 8e import inspections from a per-carlot basis to a per-pound basis, reducing the fee for each additional subplot by 50 percent, and establishing a new fee calculation for lots less than a carlot.

List of Subjects in 7 CFR Part 51

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

For reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 51 as follows:

PART 51—FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

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

Authority: 7 U.S.C. 1621—1627.

■ 2. Revise § 51.37 to read as follows:

§ 51.37 Charges for fees, rates, and expenses.

For each carlot of product inspected, a fee or rate determined in accordance with §§ 51.38, 51.39, and 51.40, and expenses determined in accordance with § 51.41, shall be paid by the applicant.

§§ 51.39 through 51.62 [Redesignated as §§ 51.40 through 51.63]

■ 3. Redesignate §§ 51.39 through 51.62 as §§ 51.40 through 51.63 as follows:

Old section	New section
Schedule of Fees and Charges at Destination Markets (undesigned center heading)	
§ 51.37 (unchanged)	§ 51.37 (unchanged).
§ 51.38 (unchanged)	§ 51.38 (unchanged).
§ 51.39	§ 51.40.
§ 51.40	§ 51.41.
§ 51.41	§ 51.42.
§ 51.42	§ 51.43.
§ 51.43	§ 51.44.
§ 51.44	§ 51.45.

Schedule of Fees and Charges at Shipping Point Areas (undesigned center heading)

§ 51.45	§ 51.46.
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Miscellaneous (undesigned center heading)

§ 51.46	§ 51.47.
§ 51.47	§ 51.48.
§ 51.48	§ 51.49.
§ 51.49	§ 51.50.
§ 51.50	§ 51.51.
§ 51.51	§ 51.52.
§ 51.52	§ 51.53.

Requirements for Plants Operating Under Continuous Inspection on a Contract Basis (undesigned center heading)

§ 51.53	§ 51.54.
§ 51.54	§ 51.55.
§ 51.55	§ 51.56.
§ 51.56	§ 51.57.
§ 51.57	§ 51.58.
§ 51.58	§ 51.59.
§ 51.59	§ 51.60.
§ 51.60	§ 51.61.
§ 51.61	§ 51.62.
§ 51.62	§ 51.63.

■ 4. Add new § 51.39 to read as follows:

§ 51.39 Charges for fees and rates for 8e import inspection.

(a) *8e import inspection fees charged on a per-pound basis.*—(1) *Establishing the per-pound inspection rate.* To compute the per-pound inspection rate, divide the current per-lot inspection fee for a full carlot (whole lot) by 40,000 (the generally accepted weight by pound of a full carlot).

(2) *Applying the per-pound rate.* The per-pound inspection rate shall be applied to the following lot sizes as follows:

(i) For a full carlot, multiply the per-pound rate by the total weight of the full carlot plus any applicable fees for additional lots of the same product as described in paragraph (b) of this section.

(ii) For lots less than a full carlot, multiply the per-pound rate by the total weight of the lot with a minimum fee equivalent to a 2-hour charge computed at the current established hourly rate, whichever is greater, plus any applicable fees for additional lots of the same product as described in paragraph (b) of this section.

(b) *8e import inspection fees charged on additional lots of the same product.* To compute the inspection fee for additional lots of the same product, multiply each additional lot by one-half of the current non-8e additional lot of the same product inspection fee.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–31144 Filed 12–27–24; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 20, 26, 50, 51, 55, 73, 140, 170, and 171

[NRC–2011–0087]

RIN 3150–AI96

Non-Power Production or Utilization Facility License Renewal

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule and guidance; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations that govern the license renewal process for certain production or utilization facilities. In this final rule, the NRC collectively refers to these facilities as non-power production or utilization facilities (NPUFs). This final