Achievement of Market-Friendly Initiatives and Results Program
(AMIR 2.0 Program)

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Conduct Review of Agricultural Law, Regulations, National Agricultural Strategy and Associated Laws Impacting on the Work of the Trade Agreement Unit (TAU) of the Ministry of Agriculture. Deliver Training Program on Contract Language & Negotiation Skills.

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Acronyms

FTA	Free Trade Agreement (US-Jordan)
GDP	Gross Domestic Product
GOJ	Government of Jordan
HRD	Human Resources Development
IPR	Intellectual Property Rights
IT	Information Technology
MIT	Ministry of Industry and Trade
MOA	Ministry of Agriculture
MOH	Ministry of Health
MTP	Medium Term Plan
PVP	Plant Variety Protection
PVPO	Plant Variety Protection Office
SPS	Sanitary and Phyto-Sanitary
TAU	Trade Agreement Unit (of MOA)
TRIPS	Trade Related Intellectual Property Rights
UPOV	Union for Protection of Plant Varieties
USPTO	United States Patent & Trademark Office
WANA	West Asia & North Africa
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

EXECUTIVE SUMMARY

The Government of Jordan has embraced the new open market environment and is in the process of making a wide range of structural reforms to position itself for increased economic growth and sustainable development.

While much of that growth will come in the goods and services sectors there is also a contribution to be made in the area of agriculture. Given the crucial role that agriculture still plays in rural areas this transformation must be achieved through adding value to the current agricultural sector. Of particular importance is a respect for the critical water situation of Jordan. The goal must be "more crop per drop" or "more dinars/dollars per drop" as the mantra of this agricultural transformation.

Jordan became the 136th member of the WTO in April 2000, just as a new round of formal agricultural trade liberalization negotiations commenced in special sessions of the WTO Committee on Agriculture. Negotiations are currently taking place on the 'modalities' or numerical targets and formulas for countries' commitments in the areas of market access, export subsidies, and domestic support. These 'modalities are to be agreed by 31 March 2003.

In September 2002 the Government of Jordan enacted a new Agriculture Law to reflect the changing agricultural policy environment, and to enable Jordan to use its comparative advantages to develop a vibrant agricultural sector in a water poor country. The shift in emphasis in agriculture is also sensitive to the crucial role that agriculture plays in the rural employment sector. The full implementation of the new Law will require over 25 sets of regulations to be drafted and approved by the cabinet. A number of WTO compliance issues will flow from the nature and details of these Regulations. This report divides the Regulations into various sections: the first reviews existing new Regulations that were drafted either by the MOA or by previous AMIR consultants. These Regulations were reviewed and edited in detail. The "final" form of these Regulations is included, however AMIR Program staff have also been provided with word versions of the detailed edits. The second section deals with Regulations that are still being drafted by the MOA. The consultant has included language and citations to the relevant US Regulations as potential indicators of matters to be addressed. Great care must be exercised in the customization of these Regulations to the Kingdom of Jordan both in terms of legal applicability, and in terms of the relevance of the Regulations to the specific agro-ecology of the country.

In close coordination with the New Agriculture Law in September 2002 the Government of Jordan also began the implementation of a new National Agricultural Strategy. This Strategy was commissioned by HRH the King of Jordan and shapes a new future for the focus of agriculture in the Kingdom. The implementation of the New Agricultural Law and its Regulations will serve as a crucial tool for the new National Strategy. As will be indicated later in more detail there is true synergy and consistency between the New Law and the Strategy. Furthermore as will be seen many elements of the new strategy focus on the opportunities that can be created through open markets and focusing on production on those areas and commodities where Jordan has a clear comparative advantage.

As part of this new orientation of the MOA, the National Strategy allows the productive agricultural sector to focus on specific areas of action. These focus areas

then feed into the potential for Jordan to be an active player in the WTO negotiations on the Round on Agriculture. A role that Jordan has already assumed in part due to support and encouragement from the AMIR program.

The Ministry of Agriculture in Jordan has already submitted in November 2002 its position on these negotiating 'modalities'. The Ministry has also prepared and is implementing a Country Negotiating Position. There is a need to translate Jordan's agricultural priorities into an appropriate negotiating position dealing with each of the 'modalities' agenda items. There is also a need to improve the negotiation skills of the staff of the Trade Agreements Unit to take advantage of the current negotiating opportunity.

A crucial part of the development and implantation of a negotiating position at WTO is the capacity of MOA and MIT staff to clearly draft documentation; establish a principled position based on data, and an ability to work with others to develop a satisfactory outcome based on principled negotiation rules. As a way of assisting this process of language development and principled negotiation consultant prepared a series of handouts and case studies in order to implement an in country training program in December 2002. The workshop allowed approximately 12 staff from the MOA and MIT to work through a series of exercises that gave an introduction to the principles involved. It also allowed them to use an actual situation regarding the WTO round as an example.

The consultant was also able to review the implementation status of the Plant Variety Protection (PVP) Office within the MOA. As will be shown later in more detail the MOA has been diligent in moving this matter forward both from a legislative and a staffing standpoint. It is expected that the Office will become fully operational and start to receive applications by around June 2003. This is an important action since there is specific language pertaining to the implementation of PVP protection mechanisms in the US-Jordan Free Trade Agreement (FTA).

Chapter 1: Introduction

The Government of Jordan has embraced the new open market environment and is in the process of making a wide range of structural reforms to position itself for increased economic growth and sustainable development.

While much of that growth will come in the goods and services sectors there is also a contribution to be made in the area of agriculture. Given the crucial role that agriculture still plays in rural areas this transformation must be achieved through adding value to the current agricultural sector. Of particular importance is a respect for the critical water situation of Jordan. The goal must be "more crop per drop" or "more dinars per drop" as the mantra of this agricultural transformation.

Jordan became the 136th member of the WTO in April 2000, just as a new round of formal agricultural trade liberalization negotiations commenced in special sessions of the WTO Committee on Agriculture. The "Agreement on Agriculture" WTO document is attached in Annex [A]. Jordan submitted a Negotiating Proposal on 22 March 2001 (G/AG/NG/W/140) outlining its broad interests in agricultural trade. Negotiations are currently taking place on the 'modalities' or numerical targets and formulas for countries' commitments in the areas of market access, export subsidies, and domestic support. These 'modalities are to be agreed by 31 March 2003. Countries will use the so-called 'modalities' as they produce their first offers or 'comprehensive draft commitments' by the Fifth Ministerial Conference in Mexico in 10-14 Sept 2003.

The Ministry of Agriculture in Jordan has already submitted in November 2002 its position on these negotiating 'modalities'. The Ministry has also prepared and is implementing a Country Negotiating Position. There is a need to translate Jordan's agricultural priorities into an appropriate negotiating position dealing with each of the 'modalities' agenda items. There is also a need to improve the negotiation skills of the staff of the Trade Agreements Unit to take advantage of the current negotiating opportunity.

Between 2001 and 2002 the Ministry of Agriculture was elaborating a new and comprehensive National Agricultural Strategy. The vision of this document is profound and offers the Kingdom an opportunity to reshape its agricultural sector.

In September 2002 the Government of Jordan enacted a new Agriculture Law to reflect the changing agricultural environment. The Agricultural Law of 2002 will allow for the direct implementation of many of the aspects of the Agricultural Strategy. The new Law requires over 25 sets of regulations to be drafted and approved by the cabinet in order to effectively implement the revised or new authorities set out in the Law. A number of WTO compliance issues will flow from the nature and details of these Regulations.

The consultant has worked closely with the MOA to initiate a process for the preparation and or refinement of these new regulations. The consultant has evaluated those regulations that were already prepared and edited versions are available in the annexes. There will still be a need for review of the additional regulations once initially drafted by the sub committees established within the MOA.

A section is included in this report that evaluates the New Agricultural Strategy, and identifies a few areas where WTO compliance issues may stem from the direct implementation of the language as written. The tool however for the implementation of the strategy will be the Agriculture Law of 2002; a Law which in the opinion of the consultant is consistent with WTO norms and procedures.

There is also a need to identify key implementation and compliance issues, together with a suggested timetable for implementation of the new Agriculture Law given Jordan's WTO commitments and other relevant economic constraints.

It is also appropriate to review the current status of implementation of the Plant Variety Protection (PVP) office. Much progress has been made and an effective PVP Office will be officially implemented in approximately June 2003.

During an earlier consultancy there was discussion as to the importance of Jordan asserting its position regarding the social and economic benefits that Jordan may accrue through negotiation with WTO. This is in part reflected in the concept of "multifunctional land use" an important discussion platform within the agriculture round of WTO negotiations. In some measure, as a result of these discussions the MOA together with the Jordan delegation to WTO presented a specific input to the special session of the committee on agriculture held on November 18-20 2002.

As part of this focus on negotiation strategies it was therefore very timely to offer to both the MIT and the MOA a short workshop on drafting and negotiating skills. This workshop was held from December 10-12, 2002. It was a mixture of formal lectures and small negotiating exercises; all based on real life agricultural situations.

Chapter 2. National Agriculture Strategy

2.1: WTO Compliance Matters Relating to the Agricultural Law and the National Agricultural Strategy.

The consultant had the opportunity to review the Agricultural Law and the New National Agricultural Strategy document both as a lawyer for WTO compliance matters, and as an agricultural professional with experience in dry land agriculture.

New Agricultural Law Issues

The Agricultural Law in general terms seems to have benefited greatly from previous feedback that was provided to the MOA by the AMIR program. Many draft articles that were in earlier copies of the legislation have been amended or deleted. This is particularly true to language that would have allowed the ministry to provide subsidies in times of hardship. It is the opinion of the consultant that the New Agriculture Law is to all reasonable interpretations substantially compliant with the WTO framework. In the opinion of the consultant there are only two Articles that are worthy of highlighting as still being potentially problematic in relation to WTO compliance:

Article 13: This addresses the issue of movement of genetic resources. The 'biodiversity' issue has become a very politicized and contentious area in recent years. A new International Treaty on Plant Genetic Resources was adopted by FAO in 2002. This topic will clearly be discussed in more detail at the upcoming WTO Agriculture Round. The wording of this Article is not problematic as per "compliance", but will undoubtedly be further addressed. It is the understanding of the consultant that the MOA is currently working with UNDP and FAO in the drafting of new genetic resource legislation. Care will need to be exercised that such new legislation in internally consistent with the New Agriculture Law and with the existing PVP Law. A further twist to the genetic resource legislation that will bring some interesting discussions is that FAO is trying to assist in the drafting of this on a regional basis, ensuring consistency with genetic resource legislation in Lebanon, Syria and Palestine.

Article 60: This article could have potential compliance problems; particularly in relation to subsection 2 where it indicates that the Ministry of Agriculture will "establish quantities that are imported from the agricultural products; prices of importation, and prices in the country of origin as well as prices on the local markets". If this is primarily seen as an 'anti-dumping' provision then it may pass muster, if however it is seen simply as interventionist there will be future problems. It will be valuable for the MOA to establish clear indicators and benchmarks as to how and when they see this article being triggered. The rules must be transparent and there will be notification requirements associated with this action.

The consultant wishes to be on record as indicating again his satisfaction with the basic body of the New Agricultural Law. It is well drafted, has taken FULLY into account the comments and suggested language of the consultant, and Kim Hjort and others.

Agricultural Strategy Issues

As indicated earlier, the MOA is undergoing a substantial reshaping of its focus, programs and activities. The primary mechanism and driving force to these changes is The National Strategy on Agricultural Development (2002-2010). This new National Strategy was prepared by the Committee of Agriculture at the request of His Majesty the King through the Advisory Economic Council. The committee deliberated from June 2001 and presented its report in April 2002. The Ministry of Agriculture is now in the process of implementing the Strategy. In the opinion of the consultant the Agriculture Law and its Regulations are a crucial component to the implementation of the strategy.

The consultant is highly impressed by the quality of the National Strategy Document. It is well written, and more importantly well thought through and realistic. The document is pragmatic as to the role of agriculture in the economy, but is sensitive to some key issues that face Jordanian Agriculture.

In the opinion of the consultant, the key elements that the strategy addresses that are crucial to the AMIR program are as follows:

1. The document reflects a realistic assessment of water needs and supplies, so as to maximize agricultural output / income within the limits of the availability of that resource to agriculture.
2. The document addresses not only the economic aspects of agriculture, but focuses on the crucial role agriculture plays in terms of social fabric and livelihoods in rural areas.
3. The document addresses the broader environmental context of agriculture, being sensitive to biodiversity and natural resource conservation issues.
4. The document sees agricultural production as a part of a much wider agribusiness sector. This broader setting (27% of GDP according to an AID study) is particularly important as it relates to private sector development and job and wealth creation.
5. The document translates well-articulated needs and constraints into a detailed list of strategic goals and a program based plan of action. This makes the document a far more easily implemented project.
6. The document brings together aspects of human health and agriculture. This is important not only from a nutritional standpoint, but in terms of showing that properly treated wastewater is an invaluable tool to Jordanian irrigated agricultural production.

The following section of the report will provide comments which are quoted directly from the National Agricultural Strategy document, and serve as important indicators relating to the content of the strategy document: (**bold has been added by consultant for emphasis** of certain points of specific interest to AMIR and US-AID). The sections from the National Strategy are enclosed within quotation marks, and each section is followed by a commentary from the consultant indicating the importance of this language to Agriculture in Jordan and to WTO.

FROM STRATEGY

- "There has been a decline of the agricultural sector **in absolute value** in the period 1991-2000."
- **"…Jordan relies on agriculture to become the economic basis for integrated rural development through investing available natural resources, creating job opportunities for rural people, providing raw inputs for agri-manufacturing, and enhancing integrated economic relations with other economic sectors."**
- "This sector must contribute more to the national economy in a manner that correlates with its economic and strategic importance. This importance which incurs **more social and environmental dimensions related** to the sustainable

development especially that the contribution of the sector in GDP, although declining, is still viewed as that of a sector that generates activities for the other economic sectors especially services and industries. **Contribution of the agricultural sector and other agri-business count for 27% of GDP (a study by US-AID for the Ministry of Agriculture).”**

- **“Due to the continuous increase in treated sewage water which will reach 177 million cubic meters in 2010 and 219 million cubic meters in 2015 and 246 million cubic maters in 2020. Thus the agricultural sector will be mainly responsible for the disposition of this water which must be used accordingly to the requirements of technical, health and environmental safety. It must be used for the adequate (appropriate) plants.”**
- “The General Federation of Jordanian Farmers was established in 1999. …However, the poor law of the General Federation and lack of sufficient financial resources as well as the government’s absence from its follow up and support turned it incapable of assuming its role so far.”
- “Commitments and challenges of the trade liberalization in relation with the agricultural sector in Jordan upon the WTO can be summed up as follows:

  - **“Open the Jordanian market for the agricultural imports** and cancel the non-customs barriers.
  - Give the same treatment for the imports on the local market as that of local products without any discriminatory procedures.
  - Limit the protection methods of local products on the customs’ duties to imports. Unfortunately, Jordan did not consider this matter and agreed to the reduction of customs duties upon a request by the World Bank in the Reform Program and entered into the WTO negotiations with reduced customs duties.
  - Limit the restricted local subsidy at 10% of the agricultural product value on condition that it is delivered within certain forms rather than others. However, the non-restricted subsidy includes the infrastructure, food subsidy programs, and ancillary developmental services including research, extension, training, information, studies and non-subsidized finance.
  - **Prohibit the subsidy of exports** unless in very limited domains such as the support of internal transportation of exports.
  - Full orientation to protect the local market from imports that do not comply with terms and technical rules of human and animal health as well as plant. Also to protect this market of commercial fraud by being technically, financially, and administrative prepared to implement the agreements of TBT (Technical Barriers to Trade) and Sanitary and Phytosanitary Measures (SPS).
  - Full orientation to protect the local market from unfair competition reflected in harmful imports, subsidized imports, and dumping imports as well as untrue valuation of imported items to reduce customs duties. This protection will be by means of full orientation and good implementation of agreements of (AS), anti dumping (ADP), SCM, and ACV.”

CONSULTANT COMMENT

As can be seen from the highlighted text the Strategy is clear in its drive to reshape the productive agricultural sector through market driven approaches. Language such as "prohibit the subsidy of exports" and "Open Jordanian markets for agricultural imports" sends a clear signal both within and outside the MOA that there is a commitment for open market reforms.

There are also several sections in the Strategy that address the long held concern of many development agencies, including US-AID, that agricultural development must be coupled to a clear national water use policy. There are many in the development community who hold the view that agriculture is a low priority in Jordan because of the acute water scarcity. This view fails to appreciate the forms of water that can be used and the concept of multipurpose use. Clearly Rainfed agriculture still has direct applicability, with a focus being on how to mitigate the impact of drought years. In terms of irrigation the strategy clearly places the focus on the use of reprocessed water and the use of brackish water. The production of reprocessed water will clearly grow in Jordan and the use of this water effectively in agriculture will be key to success. As part of the integrated plan there would also be a shift to more protected agriculture, (i.e. plastic houses), that would not only use reprocessed water, but would substantially increase water use efficiency quotients.

FROM STRATEGY

- "**General Objectives of the Agricultural Development Strategy:**
  The national strategy of agricultural development works on fulfilling the following objectives:

  Economic Objectives:

  - **Secure the adequate business environment for the private sector to assume a more effective role in agricultural development.**
  - Increase investment in the agricultural sector.
  - Enhance integration between plant production and animal production.
  - Create new job opportunities and areas in the agricultural sector.
  - Increase incomes of farmers and workers in the auxiliary agricultural activities.
  - Just and fair distribution of development gains between the agricultural sector and other sectors and within the agricultural sector.
  - Increase productivity and decrease production costs.
  - Improve competitive status of products both in price and quality to enable them to compete on the local market and export markets.
  - Increase agricultural production and increase its contribution to the GDP.
  - Increase the level of self-dependence and **improve the agricultural balance of trade.**
  - **Achieve integration between the agricultural sector and other economic sectors especially in the agricultural manufacturing.**

- Balance of agricultural product supply with the demand on the market.
- **Complete and enhance the professional institutional and economic build up of farmers and other private sector groups operating in the agricultural sector.**

Social Objectives:

- **Control rural-urban migration.**
- **Increase women involvement in agricultural development.**
- **Qualify farmers and workers in agriculture at the technical and social levels to develop their cognitive orientation and their capacities to put effective contribution to integrated socio-economic development.**
- **Improve health, educational, and social services as well as living standards of rural populations.**

Environmental Objectives:

- **Conserve earth and water resources and the vegetation cover** (pastures and forests) and exploit the same according to their renovation capacity in order to sustain their productive potentials and empower them to **contribute to the achievement of sustainable development.**
- **Protect bio-diversification and invest it in the integration and support of agricultural development.**
- Improve capacities and potentials of the technical and administrative capacities of the agricultural sector to avoid the potential environmental implications and accommodate their results."

CONSULTANTS COMMENTS

One of the great strengths of the National Strategy document, as opposed to the legislative elements such as the Agriculture Law, is the way that it weaves together a fabric of economic, social and environmental issues. This interplay of components of a rural development policy allows the MOA to move forward in a socially coherent manner.

It is noteworthy that this form of social and economic development agenda is increasingly common in bilateral and multilateral agreements. The US Jordan FTA contains language that relates to environmental impact indicators, and the Doha accord also reflects the shift of multilateral agencies to put a more "social" face on trade related agreements.

A further section of the Strategy that is of great importance, and fits well to the goals and objectives of AMIR is the increased attention that is given to interactions with the private sector. Yet again one of the tools for implementation of the Strategy is the New Agricultural Law, and this will help to strengthen open market approaches, that fits to the new vision.

An area that is addressed and that will require more inter-ministerial liaison is the strengthening of the agribusiness sector. Once again, in the opinion of the consultant there is a great opportunity to use the new PVP law and office as a tool to this end. The capacity that exists in Jordan in plant breeding has been to date primarily in the public sector, given the legislative changes and the new strategy an environment has been created that should encourage private investment in plant breeding and the seed industry. The ability to gain exclusive rights over new varieties for a limited period of time is crucial to that goal. The consultant would re-iterate that the PVP element of these matters is related directly to language of the FTA.

ADDITIONAL CONSULTANT COMMENTS ON THE STRATEGY

The strategy indicates the need to "update legislation related to land ownership and use of pastures as well as organizing beneficiaries from pasture land". If this is implemented from a free/fair market perspective as part of a privatization plan then increased investment may be brought into certain land uses, such as rangelands.

Care will be needed from a WTO compliance standpoint in terms of implementing Objective 10 of the Strategy. While in principle there may be effective mechanisms for promotion of projects, these mechanisms should not be a basis for non-compliant support / subsidy mechanisms.

Section 3.2 of the Strategy relates to changing water use in the Jordan Valley. It is very realistic and pragmatic in its evaluation of the problems. It also indicates ecological and public health aspects of the problem. As was indicated earlier there are many misconceptions as to the use of water in agriculture in the development arena. While clearly there will be examples where residential or industrial use wins out over agriculture, there are many examples where existing water sources, such as reprocessed sewage water, can be effectively and safely used in agriculture. Such uses not only have a beneficial impact on agriculture but also have positive impacts on health and the environment.

Again in relation to the water use issue, the introduction and expansion of '**protected agriculture**' i.e. plastic covered tunnels and greenhouses, is identified as an area that has attracted private sector investment.

In section 3.3.3 of the Strategy it indicates "valid legislation is still unable to stop increasing pollution of surface irrigation water in the Valley and the depletion of underground water". In the opinion of the consultant this is basically an enforcement issue.

An important WTO compliance issue may arise in relation to 3.5.1.6 where it recommends to "set a system for irrigation water pricing to increase efficiency of this resource use taking into consideration quality of irrigation water and times of use" Clearly the key here will be how the MOA and others develop legislation and Regulations to implement that component of the strategy. It is the understanding of the consultant that the intent of the MOA is to use this mechanism and move towards

actual cost recovery for water. This “increase” in the price of water would clearly serve as a stimulus to prevent inappropriate water use, and reduce inefficient practices.

As already addressed in the new Agriculture Law, the Strategy in 3.5.13 suggests “updating procedures for registering, entering and using chemical pesticides and plant hormones in agricultural production” This is another area where there is a confluence of matters that involve agriculture, health and environment. The misuse of pesticides in the region is common, leading to many health concerns, not to mention economic impact. The consultant believes that the Regulation for Pesticide Use will be adequate; the challenge will be to ensure enforcement.

As a direct WTO issue section 3.5.14 of the Strategy recommends to “maximize benefits from policies that the green box may make available” The consultant has serious concerns however at the subsequent language that discusses “provide soft loans for farmers to help them overcome some emergencies or as a result of their loss of part of their product that may result in disease spread” In the opinion of the consultant it will be very important that clear guidelines and parameters are established so that this provision will not be seen as an arbitrary or capricious act. There will undoubtedly be notification requirements that would attach to the use of any such provision.

3. Chapter 3. WTO Negotiations And The Agriculture Agreement

3.1: Agricultural Benefits for Jordan through WTO Negotiation: Focus on Social & Economic Benefits.

Introduction

During an earlier consultancy there was discussion as to the importance of Jordan taking a more pre-active position in the current round of discussions on agriculture at WTO regarding the social and economic benefits that Jordan may accrue through negotiation with WTO. As indicated earlier, this recommendation is in part reflected in the paper presented to WTO where Jordan used the concept of "multifunctional land use" an important discussion platform within the agriculture round of WTO negotiations.

In some measure, as a result of these discussions the MOA together with the Jordan delegation to WTO presented a specific input to the special session of the committee on agriculture held on November 18-20 2002. A copy of this input is included in Annex [D]

The paper deals with Market Access, Export Competition, and Domestic Support. The section on domestic support discusses the issues of rural populations; food security and mechanisms to address livelihoods of subsistence farmers manage risks and increase productivity.

The Doha round that clearly introduced "sustainable development" and the issue of transitional economies into the WTO debate offer a real opportunity for Jordan to join with other dry land ecological zone States in an attempt to gain support for mechanisms to deal with livelihood support for subsistence farmers and the need to address production constraints in fragile agro-ecologies. To put this in simple language WTO has begun to accept the concept that wheat farmers of the developing countries of the WANA region will never be able to compete with production costs of wheat in the US or Canada. However, there are sovereign issues of food security and livelihood sustainability that must be factored into those production mechanisms and tariff and non-tariff issues. That is without even entering into the quagmire of agricultural production support mechanisms in the industrial economies.

A number of crucial papers that relate to the status and goals of the Doha round on Agriculture are attached as Annexes [E & F] for the interest of the reader.

Social & Economic Benefits:

Employment of poor people in the agricultural sector in Jordan is a social and political reality that the government and the international community must understand. In the same way that US and European governments seek support mechanisms to protect the agricultural sector from rapid change that would damage social fabric, so these problems must be accommodated by the international community.
Jordan has shown itself to be open and willing to make radical change as it embraces the new open economy of the 21st century. There must however be a mechanism to allow for gradual shift of the poor rural sector to more productive agriculture or other forms of income generation. The "socio" element of "socioeconomics" must be given a key place.

Transition from the current agricultural system to a more "open market" approach is outlined in the new National Agricultural Strategy. This transition must however be handled with care, and in deliberate steps, if the social fabric, so rich in Jordan, is not to be damaged. Changes in cropping patterns, infrastructure development, increased water use efficiency technologies etc will all have to be harmonized as technology packages.

In the delicate region of the world, where social unrest is a distinct possibility, and where out migration to Europe and the US are seen as a last hope for the future. Governments and the international community must meet the needs of assisting the transition of the agricultural sector from mere subsistence, to economic well-being.

The Negotiation Round / Jordanian Positions

The greatest challenge facing Jordan (and many other LDC member countries) will be a satisfactory outcome to the WTO agriculture round. The Government of Jordan has positioned itself well in those negotiations and has gained respect within the countries that face challenges given the agro-ecology of the region. It can be hoped that as the round of negotiations come to conclusion that adequate redress will be afforded Jordan in dealing with the agricultural, social and environmental challenges associated with Dryland agriculture.

Continued support to the MOA and MIT as the WTO negotiations proceed will pay off rewards both in terms of the Kingdom of Jordan, but in the world trade of agricultural products for all.

3.2: Modalities Used by Jordan in WTO Negotiations

General Introduction to Modalities and WTO Round

It is important to have a broad understanding as to the role of the “modalities” as defined under WTO. In order to clarify this below is given a webpage set of comments that were prepared by WTO:

26 March 2002

WTO Members Set Schedule to Meet 12-Month 'Modalities' Deadline

World Trade Organization Press Release 26 March 2002

A special session of the WTO Agriculture Committee agreed, 26 March 2002, to a work program which would set out by 31 March 2003 the key negotiating principles for a final comprehensive farm trade deal.

The 31 March 2003 deadline was set in November by trade ministers at the WTO's Fourth Ministerial Conference in Doha. Ministers also agreed on a 1 January 2005 deadline for reaching a final agreement on agriculture and all other areas of negotiations that comprise the Doha Development Agenda.

Started in 2000 as a separate negotiation, the agriculture talks are now part of the Doha Development Agenda, with an enhanced mandate and clear deadlines.

The latest 12-month program deals with one of the most critical stages of the agriculture negotiations. It will set "modalities" or targets (including numerical targets) for achieving the objectives set out in the Doha Ministerial Declaration: "substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support". It will also include some rule-making. This stage will therefore determine the shape of the negotiations' final outcome.

The "modalities" will be used for members to produce their first offers or "comprehensive draft commitments". The Doha Ministerial Declaration says this has to be done by the Fifth Ministerial Conference in Mexico, a few months after 31 March 2003. The negotiations themselves are to end by 1 January 2005 as part of the Doha agenda's single undertaking.

The program begins with technical work on detailed possibilities for each of the three "pillars" of the agriculture agreement: export subsidies/competition; market access; and domestic support. Special treatment for developing countries will be an integral part of all of these, and non-trade concerns will be taken into account.

Towards the end of 2002, these ideas will be brought together in an overview document. Intensified negotiations after the New Year would then produce the "modalities" document by 31 March 2003.

Chairperson-designate Stuart Harbinson of Hong Kong, China, presided over the consultations that produced the consensus backing for the program. Four informal

consultations open to all WTO members were held to report on smaller group discussions and to hear comments before a consensus compromise was struck. One of the constraints was the need to avoid a schedule that clashed with other meetings -- including negotiations in other subjects -- in a busy year.

Mr. Harbinson, who chaired the WTO General Council during the preparations for the Doha Ministerial Conference, was formally elected chairperson at the beginning of the meeting, a position he will hold until the Fifth Ministerial Conference in Mexico. He took over from Ambassador Paired Tantraporn of Thailand.

The "modalities" program in detail:

2002

- June meeting: export subsidies and restrictions (informal 17-19 June, formal 20 June)
- Early September meeting: market access (informal 2-3 September, formal 4 September)
- Late September meeting: domestic support (informal 23-25 September, formal 27 September)
- November meeting: follow-up (informal 18-20 November, formal 22 November)
- After that, for circulation by 18 December: overview paper drafted by Chairperson Harbinson, based on discussions so far.

2003

- January meeting: comprehensive review based on overview paper (informal/formal 22-24 January)
- Drafting: first draft of modalities document
- February meeting: comments on first draft (informal/formal 24-28 February)
- Redrafting: second draft of modalities document
- March meeting: consideration of final text (informal/formal 25-31 March)
- 31 March: deadline

In the first two phases an unprecedented 126 member governments submitted 45 proposals and numerous other documents setting out their initial negotiating positions in the negotiations. The talks have now moved into the more difficult stage of attempting to narrow the gaps and ultimately reach a compromise consensus.

Jordan Position in Relation to the "Modalities"

In some measure, as a result of interactions with the consultant the MOA together with the Jordan delegation to WTO presented a specific input to the special session of

the committee on agriculture held on November 18-20 2002. A copy of this input is included in Annex [D]

The paper deals with Market Access, Export Competition, and Domestic Support. The section on domestic support discusses the issues of rural populations, food security and mechanisms to address livelihoods of subsistence farmers manage risks and increase productivity. It forms a part of the modalities discussions that are underway.

The round of negotiations will gather momentum at the next WTO round in Mexico in 2003; this negotiation session adds increased rationale as to why the negotiation and agreement language workshop is so timely.

CONSULTANT RESPONSE TO THE MODALITIES PAPER / WHERE FROM HERE?

The modalities paper is well prepared, was timely presented, and positions Jordan and many other Dryland agro ecological countries to position for the next phase of compliance.

The USA and Europe, together with Canada, New Zealand, Japan and Australia have all been effective in negotiating special accommodations in order to transition to more open markets. These industrial countries use these mechanisms as a way of protecting the social fabric of agriculture, or in the case of the multifunctional land use concept, protecting certain ecological landscapes.

Dryland landscapes have evolved over the last two decades, as more investment has been placed into fruit and nut crops. These evolutions are not only driven by a market force or higher income per unit area, but also by the fact that these cropping systems are better able to retain soil from erosion, and make more effective use of limited water resources.

The protection of Dryland landscapes is not only in the best interests of the Kingdom of Jordan and its people, but also for the broader international community as a way of preserving rural livelihoods, ecological stability, social stability and in the longer term regional peace and prosperity

The modalities paper and its subtending negotiations must be used not in a “protectionist” drive to maintain tariffs or limits, but more to foster investment and international support for a greater restructuring of agriculture based on comparative advantage. The factors to be weighed in that analysis should not only be direct economic factors, but also social and environmental factors. The protection of Dryland landscapes is not only in the best interests of the Kingdom of Jordan and its people, but also for the broader international community as a way of preserving rural livelihoods, ecological stability, social stability and in the longer term regional peace and prosperity.

Chapter 4: MOA Institutional Discussion and PVP Office

4.1.: MOA Institutional Reforms, including WTO Compliance Matters.

Technical & Programmatic Reforms:

In the last two years the MOA has clearly begun on a path of fairly major structural and institutional reform. As part of the WTO compliance element of this reform, in 2002 the MOA implemented a series of actions that were to set a new path. This included developing and launching a new unit, the Trade Agreements Unit (TAU) that was specifically focused on WTO compliance matters. In addition PVP legislation and Regulations were enacted and a New Agriculture Law was passed in September 2002. A number of other areas such as food health etc. were enacted by other Ministries but impacted on the work of the MOA.

In 2001 the MOA also at the request of His Majesty the King, began a special analysis of the Agricultural Sector and in April 2002 issued a new "National Agricultural Strategy". This strategy document, currently being implemented by the MOA, forms the backbone to institutional and sectoral reform in agriculture. The text of the Strategy in English is not attached to this report since the translation was an 'unofficial' one. The Secretary General indicated that he had translation concerns and did not wish the 'unofficial' version to be circulated. AMIR is assisting the MOA in the translation, editing and printing of the National Agricultural Strategy in both Arabic and English. Copies should eventually be available through AMIR or the MOA.

The National Agricultural Strategy forms a powerful vehicle by which the MOA may enact its new legislative reforms in a proactive manner. The purpose of the new legislation is clearly to provide an "enabling environment" for the agricultural sector. Coupled to the National Strategy this enabling environment should pave the way for increased investment in the sector, more effective use of limiting resources, especially water, and promotion of greater open trade in the agriculture sector.

Policy Reforms:

The changes outlined in the National Agriculture Strategy clearly indicate the new vision of the MOA to embrace reforms, such as openness to markets, removal of subsidies etc. The initiation of the TAU unit within the MOA was a very significant move; it offers a clear administrative mechanism for the MOA to engage in reform and fosters the interactions between the MOA, MIT and other ministries within the Govt. of Jordan.

Again, the proof of the reforms will be reflected in the ability of the government to implement and enforce such changes. One of the areas where this will be crucial is in relation to management of agricultural water resources. If the MOA is seen to grapple this problem and ensure more rational use of this scarce and valuable resource then the right signals will be sent.

MOA / TAU and WTO Compliance:

Agriculture still plays an important trade role with the Kingdom of Jordan. While much of the trade is still with non-WTO member countries, an increasing amount will be with WTO members, or other neighbors may become WTO members.

As indicated earlier, the New Agricultural Law has benefited from multiple inputs, including those of the AMIR program. The Law is in essence WTO compliant; the only points that could be contentious were addressed earlier.

The key compliance issue facing MOA will be the implementation of appropriate Regulations, and the appropriate notifications procedures to WTO.

Again, in large part because of the inputs of AMIR the TAU of the MOA is able to address the notification requirements and work closely with the MIT in communication of these matters to WTO.

The greatest challenge facing Jordan (and many other LDC member countries) will be a satisfactory outcome to the WTO agriculture round. The Government of Jordan has positioned itself well in those negotiations and has gained respect within the countries that face challenges given the agro ecology of the region. It can be hoped that as the round of negotiations come to conclusion that adequate redress will be afforded Jordan in dealing with the agricultural, social and environmental challenges associated with Dryland agriculture.

Continued support to the MOA and MIT as the WTO negotiations proceed will pay off rewards both in terms of the Kingdom of Jordan, but in the world trade of agricultural products for all.

4.2.: Workshop on Negotiation and Drafting Skills.

A workshop was held on December 10-12 in Amman to strengthen skills within both the MOA and the MIT on drafting agreement language, and to strengthen negotiating skills. A copy of the agenda for the workshop is attached in Annex [G]. A copy of all the materials distributed for the workshop was left with Geoff Wright and the AMIR training office. There is no value in adding the large volume of that material to this report.

4.3: Status of PVP Legislation and PVP Office Start-Up.

Attention is drawn to earlier reports to AMIR of the consultant that address the legislative aspects of this new Law & Regulations. The purpose here is to provide an update as to the status of the office and issues that still remain to be addressed.

Status of Legislative Matters:

The PVP Law has been enacted. The Regulations were published in the official gazette and are now functional. There was some problem in regards to the list of species that can be protected not being included in the official gazette publication; however, the consultant was informed that this administrative glitch had been remedied.

Status of Operational Matters of the Office:

The Minister has officially appointed the Registrar and Associate Registrar. The space for the office has been made available. The Registrar is currently having the operating manual, forms and other standard documentation translated into official Arabic copy.

There are still a few training elements that need to be addressed, as are some minor logistical and equipment needs in the PVP Office.

Remaining Training Needs:

There is still a need to train the PVP Office staff in “field examination procedures” to complete the examiner package.

It would be valuable for the PVP Office to run a training program for attorneys and agents who will draft applications. The better that they train the applicants the better will be the quality of the applications.

Relationship with, and Membership of UPOV:

The Registrar has already made informal contact with Dr. Tabata and UPOV and informed the consultant that he had shared with UPOV a copy of the PVP Act and the PVP Regulations.

There is an urgent need for the MOA to commence the formal procedure to ensure accession to UPOV of the Hashemite Kingdom of Jordan.

PVP and the US-Jordan Free Trade Agreement:

The US-Jordan Free Trade Agreement (FTA) clearly cites that Jordan will become a member of UPOV as part of its agreement to ensure that new plant varieties may be protectable materials within the Kingdom.

Chapter 5. Law and regulations

5.1.: Existing Draft Regulations for the Implementation of the Agricultural Law and WTO Compliance Indicators.

The MOA has already begun a process for the production of new Regulations that are needed for implementation of the New Agriculture Law. Dr. Kim Hjort a previous AMIR consultant reviewed a number of draft regulations that were prepared by the MOA. Attention is drawn to AMIR reports 4.4.15, 4.4.23, 4.4.28, 4.4.29 and 4.4.30.

It was not clear to the consultant that these draft regulations were available to the TAU group within MOA. Consultant makes this comment since the TAU group indicated to the consultant during the in country visit in December that only the SPS regulations had been revised and reviewed.

It is important that ALL revised Regulations are made available to TAU so as not to duplicate effort in this drafting and review phase. Also highly relevant to this process are the indications provided by WTO on SPS matters, this information is shown in Annex [B].

The consultant reviewed the draft Regulations prepared by the prior consultant and was extremely satisfied that an effective process had been developed and account was taken of areas where WTO compliance would be flagged.

As indicated by the prior consultant it is important to have these Regulations disclosed in a timely manner to WTO so that other member states are aware of the content and are allowed an opportunity for feedback. It should also be remembered that provisions exist under WTO for formal technical training and support in a number of these areas, in particular in the SPS area.

The appendices of this report contain a great deal of information related to the matter of the Regulations. All Regulations provided in the appendix have been reviewed in detail by the consultant and editorial changes have been incorporated where needed. The comments have been fully incorporated and some “decisions” taken as to potential relevance of material. The full final document of this report includes only the “final” version of the regulations as drafted. In addition the consultant is providing to AMIR copies of the edited documents so that it is clear where additional edits have been made. These documents are editorially complex since in some cases the edits run to 4 or 5 levels because of inputs by other consultants. In the opinion of the consultant this level of editing and re-editing becomes cumbersome and it will be more useful to AMIR and MOA to have a fresh unmarked draft for review.

As stated previously, it is vital that these edits and comments are shared with the MOA so that they might be reviewed for potential incorporation into the final versions of the Regulations.

GENERAL COMMENTS ON REGULATIONS PREPARED TO DATE

The MOA has the ability to continue to use the Regulations of the “old” Agriculture Law until the new regulations are approved, published in the official gazette and

become operational. There clearly however is a substantial difference in some areas between the old and new law, and it is inadvisable to let this process slip in time.

The Regulations that have been prepared are, I believe, the most crucial or highest priority ones (in particular the SPS and Pesticide Regulations). I hope that this version will find its way quickly to the TAU so that there is no risk of one of the working groups beginning another parallel process.

As indicated earlier the report here carried "final" cleaned up and fully edited versions of the Regulations that have been prepared by MOA to date. A separate "edited" version in word is made available to AMIR as a way of tracking the multiple changes and inputs that have been made to those documents.

The next step I believe is for these Regulations to go back to the MOA committee that is responsible for final review, amendment and submission for approval.

The committees will then be able to continue down the process of preparing the Regulations that are still not prepared (more later).

5.2: Outlines of Remaining Regulations for Implementation of the Agricultural Law.

As the MOA moves dynamically to implement the new Agricultural Strategy the new Law and Regulations will be important tools for that purpose. This adds to the urgency that this task is undertaken in a timely manner. In the opinion of the consultant the draft revised Regulations should go to the cabinet for approval by June 2003. This will mean that the MOA should complete its review and revision of the Regulations in the next three months.

In order to more efficiently develop a process for development and/or review of the new Regulations it would seem rationale to split the work between technical working groups, and to prioritize the Regulation listing. At the request of the Secretary General of the MOA the consultant was asked to assist in this grouping and priority setting exercise. The following prioritized grouping was shared with the MOA early on during the period of the consultancy. As indicated in section 2.3 there are already some sets of regulations that have been drafted and reviewed, they should be incorporated into the overall plan below for a final scrutiny, while exercising care that they are not redrafted in a way that would waste effort and resources.

Consultant would of course be willing to review such additional sets of Regulations that are developed to ensure both WTO compliance, and technical merit. It is not appropriate for the consultant to draft such regulations; that is for the MOA to do. The consultant is however able to attach information on similar Regulations as drafted in the US. Great care must be exercised however in how these "templates" are used. There is not only substantial difference in the legal basis, but also differences of a technical nature, related to agro-ecology that may make some of these regulations inappropriate for the context of their use in Jordan.

It is vital that AMIR plays an active role in working closely with the MOA to keep pressure on the timeframe for delivery of these Regulations. The process that the MOA has outlined and commenced is ideal, but unless there is a "champion" pushing

this forward it will become an unnecessary last minute rush. That is not a way to develop these far reaching rules.

During the in country visit in December 2002 there was discussion with the Secretary General and with the TAU staff as to the most effective mechanism for the MOA to prepare drafts of the regulations.

The Secretary General requested the consultant to group the regulations by theme so that he would be able to set up a number of technical committees dedicated to the preparation / review of the regulations. That grouping was prepared and is outlined below. It is the consultants understanding that these committees have now been formed and are already at work on the task.

Given that this process is already ongoing it is vital that AMIR communicates information about the US Regulations to the MOA as soon as possible, so as to avoid duplicate effort.

GROUPING OF DRAFTING COMMITTEES

Agricultural Law Implementing Regulations Grouped by Category (Prioritized in Each Category)

Group 1 (Animal Science)

- **Article 44 Raw Feed Regulations**
- **Article 45 Veterinary Medicines Regulations**
- **Article 47 Licensing Conditions for Delivery of Animals Regulations**
- **Article 53 Licensing of Slaughterhouses**
- **Article 43Control of Ranches, poultry and Hatcheries Regulations**
- **Article 55 Fishing Control Regulations**

Group 2 (Plant Production)

- **Article 12 Agricultural Production Regulations**
- **Article 17 Crop Types Regulations**
- **Article 19 Fruit-Forest-Pasture tree, medicinal plant, herbs, vegetables, cut flower, ornamentals Regulations**
- **Article 18 Seedlings Regulations**
- **Article 14 Planting Densities Regulations**

Group 3 (Land & Water Use)

- **Article 15 Conditions for Use of Waste/Brackish Water Regulations**
- **Article 20 Fertilizers and Plant Hormone Regulations**
- **Article 37 Improving, Developing and Maintaining Pastures Regulations**
- **Article 59 Licensing Change of Land Use Regulations**
- **Article 27 Management of Forest Lands Regulations**
- **Article 29 Possessed Land for Forestry Implementation Regulations**

Group 4 (Sanitary & Phytosanitary (SPS) & Quarantine)

- **Articles 5 & 6 SPS Regulations**
- **Article 51 Quarantine of Animals Regulations**
- **Article 22-26 Quarantine Regulations**
- **Article 46 Animal Pest & Diseases Regulations**

Group 5 (Regulatory and Other)

- **Article 21 Pesticide Regulations**
- **Article 57 Protecting Wild Animals and Birds Regulations**
- **Article 16 Olive Presses Regulations**
- **Article 56 Bee Keeping Regulations**

TEMPLATES FOR PENDING REGULATIONS

General

The consultant is providing in the annex of the report information on similar Regulations as drafted in the US or by Multilateral Agencies. Great care must be exercised however in how these “templates” are used. There is not only substantial difference in the legal basis, but also differences of a technical nature, related to agro-ecology that may make some of these regulations inappropriate for the context of their use in Jordan.

It is vital that AMIR plays an active role in working closely with the MOA to keep pressure on the timeframe for delivery of these Regulations. The process that the MOA has outlined and commenced is ideal, but unless there is a “champion” pushing this forward it will become an unnecessary last minute rush. That is not a way to develop these far reaching rules.

I attach in Annex G an excellent set of definitions that may be of use in the drafting process. I also attach Regulations on movement of biological agents (Annex H) ; a topic that has become increasingly important in the US, and that clearly will impact Jordan.

Chapter 6: Recommendations for Future Action

A great deal of progress has been made by the MOA over the last year or two in terms not only of enacting new legislation, but in terms of defining a new approach to agriculture in the Kingdom for the coming decades.

An acceptance of the crucial role that water plays in agriculture; and the need to rely primarily on rain-fed and reprocessed water is agriculture is at the heart of the new National Strategy on Agriculture.

The key to change however will be in terms of the ability of the MOA to translate this new vision into operational steps. A part of that transition will be the development and implementation of new Regulations. It will also depend on the ability of the MOA to work with other branches of the government to push for appropriate actions at the WTO negotiation table, a process that is now well under way.

The human resource capacity of the MOA and its ability to convert its revised mission into action is the heart of success of the agricultural sector transitions. Clearly a key part of this will be the creation of an enabling environment for the private sector in Jordan. The PVP Office should be the vanguard example of how embracing the changes in the economic landscape can lead to growth of new industries within the kingdom.

In the opinion of the consultant the recommendations for future actions are as follows:

RECOMMENDATIONS:

(1) The MOA must show continued diligence in the final preparations for the Regulations to enact the Agriculture Law of 2002.

(2) The MOA must develop and implement proactive measures to the private sector to enable the sector to take full advantage of the opportunities that are created.

(3) The MOA must continue its cooperation with the MIT in terms of attempting to negotiate the best possible terms for Jordan during the Round on Agriculture.

(4) The MOA should develop clear and achievable milestones in order to see if the new Regulations and enabling environment are being delivered.

(5) The MOA should develop a clear public awareness strategy to show the various sectors of the Jordanian society, including the rural poor, the potential for benefit under the new economic regimes.

(6) The MOA should be proactive in using new technology in order to better mange the vast array of data that is required by negotiators in order to back up their position.

(7) The MOA must continue to enhance the capacity of its staff, especially in new technology areas.

(8) The MOA must actively seek financial resources in order to finalize the above agenda. While AMIR may be able to help in some areas it is clear that the challenge is far greater and a wider range of resources will be required.

ANNEXES

REVIEVED AND MODEL REGULTIONS

ANNEX [A]

AGREEMENT ON AGRICULTURE

Members,

Having decided to establish a basis for initiating a process of reform of trade in agriculture in line with the objectives of the negotiations as set out in the Punta del Este Declaration;

Recalling that their long-term objective as agreed at the Mid-Term Review of the Uruguay Round "is to establish a fair and market-oriented agricultural trading system and that a reform process should be initiated through the negotiation of commitments on support and protection and through the establishment of strengthened and more operationally effective GATT rules and disciplines";

Recalling further that "the above-mentioned long-term objective is to provide for substantial progressive reductions in agricultural support and protection sustained over an agreed period of time, resulting in correcting and preventing restrictions and distortions in world agricultural markets";

Committed to achieving specific binding commitments in each of the following areas: market access; domestic support; export competition; and to reaching an agreement on sanitary and Phytosanitary issues;

Having agreed that in implementing their commitments on market access, developed country Members would take fully into account the particular needs and conditions of developing country Members by providing for a greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical agricultural products as agreed at the Mid-Term Review, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops;

Noting that commitments under the reform programme should be made in an equitable way among all Members, having regard to non-trade concerns, including food security and the need to protect the environment; having regard to the agreement that special and differential treatment for developing countries is an integral element of the negotiations, and taking into account the possible negative effects of the implementation of the reform programme on least-developed and net food-importing developing countries;

Hereby *agree* as follows:

Part I

Article 1

Definition of Terms

In this Agreement, unless the context otherwise requires:

(a) ***"Aggregate Measurement of Support"*** and ***"AMS"*** mean the annual level of support, expressed in monetary terms, provided for an agricultural product in favour of the producers of the basic agricultural product or non-product-specific support provided in favour of agricultural producers in general, other than support provided under programmes that qualify as exempt from reduction under Annex 2 to this Agreement, which is:

(i) with respect to support provided during the base period, specified in the relevant tables of supporting material incorporated by reference in Part IV of a Member's Schedule; and

(ii) with respect to support provided during any year of the implementation period and thereafter, calculated in accordance with the provisions of Annex 3 of this Agreement and taking into account the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule;

(b) ***"basic agricultural product"*** in relation to domestic support commitments is defined as the product as close as practicable to the point of first sale as specified in a Member's Schedule and in the related supporting material;

(c) ***"budgetary outlays"*** or ***"outlays"*** includes revenue foregone;

(d) ***"Equivalent Measurement of Support"*** means the annual level of support, expressed in monetary terms, provided to producers of a basic agricultural product through the application of one or more measures, the calculation of which in accordance with the AMS methodology is impracticable, other than support provided under programmes that qualify as exempt from reduction under Annex 2 to this Agreement, and which is:

(i) with respect to support provided during the base period, specified in the relevant tables of supporting material incorporated by reference in Part IV of a Member's Schedule; and

(ii) with respect to support provided during any year of the implementation period and thereafter, calculated in accordance with the provisions of Annex 4 of this Agreement and taking into account the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule;

(e) ***"export subsidies"*** refers to subsidies contingent upon export performance, including the export subsidies listed in Article 9 of this Agreement;

(f) ***"implementation period"*** means the six-year period commencing in the year 1995, except that, for the purposes of Article 13, it means the nine-year period commencing in 1995;

(g) ***"market access concessions"*** includes all market access commitments undertaken pursuant to this Agreement;

(h) ***"Total Aggregate Measurement of Support"*** and ***"Total AMS"*** mean the sum of all domestic support provided in favour of agricultural producers, calculated as the sum of all aggregate measurements of support for basic agricultural products, all non-product-specific aggregate measurements of support and all equivalent measurements of support for agricultural products, and which is:

(i) with respect to support provided during the base period (i.e. the "Base Total AMS") and the maximum support permitted to be provided during any year of the implementation period or thereafter (i.e. the "Annual and Final Bound Commitment Levels"), as specified in Part IV of a Member's Schedule; and

(ii) with respect to the level of support actually provided during any year of the implementation period and thereafter (i.e. the "Current Total AMS"), calculated in accordance with the provisions of this Agreement, including Article 6, and with the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member's Schedule;

(i) ***"year"*** in paragraph (f) above and in relation to the specific commitments of a Member refers to the calendar, financial or marketing year specified in the Schedule relating to that Member.

Article 2

Product Coverage

This Agreement applies to the products listed in Annex 1 to this Agreement, hereinafter referred to as agricultural products.

Part II

Article 3

Incorporation of Concessions and Commitments

1. The domestic support and export subsidy commitments in Part IV of each Member's Schedule constitute commitments limiting subsidization and are hereby made an integral part of GATT 1994.

2. Subject to the provisions of Article 6, a Member shall not provide support in favour of domestic producers in excess of the commitment levels specified in Section I of Part IV of its Schedule.

3. Subject to the provisions of paragraphs 2(b) and 4 of Article 9, a Member shall not provide export subsidies listed in paragraph 1 of Article 9 in respect of the agricultural products or groups of products specified in Section II of Part IV of its Schedule in excess of the budgetary outlay and quantity commitment levels specified therein and shall not provide such subsidies in respect of any agricultural product not specified in that Section of its Schedule.

Part III

Article 4

Market Access

1. Market access concessions contained in Schedules relate to bindings and reductions of tariffs, and to other market access commitments as specified therein.

2. Members shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties[1], except as otherwise provided for in Article 5 and Annex 5.

Article 5

Special Safeguard Provisions

1. Notwithstanding the provisions of paragraph 1(b) of Article II of GATT 1994, any Member may take recourse to the provisions of paragraphs 4 and 5 below in connection with the importation of an agricultural product, in respect of which measures referred to in paragraph 2 of Article 4 of this Agreement have been

[1] These measures include quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, non-tariff measures maintained through state-trading enterprises, voluntary export restraints, and similar border measures other than ordinary customs duties, whether or not the measures are maintained under country-specific derogations from the provisions of GATT 1947, but not measures maintained under balance-of-payments provisions or under other general, non-agriculture-specific provisions of GATT 1994 or of the other Multilateral Trade Agreements in Annex 1A to the WTO Agreement.

converted into an ordinary customs duty and which is designated in its Schedule with the symbol "SSG" as being the subject of a concession in respect of which the provisions of this Article may be invoked, if:

(a) the volume of imports of that product entering the customs territory of the Member granting the concession during any year exceeds a trigger level which relates to the existing market access opportunity as set out in paragraph 4; or, but not concurrently:

(b) the price at which imports of that product may enter the customs territory of the Member granting the concession, as determined on the basis of the c.i.f. import price of the shipment concerned expressed in terms of its domestic currency, falls below a trigger price equal to the average 1986 to 1988 reference price[2] for the product concerned.

2. Imports under current and minimum access commitments established as part of a concession referred to in paragraph 1 above shall be counted for the purpose of determining the volume of imports required for invoking the provisions of subparagraph 1(a) and paragraph 4, but imports under such commitments shall not be affected by any additional duty imposed under either subparagraph 1(a) and paragraph 4 or subparagraph 1(b) and paragraph 5 below.

3. Any supplies of the product in question which were *en route* on the basis of a contract settled before the additional duty is imposed under subparagraph 1(a) and paragraph 4 shall be exempted from any such additional duty, provided that they may be counted in the volume of imports of the product in question during the following year for the purposes of triggering the provisions of subparagraph 1(a) in that year.

4. Any additional duty imposed under subparagraph 1(a) shall only be maintained until the end of the year in which it has been imposed, and may only be levied at a level which shall not exceed one third of the level of the ordinary customs duty in effect in the year in which the action is taken. The trigger level shall be set according to the following schedule based on market access opportunities defined as imports as a percentage of the corresponding domestic consumption[3] during the three preceding years for which data are available:

(a) where such market access opportunities for a product are less than or equal to 10 per cent, the base trigger level shall equal 125 per cent;

(b) where such market access opportunities for a product are greater than 10 per cent but less than or equal to 30 per cent, the base trigger level shall equal 110 per cent;

[2] The reference price used to invoke the provisions of this subparagraph shall, in general, be the average c.i.f. unit value of the product concerned, or otherwise shall be an appropriate price in terms of the quality of the product and its stage of processing. It shall, following its initial use, be publicly specified and available to the extent necessary to allow other Members to assess the additional duty that may be levied.

[3] Where domestic consumption is not taken into account, the base trigger level under subparagraph 4(a) shall apply.

(c) where such market access opportunities for a product are greater than 30 per cent, the base trigger level shall equal 105 per cent.

In all cases the additional duty may be imposed in any year where the absolute volume of imports of the product concerned entering the customs territory of the Member granting the concession exceeds the sum of (*x*) the base trigger level set out above multiplied by the average quantity of imports during the three preceding years for which data are available and (*y*) the absolute volume change in domestic consumption of the product concerned in the most recent year for which data are available compared to the preceding year, provided that the trigger level shall not be less than 105 per cent of the average quantity of imports in (*x*) above.

5. The additional duty imposed under subparagraph 1(b) shall be set according to the following schedule:

(a) if the difference between the c.i.f. import price of the shipment expressed in terms of the domestic currency (hereinafter referred to as the "import price") and the trigger price as defined under that subparagraph is less than or equal to 10 per cent of the trigger price, no additional duty shall be imposed;

(b) if the difference between the import price and the trigger price (hereinafter referred to as the "difference") is greater than 10 per cent but less than or equal to 40 per cent of the trigger price, the additional duty shall equal 30 per cent of the amount by which the difference exceeds 10 per cent;

(c) if the difference is greater than 40 per cent but less than or equal to 60 per cent of the trigger price, the additional duty shall equal 50 per cent of the amount by which the difference exceeds 40 per cent, plus the additional duty allowed under (b);

(d) if the difference is greater than 60 per cent but less than or equal to 75 per cent, the additional duty shall equal 70 per cent of the amount by which the difference exceeds 60 per cent of the trigger price, plus the additional duties allowed under (b) and (c);

(e) if the difference is greater than 75 per cent of the trigger price, the additional duty shall equal 90 per cent of the amount by which the difference exceeds 75 per cent, plus the additional duties allowed under (b), (c) and (d).

6. For perishable and seasonal products, the conditions set out above shall be applied in such a manner as to take account of the specific characteristics of such products. In particular, shorter time periods under subparagraph 1(a) and paragraph 4 may be used in reference to the corresponding periods in the base period and different reference prices for different periods may be used under subparagraph 1(b).

7. The operation of the special safeguard shall be carried out in a transparent manner. Any Member taking action under subparagraph 1(a) above shall give notice

in writing, including relevant data, to the Committee on Agriculture as far in advance as may be practicable and in any event within 10 days of the implementation of such action. In cases where changes in consumption volumes must be allocated to individual tariff lines subject to action under paragraph 4, relevant data shall include the information and methods used to allocate these changes. A Member taking action under paragraph 4 shall afford any interested Members the opportunity to consult with it in respect of the conditions of application of such action. Any Member taking action under subparagraph 1(b) above shall give notice in writing, including relevant data, to the Committee on Agriculture within 10 days of the implementation of the first such action or, for perishable and seasonal products, the first action in any period. Members undertake, as far as practicable, not to take recourse to the provisions of subparagraph 1(b) where the volume of imports of the products concerned are declining. In either case a Member taking such action shall afford any interested Members the opportunity to consult with it in respect of the conditions of application of such action.

8. Where measures are taken in conformity with paragraphs 1 through 7 above, Members undertake not to have recourse, in respect of such measures, to the provisions of paragraphs 1(a) and 3 of Article XIX of GATT 1994 or paragraph 2 of Article 8 of the Agreement on Safeguards.

9. The provisions of this Article shall remain in force for the duration of the reform process as determined under Article 20.

Part IV

Article 6

Domestic Support Commitments

1. The domestic support reduction commitments of each Member contained in Part IV of its Schedule shall apply to all of its domestic support measures in favour of agricultural producers with the exception of domestic measures, which are not subject to reduction in terms of the criteria set out in this Article and in Annex 2 to this Agreement. The commitments are expressed in terms of Total Aggregate Measurement of Support and "Annual and Final Bound Commitment Levels".

2. In accordance with the Mid-Term Review Agreement that government measures of assistance, whether direct or indirect, to encourage agricultural and rural development are an integral part of the development programmes of developing countries, investment subsidies which are generally available to agriculture in developing country Members and agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members shall be exempt from domestic support reduction commitments that would otherwise be applicable to such measures, as shall domestic support to producers in developing country Members to encourage diversification from growing illicit narcotic crops. Domestic support meeting the criteria of this paragraph shall not be required to be included in a Member's calculation of its Current Total AMS.

3. A Member shall be considered to be in compliance with its domestic support reduction commitments in any year in which its domestic support in favour of agricultural producers expressed in terms of Current Total AMS does not exceed the corresponding annual or final bound commitment level specified in Part IV of the Member's Schedule.

4. (a) A Member shall not be required to include in the calculation of its Current Total AMS and shall not be required to reduce:

(i) product-specific domestic support which would otherwise be required to be included in a Member's calculation of its Current AMS where such support does not exceed 5 per cent of that Member's total value of production of a basic agricultural product during the relevant year; and

(ii) non-product-specific domestic support which would otherwise be required to be included in a Member's calculation of its Current AMS where such support does not exceed 5 per cent of the value of that Member's total agricultural production.

(b) For developing country Members, the *de minimis* percentage under this paragraph shall be 10 per cent.

5. (a) Direct payments under production-limiting programmes shall not be subject to the commitment to reduce domestic support if:

(i) such payments are based on fixed area and yields; or

(ii) such payments are made on 85 per cent or less of the base level of production; or

(iii) livestock payments are made on a fixed number of head.

(b) The exemption from the reduction commitment for direct payments meeting the above criteria shall be reflected by the exclusion of the value of those direct payments in a Member's calculation of its Current Total AMS.

Article 7

General Disciplines on Domestic Support

1. Each Member shall ensure that any domestic support measures in favour of agricultural producers which are not subject to reduction commitments because they qualify under the criteria set out in Annex 2 to this Agreement are maintained in conformity therewith.

2. (a) Any domestic support measure in favour of agricultural producers, including any modification to such measure, and any measure that is subsequently introduced that cannot be shown to satisfy the criteria in

Annex 2 to this Agreement or to be exempt from reduction by reason of any other provision of this Agreement shall be included in the Member's calculation of its Current Total AMS.

(b) Where no Total AMS commitment exists in Part IV of a Member's Schedule, the Member shall not provide support to agricultural producers in excess of the relevant *de minimis* level set out in paragraph 4 of Article 6.

Part V

Article 8

Export Competition Commitments

Each Member undertakes not to provide export subsidies otherwise than in conformity with this Agreement and with the commitments as specified in that Member's Schedule.

Article 9

Export Subsidy Commitments

1. The following export subsidies are subject to reduction commitments under this Agreement:

(a) the provision by governments or their agencies of direct subsidies, including payments- in kind, to a firm, to an industry, to producers of an agricultural product, to a cooperative or other association of such producers, or to a marketing board, contingent on export performance;

(b) the sale or disposal for export by governments or their agencies of non-commercial stocks of agricultural products at a price lower than the comparable price charged for the like product to buyers in the domestic market;

(c) payments on the export of an agricultural product that are financed by virtue of governmental action, whether or not a charge on the public account is involved, including payments that are financed from the proceeds of a levy imposed on the agricultural product concerned or on an agricultural product from which the exported product is derived;

(d) the provision of subsidies to reduce the costs of marketing exports of agricultural products (other than widely available export promotion and advisory services) including handling, upgrading and other processing costs, and the costs of international transport and freight;

(e) internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments;

(f) subsidies on agricultural products contingent on their incorporation in exported products.

2. (a) Except as provided in subparagraph (b), the export subsidy commitment levels for each year of the implementation period, as specified in a Member's Schedule, represent with respect to the export subsidies listed in paragraph 1 of this Article:

(i) in the case of budgetary outlay reduction commitments, the maximum level of expenditure for such subsidies that may be allocated or incurred in that year in respect of the agricultural product, or group of products, concerned; and

(ii) in the case of export quantity reduction commitments, the maximum quantity of an agricultural product, or group of products, in respect of which such export subsidies may be granted in that year.

(b) In any of the second through fifth years of the implementation period, a Member may provide export subsidies listed in paragraph 1 above in a given year in excess of the corresponding annual commitment levels in respect of the products or groups of products specified in Part IV of the Member's Schedule, provided that:

(i) the cumulative amounts of budgetary outlays for such subsidies, from the beginning of the implementation period through the year in question, does not exceed the cumulative amounts that would have resulted from full compliance with the relevant annual outlay commitment levels specified in the Member's Schedule by more than 3 per cent of the base period level of such budgetary outlays;

(ii) the cumulative quantities exported with the benefit of such export subsidies, from the beginning of the implementation period through the year in question, does not exceed the cumulative quantities that would have resulted from full compliance with the relevant annual quantity commitment levels specified in the Member's Schedule by more than 1.75 per cent of the base period quantities;

(iii) the total cumulative amounts of budgetary outlays for such export subsidies and the quantities benefiting from such export subsidies over the entire implementation period are no greater than the totals that would have resulted from full compliance with the relevant annual commitment levels specified in the Member's Schedule; and

(iv) the Member's budgetary outlays for export subsidies and the quantities benefiting from such subsidies, at the conclusion of the implementation period, are no greater than 64 per cent and

79 per cent of the 1986-1990 base period levels, respectively. For developing country Members these percentages shall be 76 and 86 per cent, respectively.

3. Commitments relating to limitations on the extension of the scope of export subsidization are as specified in Schedules.

4. During the implementation period, developing country Members shall not be required to undertake commitments in respect of the export subsidies listed in subparagraphs (d) and (e) of paragraph 1 above, provided that these are not applied in a manner that would circumvent reduction commitments.

Article 10

Prevention of Circumvention of Export Subsidy Commitments

1. Export subsidies not listed in paragraph 1 of Article 9 shall not be applied in a manner which results in, or which threatens to lead to, circumvention of export subsidy commitments; nor shall non-commercial transactions be used to circumvent such commitments.

2. Members undertake to work toward the development of internationally agreed disciplines to govern the provision of export credits, export credit guarantees or insurance programmes and, after agreement on such disciplines, to provide export credits, export credit guarantees or insurance programmes only in conformity therewith.

3. Any Member which claims that any quantity exported in excess of a reduction commitment level is not subsidized must establish that no export subsidy, whether listed in Article 9 or not, has been granted in respect of the quantity of exports in question.

4. Members donors of international food aid shall ensure:

(a) that the provision of international food aid is not tied directly or indirectly to commercial exports of agricultural products to recipient countries;

(b) that international food aid transactions, including bilateral food aid which is monetized, shall be carried out in accordance with the FAO "Principles of Surplus Disposal and Consultative Obligations", including, where appropriate, the system of Usual Marketing Requirements (UMRs); and

(c) that such aid shall be provided to the extent possible in fully grant form or on terms no less concessional than those provided for in Article IV of the Food Aid Convention 1986.

Article 11

Incorporated Products

In no case may the per-unit subsidy paid on an incorporated agricultural primary product exceed the per-unit export subsidy that would be payable on exports of the primary product as such.

Part VI

Article 12

Disciplines on Export Prohibitions and Restrictions

1. Where any Member institutes any new export prohibition or restriction on foodstuffs in accordance with paragraph 2(a) of Article XI of GATT 1994, the Member shall observe the following provisions:

(a) the Member instituting the export prohibition or restriction shall give due consideration to the effects of such prohibition or restriction on importing Members' food security;

(b) before any Member institutes an export prohibition or restriction, it shall give notice in writing, as far in advance as practicable, to the Committee on Agriculture comprising such information as the nature and the duration of such measure, and shall consult, upon request, with any other Member having a substantial interest as an importer with respect to any matter related to the measure in question. The Member instituting such export prohibition or restriction shall provide, upon request, such a Member with necessary information.

2. The provisions of this Article shall not apply to any developing country Member, unless the measure is taken by a developing country Member which is a net-food exporter of the specific foodstuff concerned.

Part VII

Article 13

Due Restraint

During the implementation period, notwithstanding the provisions of GATT 1994 and the Agreement on Subsidies and Countervailing Measures (referred to in this Article as the "Subsidies Agreement"):

(a) domestic support measures that conform fully to the provisions of Annex 2 to this Agreement shall be:

(i) non-actionable subsidies for purposes of countervailing duties[4];

(ii) exempt from actions based on Article XVI of GATT 1994 and Part III of the Subsidies Agreement; and

(iii) exempt from actions based on non-violation nullification or impairment of the benefits of tariff concessions accruing to another Member under Article II of GATT 1994, in the sense of paragraph 1(b) of Article XXIII of GATT 1994;

(b) domestic support measures that conform fully to the provisions of Article 6 of this Agreement including direct payments that conform to the requirements of paragraph 5 thereof, as reflected in each Member's Schedule, as well as domestic support within *de minimis* levels and in conformity with paragraph 2 of Article 6, shall be:

(i) exempt from the imposition of countervailing duties unless a determination of injury or threat thereof is made in accordance with Article VI of GATT 1994 and Part V of the Subsidies Agreement, and due restraint shall be shown in initiating any countervailing duty investigations;

(ii) exempt from actions based on paragraph 1 of Article XVI of GATT 1994 or Articles 5 and 6 of the Subsidies Agreement, provided that such measures do not grant support to a specific commodity in excess of that decided during the 1992 marketing year; and

(iii) exempt from actions based on non-violation nullification or impairment of the benefits of tariff concessions accruing to another Member under Article II of GATT 1994, in the sense of paragraph 1(b) of Article XXIII of GATT 1994, provided that such measures do not grant support to a specific commodity in excess of that decided during the 1992 marketing year;

(c) export subsidies that conform fully to the provisions of Part V of this Agreement, as reflected in each Member's Schedule, shall be:

(i) subject to countervailing duties only upon a determination of injury or threat thereof based on volume, effect on prices, or consequent impact in accordance with Article VI of GATT 1994 and Part V of the Subsidies Agreement, and due restraint shall be shown in initiating any countervailing duty investigations; and

(ii) exempt from actions based on Article XVI of GATT 1994 or Articles 3, 5 and 6 of the Subsidies Agreement.

[4] "Countervailing duties" where referred to in this Article are those covered by Article VI of GATT 1994 and Part V of the Agreement on Subsidies and Countervailing Measures.

Part VIII

Article 14

Sanitary and Phytosanitary Measures

Members agree to give effect to the Agreement on the Application of Sanitary and Phytosanitary Measures.

Part IX

Article 15

Special and Differential Treatment

1. In keeping with the recognition that differential and more favourable treatment for developing country Members is an integral part of the negotiation, special and differential treatment in respect of commitments shall be provided as set out in the relevant provisions of this Agreement and embodied in the Schedules of concessions and commitments.

2. Developing country Members shall have the flexibility to implement reduction commitments over a period of up to 10 years. Least-developed country Members shall not be required to undertake reduction commitments.

Part X

Article 16

Least-Developed and Net Food-Importing Developing Countries

1. Developed country Members shall take such action as is provided for within the framework of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.

2. The Committee on Agriculture shall monitor, as appropriate, the follow-up to this Decision.

Part XI

Article 17

Committee on Agriculture

A Committee on Agriculture is hereby established.

Article 18

Review of the Implementation of Commitments

1. Progress in the implementation of commitments negotiated under the Uruguay Round reform programme shall be reviewed by the Committee on Agriculture.

2. The review process shall be undertaken on the basis of notifications submitted by Members in relation to such matters and at such intervals as shall be determined, as well as on the basis of such documentation as the Secretariat may be requested to prepare in order to facilitate the review process.

3. In addition to the notifications to be submitted under paragraph 2, any new domestic support measure, or modification of an existing measure, for which exemption from reduction is claimed shall be notified promptly. This notification shall contain details of the new or modified measure and its conformity with the agreed criteria as set out either in Article 6 or in Annex 2.

4. In the review process Members shall give due consideration to the influence of excessive rates of inflation on the ability of any Member to abide by its domestic support commitments.

5. Members agree to consult annually in the Committee on Agriculture with respect to their participation in the normal growth of world trade in agricultural products within the framework of the commitments on export subsidies under this Agreement.

6. The review process shall provide an opportunity for Members to raise any matter relevant to the implementation of commitments under the reform programme as set out in this Agreement.

7. Any Member may bring to the attention of the Committee on Agriculture any measure, which it considers ought to have been notified by another Member.

Article 19

Consultation and Dispute Settlement

The provisions of Articles XXII and XXIII of GATT 1994, as elaborated and applied by the Dispute Settlement Understanding, shall apply to consultations and the settlement of disputes under this Agreement.

Part XII

Article 20

Continuation of the Reform Process

Recognizing that the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process, Members agree that negotiations for continuing the process will be initiated one year before the end of the implementation period, taking into account:

(a) the experience to that date from implementing the reduction commitments;

(b) the effects of the reduction commitments on world trade in agriculture;

(c) non-trade concerns, special and differential treatment to developing country Members, and the objective to establish a fair and market-oriented agricultural trading system, and the other objectives and concerns mentioned in the preamble to this Agreement; and

(d) what further commitments are necessary to achieve the above mentioned long-term objectives.

Part XIII

Article 21

Final Provisions

1. The provisions of GATT 1994 and of other Multilateral Trade Agreements in Annex 1A to the WTO Agreement shall apply subject to the provisions of this Agreement.

2. The Annexes to this Agreement are hereby made an integral part of this Agreement.

ANNEX 1

PRODUCT COVERAGE

1. This Agreement shall cover the following products:

(i)	HS Chapters 1 to 24 less fish and fish products, plus*		
(ii)	HS Code	2905.43	(mannitol)
	HS Code	2905.44	(sorbitol)
	HS Heading	33.01	(essential oils)
	HS Headings	35.01 to 35.05	(albuminoidal substances, modified starches, glues)
	HS Code	3809.10	(finishing agents)
	HS Code	3823.60	(sorbitol n.e.p.)
	HS Headings	41.01 to 41.03	(hides and skins)
	HS Heading	43.01	(raw furskins)
	HS Headings	50.01 to 50.03	(raw silk and silk waste)
	HS Headings	51.01 to 51.03	(wool and animal hair)
	HS Headings	52.01 to 52.03	(raw cotton, waste and cotton carded or combed)
	HS Heading	53.01	(raw flax)
	HS Heading	53.02	(raw hemp)

2. The foregoing shall not limit the product coverage of the Agreement on the Application of Sanitary and Phytosanitary Measures.

*The product descriptions in round brackets are not necessarily exhaustive.

ANNEX 2

DOMESTIC SUPPORT: THE BASIS FOR EXEMPTION FROM THE REDUCTION COMMITMENTS

1. Domestic support measures for which exemption from the reduction commitments is claimed shall meet the fundamental requirement that they have no, or at most minimal, trade-distorting effects or effects on production. Accordingly, all measures for which exemption is claimed shall conform to the following basic criteria:

(a) the support in question shall be provided through a publicly-funded government programme (including government revenue foregone) not involving transfers from consumers; and,

(b) the support in question shall not have the effect of providing price support to producers;

plus policy-specific criteria and conditions as set out below.

Government Service Programmes

2. General services

Policies in this category involve expenditures (or revenue foregone) in relation to programmes, which provide services or benefits to agriculture or the rural community. They shall not involve direct payments to producers or processors. Such programmes, which include but are not restricted to the following list, shall meet the general criteria in paragraph 1 above and policy-specific conditions where set out below:

(a) research, including general research, research in connection with environmental programmes, and research programmes relating to particular products;

(b) pest and disease control, including general and product-specific pest and disease control measures, such as early-warning systems, quarantine and eradication;

(c) training services, including both general and specialist training facilities;

(d) extension and advisory services, including the provision of means to facilitate the transfer of information and the results of research to producers and consumers;

(e) inspection services, including general inspection services and the inspection of particular products for health, safety, grading or standardization purposes;

(f) marketing and promotion services, including market information, advice and promotion relating to particular products but excluding expenditure for unspecified purposes that could be used by sellers to reduce their selling price or confer a direct economic benefit to purchasers; and

(g) infrastructural services, including: electricity reticulation, roads and other means of transport, market and port facilities, water supply facilities, dams and drainage schemes, and infrastructural works associated with environmental programmes. In all cases the expenditure shall be directed to the provision or construction of capital works only, and shall exclude the subsidized provision of on-farm facilities other than for the reticulation of generally available public utilities. It shall not include subsidies to inputs or operating costs, or preferential user charges.

3. Public stockholding for food security purposes[5]

Expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products, which form an integral part of a food security, programme identified in national legislation. This may include government aid to private storage of products as part of such a programme.

The volume and accumulation of such stocks shall correspond to predetermined targets related solely to food security. The process of stock accumulation and disposal shall be financially transparent. Food purchases by the government shall be made at current market prices and sales from food security stocks shall be made at no less than the current domestic market price for the product and quality in question.

4. Domestic food aid[6]

Expenditures (or revenue foregone) in relation to the provision of domestic food aid to sections of the population in need.

Eligibility to receive the food aid shall be subject to clearly-defined criteria related to nutritional objectives. Such aid shall be in the form

[5] For the purposes of paragraph 3 of this Annex, governmental stockholding programmes for food security purposes in developing countries whose operation is transparent and conducted in accordance with officially published objective criteria or guidelines shall be considered to be in conformity with the provisions of this paragraph, including programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices, provided that the difference between the acquisition price and the external reference price is accounted for in the AMS.

[6] & [6] For the purposes of paragraphs 3 and 4 of this Annex, the provision of foodstuffs at subsidized prices with the objective of meeting food requirements of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph.

of direct provision of food to those concerned or the provision of means to allow eligible recipients to buy food either at market or at subsidized prices. Food purchases by the government shall be made at current market prices and the financing and administration of the aid shall be transparent.

5. Direct payments to producers

Support provided through direct payments (or revenue foregone, including payments in kind) to producers for which exemption from reduction commitments is claimed shall meet the basic criteria set out in paragraph 1 above, plus specific criteria applying to individual types of direct payment as set out in paragraphs 6 through 13 below. Where exemption from reduction is claimed for any existing or new type of direct payment other than those specified in paragraphs 6 through 13, it shall conform to criteria (b) through (e) in paragraph 6, in addition to the general criteria set out in paragraph 1.

6. Decoupled income support

(a) Eligibility for such payments shall be determined by clearly-defined criteria such as income, status as a producer or landowner, factor use or production level in a defined and fixed base period.

(b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period.

(c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.

(d) The amount of such payments in any given year shall not be related to, or based on, the factors of production employed in any year after the base period.

(e) No production shall be required in order to receive such payments.

7. Government financial participation in income insurance and income safety-net programmes

(a) Eligibility for such payments shall be determined by an income loss, taking into account only income derived from agriculture, which exceeds 30 per cent of average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. Any producer meeting this condition shall be eligible to receive the payments.

(b) The amount of such payments shall compensate for less than 70 per cent of the producer's income loss in the year the producer becomes eligible to receive this assistance.

(c) The amount of any such payments shall relate solely to income; it shall not relate to the type or volume of production (including livestock units) undertaken by the producer; or to the prices, domestic or international, applying to such production; or to the factors of production employed.

(d) Where a producer receives in the same year payments under this paragraph and under paragraph 8 (relief from natural disasters), the total of such payments shall be less than 100 per cent of the producer's total loss.

8. Payments (made either directly or by way of government financial participation in crop insurance schemes) for relief from natural disasters

(a) Eligibility for such payments shall arise only following a formal recognition by government authorities that a natural or like disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss which exceeds 30 per cent of the average of production in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry.

(b) Payments made following a disaster shall be applied only in respect of losses of income, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster in question.

(c) Payments shall compensate for not more than the total cost of replacing such losses and shall not require or specify the type or quantity of future production.

(d) Payments made during a disaster shall not exceed the level required to prevent or alleviate further loss as defined in criterion (b) above.

(e) Where a producer receives in the same year payments under this paragraph and under paragraph 7 (income insurance and income safety-net programmes), the total of such payments shall be less than 100 per cent of the producer's total loss.

9. Structural adjustment assistance provided through producer retirement programmes

(a) Eligibility for such payments shall be determined by reference to clearly defined criteria in programmes designed to facilitate the

retirement of persons engaged in marketable agricultural production, or their movement to non-agricultural activities.

(b) Payments shall be conditional upon the total and permanent retirement of the recipients from marketable agricultural production.

10. Structural adjustment assistance provided through resource retirement programmes

(a) Eligibility for such payments shall be determined by reference to clearly defined criteria in programmes designed to remove land or other resources, including livestock, from marketable agricultural production.

(b) Payments shall be conditional upon the retirement of land from marketable agricultural production for a minimum of three years, and in the case of livestock on its slaughter or definitive permanent disposal.

(c) Payments shall not require or specify any alternative use for such land or other resources, which involves the production of marketable agricultural products.

(d) Payments shall not be related to either the type or quantity of production or to the prices, domestic or international, applying to production undertaken using the land or other resources remaining in production.

11. Structural adjustment assistance provided through investment aids

(a) Eligibility for such payments shall be determined by reference to clearly defined criteria in government programmes designed to assist the financial or physical restructuring of a producer's operations in response to objectively demonstrated structural disadvantages. Eligibility for such programmes may also be based on a clearly defined government programme for the reprivatization of agricultural land.

(b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than as provided for under criterion (e) below.

(c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.

(d) The payments shall be given only for the period of time necessary for the realization of the investment in respect of which they are provided.

(e) The payments shall not mandate or in any way designate the agricultural products to be produced by the recipients except to require them not to produce a particular product.

(f) The payments shall be limited to the amount required to compensate for the structural disadvantage.

12. Payments under environmental programmes

(a) Eligibility for such payments shall be determined as part of a clearly-defined government environmental or conservation programme and be dependent on the fulfillment of specific conditions under the government programme, including conditions related to production methods or inputs.

(b) The amount of payment shall be limited to the extra costs or loss of income involved in complying with the government programme.

13. Payments under regional assistance programmes

(a) Eligibility for such payments shall be limited to producers in disadvantaged regions. Each such region must be a clearly designated contiguous geographical area with a definable economic and administrative identity, considered as disadvantaged on the basis of neutral and objective criteria clearly spelt out in law or regulation and indicating that the region's difficulties arise out of more than temporary circumstances.

(b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than to reduce that production.

(c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.

(d) Payments shall be available only to producers in eligible regions, but generally available to all producers within such regions.

(e) Where related to production factors, payments shall be made at a degressive rate above a threshold level of the factor concerned.

(f) The payments shall be limited to the extra costs or loss of income involved in undertaking agricultural production in the prescribed area.

ANNEX 3

DOMESTIC SUPPORT: CALCULATION OF AGGREGATE MEASUREMENT OF SUPPORT

1. Subject to the provisions of Article 6, an Aggregate Measurement of Support (AMS) shall be calculated on a product-specific basis for each basic agricultural product receiving market price support, non-exempt direct payments, or any other subsidy not exempted from the reduction commitment ("other non-exempt policies"). Support which is non-product specific shall be totaled into one non-product-specific AMS in total monetary terms.

2. Subsidies under paragraph 1 shall include both budgetary outlays and revenue foregone by governments or their agents.

3. Support at both the national and sub-national level shall be included.

4. Specific agricultural levies or fees paid by producers shall be deducted from the AMS.

5. The AMS calculated as outlined below for the base period shall constitute the base level for the implementation of the reduction commitment on domestic support.

6. For each basic agricultural product, a specific AMS shall be established, expressed in total monetary value terms.

7. The AMS shall be calculated as close as practicable to the point of first sale of the basic agricultural product concerned. Measures directed at agricultural processors shall be included to the extent that such measures benefit the producers of the basic agricultural products.

8. Market price support: market price support shall be calculated using the gap between a fixed external reference price and the applied administered price multiplied by the quantity of production eligible to receive the applied administered price. Budgetary payments made to maintain this gap, such as buying-in or storage costs, shall not be included in the AMS.

9. The fixed external reference price shall be based on the years 1986 to 1988 and shall generally be the average f.o.b. unit value for the basic agricultural product concerned in a net exporting country and the average c.i.f. unit value for the basic agricultural product concerned in a net importing country in the base period. The fixed reference price may be adjusted for quality differences as necessary.

10. Non-exempt direct payments: non-exempt direct payments which are dependent on a price gap shall be calculated either using the gap between the fixed reference price and the applied administered price multiplied by the quantity of production eligible to receive the administered price, or using budgetary outlays.

11. The fixed reference price shall be based on the years 1986 to 1988 and shall generally be the actual price used for determining payment rates.

12. Non-exempt direct payments, which are based on factors other than price, shall be measured using budgetary outlays.

13. Other non-exempt measures, including input subsidies and other measures such as marketing-cost reduction measures: the value of such measures shall be measured using government budgetary outlays or, where the use of budgetary outlays does not reflect the full extent of the subsidy concerned, the basis for calculating the subsidy shall be the gap between the price of the subsidized good or service and a representative market price for a similar good or service multiplied by the quantity of the good or service.

ANNEX 4

DOMESTIC SUPPORT:
CALCULATION OF EQUIVALENT MEASUREMENT OF SUPPORT

1. Subject to the provisions of Article 6, equivalent measurements of support shall be calculated in respect of all basic agricultural products where market price support as defined in Annex 3 exists but for which calculation of this component of the AMS is not practicable. For such products the base level for implementation of the domestic support reduction commitments shall consist of a market price support component expressed in terms of equivalent measurements of support under paragraph 2 below, as well as any non-exempt direct payments and other non-exempt support, which shall be evaluated as provided for under paragraph 3 below. Support at both national and sub-national level shall be included.

2. The equivalent measurements of support provided for in paragraph 1 shall be calculated on a product-specific basis for all basic agricultural products as close as practicable to the point of first sale receiving market price support and for which the calculation of the market price support component of the AMS is not practicable. For those basic agricultural products, equivalent measurements of market price support shall be made using the applied administered price and the quantity of production eligible to receive that price or, where this is not practicable, on budgetary outlays used to maintain the producer price.

3. Where basic agricultural products falling under paragraph 1 are the subject of non-exempt direct payments or any other product-specific subsidy not exempted from the reduction commitment, the basis for equivalent measurements of support concerning these measures shall be calculations as for the corresponding AMS components (specified in paragraphs 10 through 13 of Annex 3).

4. Equivalent measurements of support shall be calculated on the amount of subsidy as close as practicable to the point of first sale of the basic agricultural product concerned. Measures directed at agricultural processors shall be included to the extent that such measures benefit the producers of the basic agricultural products.

Specific agricultural levies or fees paid by producers shall reduce the equivalent measurements of support by a corresponding amount.

ANNEX 5

SPECIAL TREATMENT WITH RESPECT TO PARAGRAPH 2 OF ARTICLE 4

Section A

1. The provisions of paragraph 2 of Article 4 shall not apply with effect from the entry into force of the WTO Agreement to any primary agricultural product and its worked and/or prepared products ("designated products") in respect of which the following conditions are complied with (hereinafter referred to as "special treatment"):

(a) imports of the designated products comprised less than 3 per cent of corresponding domestic consumption in the base period 1986-1988 ("the base period");

(b) no export subsidies have been provided since the beginning of the base period for the designated products;

(c) effective production-restricting measures are applied to the primary agricultural product;

(d) such products are designated with the symbol "ST-Annex 5" in Section I-B of Part I of a Member's Schedule annexed to the Marrakech Protocol, as being subject to special treatment reflecting factors of non-trade concerns, such as food security and environmental protection; and

(e) minimum access opportunities in respect of the designated products correspond, as specified in Section I-B of Part I of the Schedule of the Member concerned, to 4 per cent of base period domestic consumption of the designated products from the beginning of the first year of the implementation period and, thereafter, are increased by 0.8 per cent of corresponding domestic consumption in the base period per year for the remainder of the implementation period.

2. At the beginning of any year of the implementation period a Member may cease to apply special treatment in respect of the designated products by complying with the provisions of paragraph 6. In such a case, the Member concerned shall maintain the minimum access opportunities already in effect at such time and increase the minimum access opportunities by 0.4 per cent of corresponding domestic consumption in the base period per year for the remainder of the implementation period. Thereafter, the level of minimum access opportunities resulting from this formula in the final year of the implementation period shall be maintained in the Schedule of the Member concerned.

3. Any negotiation on the question of whether there can be a continuation of the special treatment as set out in paragraph 1 after the end of the implementation period shall be completed within the time-frame of the implementation period itself as a part of the negotiations set out in Article 20 of this Agreement, taking into account the factors of non-trade concerns.

4. If it is agreed as a result of the negotiation referred to in paragraph 3 that a Member may continue to apply the special treatment, such Member shall confer additional and acceptable concessions as determined in that negotiation.

5. Where the special treatment is not to be continued at the end of the implementation period, the Member concerned shall implement the provisions of paragraph 6. In such a case, after the end of the implementation period the minimum access opportunities for the designated products shall be maintained at the level of 8 per cent of corresponding domestic consumption in the base period in the Schedule of the Member concerned.

6. Border measures other than ordinary customs duties maintained in respect of the designated products shall become subject to the provisions of paragraph 2 of Article 4 with effect from the beginning of the year in which the special treatment ceases to apply. Such products shall be subject to ordinary customs duties, which shall be bound in the Schedule of the Member concerned and applied, from the beginning of the year in which special treatment ceases and thereafter, at such rates as would have been applicable had a reduction of at least 15 per cent been implemented over the implementation period in equal annual installments. These duties shall be established on the basis of tariff equivalents to be calculated in accordance with the guidelines prescribed in the attachment hereto.

Section B

7. The provisions of paragraph 2 of Article 4 shall also not apply with effect from the entry into force of the WTO Agreement to a primary agricultural product that is the predominant staple in the traditional diet of a developing country Member and in respect of which the following conditions, in addition to those specified in paragraph 1(a) through 1(d), as they apply to the products concerned, are complied with:

(a) minimum access opportunities in respect of the products concerned, as specified in Section I-B of Part I of the Schedule of the developing country Member concerned, correspond to 1 per cent of base period domestic consumption of the products concerned from the beginning of the first year of the implementation period and are increased in equal annual installments to 2 per cent of corresponding domestic consumption in the base period at the beginning of the fifth year of the implementation period. From the beginning of the sixth year of the implementation period, minimum access opportunities in respect of the products concerned correspond to 2 per cent of corresponding domestic consumption in the base period and are increased in equal

annual installments to 4 per cent of corresponding domestic consumption in the base period until the beginning of the 10th year. Thereafter, the level of minimum access opportunities resulting from this formula in the 10th year shall be maintained in the Schedule of the developing country Member concerned;

(b) appropriate market access opportunities have been provided for in other products under this Agreement.

8. Any negotiation on the question of whether there can be a continuation of the special treatment as set out in paragraph 7 after the end of the 10th year following the beginning of the implementation period shall be initiated and completed within the time-frame of the 10th year itself following the beginning of the implementation period.

9. If it is agreed as a result of the negotiation referred to in paragraph 8 that a Member may continue to apply the special treatment, such Member shall confer additional and acceptable concessions as determined in that negotiation.

10. In the event that special treatment under paragraph 7 is not to be continued beyond the 10th year following the beginning of the implementation period, the products concerned shall be subject to ordinary customs duties, established on the basis of a tariff equivalent to be calculated in accordance with the guidelines prescribed in the attachment hereto, which shall be bound in the Schedule of the Member concerned. In other respects, the provisions of paragraph 6 shall apply as modified by the relevant special and differential treatment accorded to developing country Members under this Agreement.

Attachment to Annex 5

Guidelines for the Calculation of Tariff
Equivalents for the Specific Purpose Specified in
Paragraphs 6 and 10 of this Annex

1. The calculation of the tariff equivalents, whether expressed as *ad valorem* or specific rates, shall be made using the actual difference between internal and external prices in a transparent manner. Data used shall be for the years 1986 to 1988. Tariff equivalents:

(a) shall primarily be established at the four-digit level of the HS;

(b) shall be established at the six-digit or a more detailed level of the HS wherever appropriate;

(c) shall generally be established for worked and/or prepared products by multiplying the specific tariff equivalent(s) for the primary agricultural product(s) by the proportion(s) in value terms or in physical terms as appropriate of the primary agricultural product(s) in the worked and/or prepared products, and take account, where necessary, of any additional elements currently providing protection to industry.

2. External prices shall be, in general, actual average c.i.f. unit values for the importing country. Where average c.i.f. unit values are not available or appropriate, external prices shall be either:

(a) appropriate average c.i.f. unit values of a near country; or

(b) estimated from average f.o.b. unit values of (an) appropriate major exporter(s) adjusted by adding an estimate of insurance, freight and other relevant costs to the importing country.

3. The external prices shall generally be converted to domestic currencies using the annual average market exchange rate for the same period as the price data.

4. The internal price shall generally be a representative wholesale price ruling in the domestic market or an estimate of that price where adequate data is not available.

5. The initial tariff equivalents may be adjusted, where necessary, to take account of differences in quality or variety using an appropriate coefficient.

6. Where a tariff equivalent resulting from these guidelines is negative or lower than the current bound rate, the initial tariff equivalent may be established at the current bound rate or on the basis of national offers for that product.

7. Where an adjustment is made to the level of a tariff equivalent, which would have resulted from the above guidelines, the Member concerned shall afford, on request, full opportunities for consultation with a view to negotiating appropriate solutions.

ANNEX [B]

AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

Members,

Reaffirming that no Member should be prevented from adopting or enforcing measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Members where the same conditions prevail or a disguised restriction on international trade;

Desiring to improve the human health, animal health and Phytosanitary situation in all Members;

Noting that sanitary and Phytosanitary measures are often applied on the basis of bilateral agreements or protocols;

Desiring the establishment of a multilateral framework of rules and disciplines to guide the development, adoption and enforcement of sanitary and Phytosanitary measures in order to minimize their negative effects on trade;

Recognizing the important contribution that international standards, guidelines and recommendations can make in this regard;

Desiring to further the use of harmonized sanitary and Phytosanitary measures between Members, on the basis of international standards, guidelines and recommendations developed by the relevant international organizations, including the Codex Alimentarius Commission, the International Office of Epizootics, and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention, without requiring Members to change their appropriate level of protection of human, animal or plant life or health;

Recognizing that developing country Members may encounter special difficulties in complying with the sanitary or Phytosanitary measures of importing Members, and as a consequence in access to markets, and also in the formulation and application of sanitary or Phytosanitary measures in their own territories, and desiring to assist them in their endeavors in this regard;

Desiring therefore to elaborate rules for the application of the provisions of GATT 1994 which relate to the use of sanitary or Phytosanitary measures, in particular the provisions of Article XX (b);

Hereby agree as follows:

Article 1

General Provisions

1. This Agreement applies to all sanitary and Phytosanitary measures which may, directly or indirectly, affect international trade. Such measures shall be developed and applied in accordance with the provisions of this Agreement.

2. For the purposes of this Agreement, the definitions provided in Annex A shall apply.

3. The annexes are an integral part of this Agreement.

4. Nothing in this Agreement shall affect the rights of Members under the Agreement on Technical Barriers to Trade with respect to measures not within the scope of this Agreement.

Article 2

Basic Rights and Obligations

1. Members have the right to take sanitary and Phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that such measures are not inconsistent with the provisions of this Agreement.

2. Members shall ensure that any sanitary or Phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence, except as provided for in paragraph 7 of Article 5.

3. Members shall ensure that their sanitary and Phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between their own territory and that of other Members. Sanitary and Phytosanitary measures shall not be applied in a manner, which would constitute a disguised restriction on international trade.

4. Sanitary or Phytosanitary measures which conform to the relevant provisions of this Agreement shall be presumed to be in accordance with the obligations of the Members under the provisions of GATT 1994 which relate to the use of sanitary or Phytosanitary measures, in particular the provisions of Article XX (b).

Article 3

Harmonization

1. To harmonize sanitary and Phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or Phytosanitary measures on international

standards, guidelines or recommendations, where they exist, except as otherwise provided for in this Agreement, and in particular in paragraph 3.

2. Sanitary or Phytosanitary measures which conform to international standards, guidelines or recommendations shall be deemed to be necessary to protect human, animal or plant life or health, and presumed to be consistent with the relevant provisions of this Agreement and of GATT 1994.

3. Members may introduce or maintain sanitary or Phytosanitary measures which result in a higher level of sanitary or Phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, if there is a scientific justification, or as a consequence of the level of sanitary or Phytosanitary protection a Member determines to be appropriate in accordance with the relevant provisions of paragraphs 1 through 8 of Article 5.[7] Notwithstanding the above, all measures which result in a level of sanitary or Phytosanitary protection different from that which would be achieved by measures based on international standards, guidelines or recommendations shall not be inconsistent with any other provision of this Agreement.

4. Members shall play a full part, within the limits of their resources, in the relevant international organizations and their subsidiary bodies, in particular the Codex Alimentarius Commission, the International Office of Epizootics, and the international and regional organizations operating within the framework of the International Plant Protection Convention, to promote within these organizations the development and periodic review of standards, guidelines and recommendations with respect to all aspects of sanitary and Phytosanitary measures.

5. The Committee on Sanitary and Phytosanitary Measures provided for in paragraphs 1 and 4 of Article 12 (referred to in this Agreement as the "Committee") shall develop a procedure to monitor the process of international harmonization and coordinate efforts in this regard with the relevant international organizations.

Article 4

Equivalence

1. Members shall accept the sanitary or Phytosanitary measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures achieve the importing Member's appropriate level of sanitary or Phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

[7] For the purposes of paragraph 3 of Article 3, there is a scientific justification if, on the basis of an examination and evaluation of available scientific information in conformity with the relevant provisions of this Agreement, a Member determines that the relevant international standards, guidelines or recommendations are not sufficient to achieve its appropriate level of sanitary or Phytosanitary protection.

2. Members shall, upon request, enter into consultations with the aim of achieving bilateral and multilateral agreements on recognition of the equivalence of specified sanitary or Phytosanitary measures.

Article 5

Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection

1. Members shall ensure that their sanitary or Phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations.

2. In the assessment of risks, Members shall take into account available scientific evidence; relevant processes and production methods; relevant inspection, sampling and testing methods; prevalence of specific diseases or pests; existence of pest- or disease-free areas; relevant ecological and environmental conditions; and quarantine or other treatment.

3. In assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of sanitary or Phytosanitary protection from such risk, Members shall take into account as relevant economic factors: the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease; the costs of control or eradication in the territory of the importing Member; and the relative cost-effectiveness of alternative approaches to limiting risks.

4. Members should, when determining the appropriate level of sanitary or Phytosanitary protection, take into account the objective of minimizing negative trade effects.

5. With the objective of achieving consistency in the application of the concept of appropriate level of sanitary or Phytosanitary protection against risks to human life or health, or to animal and plant life or health, each Member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade. Members shall cooperate in the Committee, in accordance with paragraphs 1, 2 and 3 of Article 12, to develop guidelines to further the practical implementation of this provision. In developing the guidelines, the Committee shall take into account all relevant factors, including the exceptional character of human health risks to which people voluntarily expose themselves.

6. Without prejudice to paragraph 2 of Article 3, when establishing or maintaining sanitary or Phytosanitary measures to achieve the appropriate level of sanitary or Phytosanitary protection, Members shall ensure that such measures are not

more trade-restrictive than required to achieve their appropriate level of sanitary or Phytosanitary protection, taking into account technical and economic feasibility.[8]

7. In cases where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or Phytosanitary measures on the basis of available pertinent information, including that from the relevant international organizations as well as from sanitary or Phytosanitary measures applied by other Members. In such circumstances, Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or Phytosanitary measure accordingly within a reasonable period of time.

8. When a Member has reason to believe that a specific sanitary or Phytosanitary measure introduced or maintained by another Member is constraining, or has the potential to constrain, its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, an explanation of the reasons for such sanitary or Phytosanitary measure may be requested and shall be provided by the Member maintaining the measure.

Article 6

Adaptation to Regional Conditions, Including Pest- or Disease-Free Areas and Areas of Low Pest or Disease Prevalence

1. Members shall ensure that their sanitary or Phytosanitary measures are adapted to the sanitary or Phytosanitary characteristics of the area - whether all of a country, part of a country, or all or parts of several countries - from which the product originated and to which the product is destined. In assessing the sanitary or Phytosanitary characteristics of a region, Members shall take into account, *inter alia*, the level of prevalence of specific diseases or pests, the existence of eradication or control programmes, and appropriate criteria or guidelines, which may be developed by the relevant international organizations.

2. Members shall, in particular, recognize the concepts of pest- or disease-free areas and areas of low pest or disease prevalence. Determination of such areas shall be based on factors such as geography, ecosystems, epidemiological surveillance, and the effectiveness of sanitary or Phytosanitary controls.

3. Exporting Members claiming that areas within their territories are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Member that such areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

[8] For purposes of paragraph 6 of Article 5, a measure is not more trade-restrictive than required unless there is another measure, reasonably available taking into account technical and economic feasibility, that achieves the appropriate level of sanitary or Phytosanitary protection and is significantly less restrictive to trade.

Article 7

Transparency

Members shall notify changes in their sanitary or Phytosanitary measures and shall provide information on their sanitary or Phytosanitary measures in accordance with the provisions of Annex B.

Article 8

Control, Inspection and Approval Procedures

Members shall observe the provisions of Annex C in the operation of control, inspection and approval procedures, including national systems for approving the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs, and otherwise ensure that their procedures are not inconsistent with the provisions of this Agreement.

Article 9

Technical Assistance

1. Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, *inter alia*, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or Phytosanitary measures necessary to achieve the appropriate level of sanitary or Phytosanitary protection in their export markets.

2. Where substantial investments are required in order for an exporting developing country Member to fulfill the sanitary or Phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved.

Article 10

Special and Differential Treatment

1. In the preparation and application of sanitary or Phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members.

2. Where the appropriate level of sanitary or Phytosanitary protection allows scope for the phased introduction of new sanitary or Phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports.

3. With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs.

4. Members should encourage and facilitate the active participation of developing country Members in the relevant international organizations.

Article 11

Consultations and Dispute Settlement

1. The provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Dispute Settlement Understanding shall apply to consultations and the settlement of disputes under this Agreement, except as otherwise specifically provided herein.

2. In a dispute under this Agreement involving scientific or technical issues, a panel should seek advice from experts chosen by the panel in consultation with the parties to the dispute. To this end, the panel may, when it deems it appropriate, establish an advisory technical experts group, or consult the relevant international organizations, at the request of either party to the dispute or on its own initiative.

3. Nothing in this Agreement shall impair the rights of Members under other international agreements, including the right to resort to the good offices or dispute settlement mechanisms of other international organizations or established under any international agreement.

Article 12

Administration

1. A Committee on Sanitary and Phytosanitary Measures is hereby established to provide a regular forum for consultations. It shall carry out the functions necessary to implement the provisions of this Agreement and the furtherance of its objectives, in particular with respect to harmonization. The Committee shall reach its decisions by consensus.

2. The Committee shall encourage and facilitate ad hoc consultations or negotiations among Members on specific sanitary or Phytosanitary issues. The Committee shall encourage the use of international standards, guidelines or recommendations by all Members and, in this regard, shall sponsor technical consultation and study with the objective of increasing coordination and integration between international and national systems and approaches for approving the use of food additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs.

3. The Committee shall maintain close contact with the relevant international organizations in the field of sanitary and Phytosanitary protection, especially with the Codex Alimentarius Commission, the International Office of Epizootics, and the Secretariat of the International Plant Protection Convention, with the objective of securing the best available scientific and technical advice for the administration of this Agreement and in order to ensure that unnecessary duplication of effort is avoided.

4. The Committee shall develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations. For this purpose, the Committee should, in conjunction with the relevant international organizations, establish a list of international standards, guidelines or recommendations relating to sanitary or Phytosanitary measures which the Committee determines to have a major trade impact. The list should include an indication by Members of those international standards, guidelines or recommendations which they apply as conditions for import or on the basis of which imported products conforming to these standards can enjoy access to their markets. For those cases in which a Member does not apply an international standard, guideline or recommendation as a condition for import, the Member should provide an indication of the reason therefore, and, in particular, whether it considers that the standard is not stringent enough to provide the appropriate level of sanitary or Phytosanitary protection. If a Member revises its position, following its indication of the use of a standard, guideline or recommendation as a condition for import, it should provide an explanation for its change and so inform the Secretariat as well as the relevant international organizations, unless such notification and explanation is given according to the procedures of Annex B.

5. In order to avoid unnecessary duplication, the Committee may decide, as appropriate, to use the information generated by the procedures, particularly for notification, which are in operation in the relevant international organizations.

6. The Committee may, on the basis of an initiative from one of the Members, through appropriate channels invite the relevant international organizations or their subsidiary bodies to examine specific matters with respect to a particular standard, guideline or recommendation, including the basis of explanations for non-use given according to paragraph 4.

7. The Committee shall review the operation and implementation of this Agreement three years after the date of entry into force of the WTO Agreement, and thereafter as the need arises. Where appropriate, the Committee may submit to the Council for Trade in Goods proposals to amend the text of this Agreement having regard, *inter alia*, to the experience gained in its implementation.

Article 13

Implementation

Members are fully responsible under this Agreement for the observance of all obligations set forth herein. Members shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of this Agreement by other than central government bodies. Members shall take such

reasonable measures as may be available to them to ensure that non-governmental entities within their territories, as well as regional bodies in which relevant entities within their territories are members, comply with the relevant provisions of this Agreement. In addition, Members shall not take measures, which have the effect of, directly or indirectly, requiring or encouraging such regional or non-governmental entities, or local governmental bodies, to act in a manner inconsistent with the provisions of this Agreement. Members shall ensure that they rely on the services of non-governmental entities for implementing sanitary or Phytosanitary measures only if these entities comply with the provisions of this Agreement.

Article 14

Final Provisions

The least-developed country Members may delay application of the provisions of this Agreement for a period of five years following the date of entry into force of the WTO Agreement with respect to their sanitary or Phytosanitary measures affecting importation or imported products. Other developing country Members may delay application of the provisions of this Agreement, other than paragraph 8 of Article 5 and Article 7, for two years following the date of entry into force of the WTO Agreement with respect to their existing sanitary or Phytosanitary measures affecting importation or imported products, where such application is prevented by a lack of technical expertise, technical infrastructure or resources.

ANNEX A

DEFINITIONS[9]

1. ***Sanitary or Phytosanitary measure*** - Any measure applied:

(a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;

(b) to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;

(c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or

(d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.

Sanitary or Phytosanitary measures include all relevant laws, decrees, regulations, requirements and procedures including, *inter alia*, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labeling requirements directly related to food safety.

2. ***Harmonization*** - The establishment, recognition and application of common sanitary and Phytosanitary measures by different Members.

3. ***International standards, guidelines and recommendations***

(a) for food safety, the standards, guidelines and recommendations established by the Codex Alimentarius Commission relating to food additives, veterinary drug and pesticide residues, contaminants, methods of analysis and sampling, and codes and guidelines of hygienic practice;

(b) for animal health and zoo noses, the standards, guidelines and recommendations developed under the auspices of the International Office of Epizootics;

[9] For the purpose of these definitions, "animal" includes fish and wild fauna; “plant" includes forests and wild flora; "pests" include weeds; and "contaminants" include pesticide and veterinary drug residues and extraneous matter.

(c) for plant health, the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with regional organizations operating within the framework of the International Plant Protection Convention; and

(d) for matters not covered by the above organizations, appropriate standards, guidelines and recommendations promulgated by other relevant international organizations open for membership to all Members, as identified by the Committee.

4. ***Risk assessment*** - The evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing Member according to the sanitary or Phytosanitary measures which might be applied, and of the associated potential biological and economic consequences; or the evaluation of the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, beverages or feedstuffs.

5. ***Appropriate level of sanitary or Phytosanitary protection*** - The level of protection deemed appropriate by the Member establishing a sanitary or Phytosanitary measure to protect human, animal or plant life or health within its territory.

NOTE: Many Members otherwise refer to this concept as the "acceptable level of risk".

6. ***Pest- or disease-free area*** - An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease does not occur.

NOTE: A pest- or disease-free area may surround, be surrounded by, or be adjacent to an area - whether within part of a country or in a geographic region which includes parts of or all of several countries -in which a specific pest or disease is known to occur but is subject to regional control measures such as the establishment of protection, surveillance and buffer zones which will confine or eradicate the pest or disease in question.

7. ***Area of low pest or disease prevalence*** - An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease occurs at low levels and which is subject to effective surveillance, control or eradication measures.

ANNEX B

TRANSPARENCY OF SANITARY AND PHYTOSANITARY REGULATIONS

Publication of regulations

1. Members shall ensure that all sanitary and Phytosanitary regulations[10], which have been adopted, are published promptly in such a manner as to enable interested Members to become acquainted with them.

2. Except in urgent circumstances, Members shall allow a reasonable interval between the publication of a sanitary or Phytosanitary regulation and its entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products and methods of production to the requirements of the importing Member.

Enquiry points

3. Each Member shall ensure that one enquiry point exists which is responsible for the provision of answers to all reasonable questions from interested Members as well as for the provision of relevant documents regarding:

(a) any sanitary or Phytosanitary regulations adopted or proposed within its territory;

(b) any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within its territory;

(c) risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or Phytosanitary protection;

(d) the membership and participation of the Member, or of relevant bodies within its territory, in international and regional sanitary and Phytosanitary organizations and systems, as well as in bilateral and multilateral agreements and arrangements within the scope of this Agreement, and the texts of such agreements and arrangements.

4. Members shall ensure that where copies of documents are requested by interested Members, they are supplied at the same price (if any), apart from the cost of delivery, as to the nationals[11] of the Member concerned.

Notification procedures

5. Whenever an international standard, guideline or recommendation does not exist or the content of a proposed sanitary or Phytosanitary regulation is not substantially the same as the content of an international standard, guideline or recommendation, and if the regulation may have a significant effect on trade of other Members, Members shall:

[10] Sanitary and Phytosanitary measures such as laws, decrees or ordinances which are applicable generally.

[11] When "nationals" are referred to in this Agreement, the term shall be deemed, in the case of a separate customs territory Member of the WTO, to mean persons, natural or legal, who are domiciled or who have a real and effective industrial or commercial establishment in that customs territory.

(a) publish a notice at an early stage in such a manner as to enable interested Members to become acquainted with the proposal to introduce a particular regulation;

(b) notify other Members, through the Secretariat, of the products to be covered by the regulation together with a brief indication of the objective and rationale of the proposed regulation. Such notifications shall take place at an early stage, when amendments can still be introduced and comments taken into account;

(c) provide upon request to other Members copies of the proposed regulation and, whenever possible, identify the parts which in substance deviate from international standards, guidelines or recommendations;

(d) without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account.

6. However, where urgent problems of health protection arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in paragraph 5 of this Annex as it finds necessary, provided that the Member:

(a) immediately notifies other Members, through the Secretariat, of the particular regulation and the products covered, with a brief indication of the objective and the rationale of the regulation, including the nature of the urgent problem(s);

(b) provides, upon request, copies of the regulation to other Members;

(c) allows other Members to make comments in writing, discusses these comments upon request, and takes the comments and the results of the discussions into account.

7. Notifications to the Secretariat shall be in English, French or Spanish.

8. Developed country Members shall, if requested by other Members, provide copies of the documents or, in case of voluminous documents, summaries of the documents covered by a specific notification in English, French or Spanish.

9. The Secretariat shall promptly circulate copies of the notification to all Members and interested international organizations and draw the attention of developing country Members to any notifications relating to products of particular interest to them.

10. Members shall designate a single central government authority as responsible for the implementation, on the national level, of the provisions concerning notification procedures according to paragraphs 5, 6, 7 and 8 of this Annex.

General reservations

11. Nothing in this Agreement shall be construed as requiring:

(a) the provision of particulars or copies of drafts or the publication of texts other than in the language of the Member except as stated in paragraph 8 of this Annex; or

(b) Members to disclose confidential information which would impede enforcement of sanitary or Phytosanitary legislation or which would prejudice the legitimate commercial interests of particular enterprises.

ANNEX C

CONTROL, INSPECTION AND APPROVAL PROCEDURES[12]

1. Members shall ensure, with respect to any procedure to check and ensure the fulfillment of sanitary or Phytosanitary measures, that:

(a) such procedures are undertaken and completed without undue delay and in no less favourable manner for imported products than for like domestic products;

(b) the standard processing period of each procedure is published or that the anticipated processing period is communicated to the applicant upon request; when receiving an application, the competent body promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of all deficiencies; the competent body transmits as soon as possible the results of the procedure in a precise and complete manner to the applicant so that corrective action may be taken if necessary; even when the application has deficiencies, the competent body proceeds as far as practicable with the procedure if the applicant so requests; and that upon request, the applicant is informed of the stage of the procedure, with any delay being explained;

(c) information requirements are limited to what is necessary for appropriate control, inspection and approval procedures, including for approval of the use of additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs;

(d) the confidentiality of information about imported products arising from or supplied in connection with control, inspection and approval is respected in a way no less favourable than for domestic products and in such a manner that legitimate commercial interests are protected;

(e) any requirements for control, inspection and approval of individual specimens of a product are limited to what is reasonable and necessary;

[12] Control, inspection and approval procedures include, *inter alia*, procedures for sampling, testing and certification.

(f) any fees imposed for the procedures on imported products are equitable in relation to any fees charged on like domestic products or products originating in any other Member and should be no higher than the actual cost of the service;

(g) the same criteria should be used in the siting of facilities used in the procedures and the selection of samples of imported products as for domestic products so as to minimize the inconvenience to applicants, importers, exporters or their agents;

(h) whenever specifications of a product are changed subsequent to its control and inspection in light of the applicable regulations, the procedure for the modified product is limited to what is necessary to determine whether adequate confidence exists that the product still meets the regulations concerned; and

(i) a procedure exists to review complaints concerning the operation of such procedures and to take corrective action when a complaint is justified.

Where an importing Member operates a system for the approval of the use of food additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs which prohibits or restricts access to its domestic markets for products based on the absence of an approval, the importing Member shall consider the use of a relevant international standard as the basis for access until a final determination is made.

2. Where a sanitary or Phytosanitary measure specifies control at the level of production, the Member in whose territory the production takes place shall provide the necessary assistance to facilitate such control and the work of the controlling authorities.

3. Nothing in this Agreement shall prevent Members from carrying out reasonable inspection within their own territories.

ANNEX [C]

The Annex is split for convenience into a number of sub-components. Those being:

(i) A Technical Regulations Plan prepared by the MOA
(ii) SPS Regulations *
(iii) Pesticide Regulations *
(iv) Instructions for Importing Live Animals *
(v) Veterinary Quarantine Regulations *
(vi) Veterinary Definitions
(vii) Instructions / Health for products of Animal Origin *
(viii) Animal Quarantine Regulations *
(ix) Draft Import /Export Law
(x) Application for an import license
(xi) Automatic License to import pesticides
(xii) Automatic License to import veterinary medicines.

(i) A Technical Regulations Plan prepared by the MOA

Article (11) Issuance of Technical Regulations

The Ministry shall participate with competent authorities in establishing or revising national standards for agricultural products and agricultural inputs.

The Minister shall issue technical regulations for any of the items referred to in Paragraph (a) of this Article, as he deems necessary to fulfill the requirements of the agricultural sector subject to the provisions of relevant national laws and international agreements to which the Kingdom is a party. However, all such technical regulations shall be no more restrictive of domestic and international trade than necessary to fulfill the legitimate objective of the regulation.

The Ministry shall be in charge of verifying compliance of agricultural products and inputs with the technical regulations it issues, the Ministry shall also participate with other competent authorities in verifying compliance of agricultural products and inputs with the all technical regulations issued by other entities. This shall include the Ministry conducting- whether solely or with participation with other entities -conformity assessment procedures for agricultural products and inputs before admitting them to circulation or importation. When conducting conformity assessment procedures, the Ministry shall take into consideration-enforced legislation and international agreements to which the Kingdom is a party.

Preparing, Developing, Reviewing and Adopting Technical Regulations for Agricultural Products and Inputs
Issued Pursuant to Article (11) of the Agriculture Law No. () of 2002

Article 1
Instructions Name

These instructions shall be known as “Preparing, Developing, Reviewing and Adopting Technical Regulations for Agricultural Products and Inputs” and will be enforced forty-five days after publication in the Official Gazette.

Article 2
Definitions

Considering the definitions mentioned under Article 2 of Agriculture Law No. () for the Year 2001, the following terms and words shall have the meanings specified opposite each of them unless the context otherwise indicates.

Secretary General	:	The Secretary General of the Ministry of Agriculture
Technical regulation	:	
Standards Institution	:	Jordan Institute for Standards and Metrology
	:	
	:	
	:	

	:	

Article 3
Notifying the Standards Institute

The Ministry shall notify the Standards Institute of all new or changed technical regulations that it proposes or is considering adopting to fulfill the requirements of the agriculture sector. The notification shall be for purposes of coordinating the efforts of other governmental entities and reviewing existing regulations for overlap. Therefore, notification shall be made in an early stage of preparing the regulation and in all cases at least thirty days before a written proposal for a new or changed technical regulation is prepared.

Article 4
Establishing the Regulations Committee

The Secretary General shall form a Regulation Committee to prepare, review and adopt each new or changed technical regulation for plants, plant products, plant production inputs, animals, animal products and animal production inputs except for the following inputs for which the respective Registration Committees will prepare, review and adopt each new or changed technical regulation:

-Transplants;

-Pesticides;

-Fertilizers;

-Veterinary medicines; and

-Raw feed of animal origin.

Each Regulation Committee for plants, plant products or plant production inputs shall consist of the following persons:

Head, Plant Production Department	:	Chairman
One product specialist from the Plant Production Department	:	Member
One staff member from the Plant Protection Department	:	Member
One staff member from the Standards Institute	:	Member
One staff member from the Ministry of Industry and Trade	:	Member
Two representatives that are farmers or from farmer organizations	:	Members
One representative from the private sector selling or buying the product	:	Member
One representative from a consumers organization	:	Member
One staff member from the Plant Production Department	:	Secretary/Member

Each Regulation Committee for animals, animal products or animal production inputs shall consist of the following persons:

Head, Animal Production Department	:	Chairman
One product specialist from the Animal Production Department	:	Member
One staff member from the Animal Protection Department	:	Member
One staff member from the Standards Institute	:	Member
One staff member from the Ministry of Industry and Trade	:	Member
Two representatives that are farmers or from farmer organizations	:	Members
One representative from the private sector selling or buying the product	:	Member
One representative from a consumers organization	:	Member
One staff member from the Animal Production Department	:	Secretary/Member

Members of the Regulation Committee shall not be entitled to any remuneration for their participation on the Committee.

Article 5

Regulation Committee Functions and Responsibilities

Each Regulation Committee shall have the following functions and responsibilities:

a) Research and review internationally accepted technical regulations for the product under consideration using information from the International Standards Organization, Codex Alimentarius Commission and other relevant international and multilateral organizations, scientific associations, and scientific journals.

b) Prepare draft technical regulations according to the

(ii) SPS Regulations *

Handling Enquiries on Jordan's SPS Measures
WTO SPS Committee Guidelines:[13]

REQUESTING DOCUMENTS RELATED TO A NOTIFICATION

Members requesting documents related to a notification should provide all the elements permitting the identification of the documents, and in particular the WTO SPS notification number to which the request refers.

PROVIDING DOCUMENTS RELATED TO A NOTIFICATION

Address of body supplying the documents

Members should indicate under point 12 of the WTO notification format (point 11 for Emergency notifications) the full address of the body responsible for supplying the relevant documents if that body is not the notification authority or the enquiry point.

Responding to requests

Documents requested should normally **be provided within five working days**. If this is not possible, the request for documentation or information should be acknowledged within that period and an estimate given of the time required to provide the requested documentation.

Documents supplied in response to a request should be **identified with the WTO SPS notification number** to which the request refers.

Members should **use fax and e-mail facilities to the extent possible** in responding to requests for documentation or information. Members are encouraged to publish their sanitary or phytosanitary measures on the World Wide Web to facilitate the supply of documents.

Acknowledging receipt of documents

The Member requesting documents relating to a notification should acknowledge receipt of the documents provided.

Translation of documents

When a **translation** of a relevant document exists or is planned, this fact **should be indicated on the WTO notification form** next to the title of the

[13] Reproduced from World Trade Organization document WT/TC/NOTIF/SPS/1 (TECHNICAL COOPERATION HANDBOOK ON NOTIFICATION REQUIREMENTS: Agreement on the Application of Sanitary and Phytosanitary Measures).

document. If only a **translated summary** exists, the fact that such a summary is available should be similarly indicated.

If a translation of a document or summary exists in the language of the requesting Member, or, as the case may be, in the WTO working language used by the requesting Member, it should be automatically sent with the original of the document requested.

Where documents are not available in a WTO working language, developed country Members shall, upon request, supply a translation of the document, or in case of voluminous documents, a translation of a summary of the documents, in a WTO working language.

When a Member seeks a copy of a document relating to a notification, which does not exist in that Member's WTO working language, the notifying Member should advise the requesting Member of other Members that have requested, as of that date, a copy of the document. The Member seeking a copy of a document relating to a notification may contact other Members in order to determine whether the latter are prepared to share any translation that they have or will be making.

Any Member possessing an unofficial translation of a document relating to a notification should inform the notifying Member of the existence of the unofficial translation and is encouraged to make it available to other interested Members, through electronic facilities where appropriate. In doing so, the Member should clearly indicate the unofficial and non-committal nature of the translation.

HANDLING COMMENTS ON JORDAN'S NOTIFICATIONS

WTO SPS Committee Guidelines:

Each Member should notify the WTO Secretariat of the authority or agency (e.g. its notification authority) which it has designated to be in charge of handling comments received, and of any change and/or modification of such authority or agency.

Members submitting **comments on a notified draft regulation** should provide them without unnecessary delay **to the authority designated to handle the comments**, or to the national notification authority if no other designation is made.

A Member receiving comments through the designated body should, without further request:

(i) acknowledge the receipt of such comments;

(ii) explain within a reasonable period of time, and at the earliest possible date before the adoption of the measure, to any Member from which it has received comments, how it will take these comments into account and, where appropriate, provide additional relevant information on the proposed sanitary or phytosanitary regulations concerned;

(iii) provide to any Member from which it has received comments, a copy of the corresponding sanitary or phytosanitary regulations as adopted or information that no corresponding sanitary or phytosanitary regulations will be adopted for the time being;

(iv) where possible make available to other Members comments and questions it has received and answers it has provided**,** preferably through electronic facilities.

Favourable consideration should be given to requests for extension of the comment period, in particular with regard to notifications relating to products of particular interest to developing country Members, or where there have been delays in receiving and translating the relevant documents. An extension of the time limit for comments of at least 30 days should be provided upon request, whenever possible**.**

AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

I. What are SPS measures? (Annex A, paragraph 1 of the SPS Agreement)

The SPS Agreement applies to all SPS measures, which may affect international trade. Sanitary and phytosanitary measures are defined in Annex A as any measures applied:

to protect	from
human or animal life	risks arising from additives, contaminants, toxins or disease-causing organisms in their food;
human life	plant- or animal-carried diseases (zoonoses);
animal or plant life	pests, diseases, or disease-causing organisms;
a country	damage caused by the entry, establishment or spread of pests.

Sanitary and phytosanitary measures taken to protect the health of fish and wild fauna, as well as forests and wild flora, are also included in this definition. All types of measures to achieve these purposes are covered by the SPS Agreement, whether these are requirements on final products, processing requirements, inspection, certification, treatment or packaging and labelling requirements directly related to food safety.

What is a "significant effect?"
A significant effect occurs if the proposed measure might reduce or increase imports by Jordan. For example, adding a country to a list of countries from which sheep may not be imported will have a significant effect on trade if that country previously exported sheep to Jordan. On the other hand, changing the pre-export quarantine period for turkeys will not have a significant effect on trade because trade is very limited.

II. Which measures have to be notified? (Annex B, paragraph 5 of the SPS Agreement)

- *Proposed* SPS regulations (such as laws, decrees or ordinances which are applicable generally), or changes to regulations, which are **not** the same as an international standard and have a **significant effect on trade**.

- Note that SPS measures in force *before* 11 April 2000 **do not** have to be notified (but subsequent changes to these measures do have to be notified). However, Members should be able to answer questions about such measures should they be requested to do so by other Members through their Enquiry Points.

III. Recommended Notification Procedures - G/SPS/7

The recommended notification procedures under the SPS Agreement are contained in document G/SPS/7. This document, which is self-explanatory, contains guidelines regarding: the assessment of a significant effect on trade, the timing of notifications, translation, handling of requests for documentation or information, and the handling of comments on notifications. With regard to guidelines for the completion of the notification formats, recommendations are contained under Item F for regular notifications and under Item G for emergency notifications.

IV. Emergency Notifications (Annex B, paragraph 6 of the SPS Agreement)

Why an emergency format?

- As several notifications had been received as emergency notifications without the required indication of the nature of the emergency and an explanation as to why advance notice was not possible (as required by the SPS Agreement in paragraph 6 of Annex B) it had been suggested at the March 1995 meeting of the SPS Committee that a format specifically for the notification of emergency measures be created. This format was adopted by the SPS Committee at its June 1995 meeting. The relevant recommended notification procedures were adopted in May 1996 (contained in document G/SPS/7).

When should the emergency notification format be used?

- Annex B, Paragraph 6 refers to a situation "where urgent problems of health protection **arise or threaten to arise**".

What should be done?

- Immediately notify Members through the Secretariat indicating the *nature of the urgent problem* (see Item G in G/SPS/7).
- Provide upon request copies of regulation to other Members.
- Allow members to make comments in writing and take these into account.

V. Enquiry Points (Annex B, paragraph 3 of the SPS Agreement)

The purpose of the Enquiry Point is to answer all reasonable questions from Members or provide relevant documents regarding *inter alia*:

- sanitary or phytosanitary measures adopted or proposed;
- control and inspection procedures;
- risk assessment procedures.

Note that each WTO Member should ensure the existence of *one* Enquiry Point. The WTO Secretariat regularly issues an updated list of all National Enquiry Points notified to the WTO in the G/SPS/ENQ/... series.

VI. Notification Authority (Annex B, paragraph 10 of the SPS Agreement)

Members are furthermore required to identify a national central governmental authority, which is responsible for the implementation of the notification procedures under the SPS Agreement. For many Members the Notification Authority and the Enquiry Point are the same entity. The latest list of National Notification Authorities is contained in document G/SPS/6 (15 May 1996).

VII. Documents of interest

- "Understanding the World Trade Organization Agreement on Sanitary and Phytosanitary Measures".
- "Graphs on the coverage of the SPS and TBT Agreements", Note by the Secretariat, G/SPS/W/32, 10 November 1995.

RECOMMENDED NOTIFICATION PROCEDURES

At its meeting of 29-30 May 1996, the Committee adopted the following revised recommended notification procedures with regard to paragraphs 5 and 6 of Annex B of the Agreement.

Members should follow these guidelines when notifying regulations as required in paragraphs 5 or 6 of Annex B. The format for regular notifications (Item F below) should be used for notifications in accordance with paragraph 5 of Annex B, whereas the format for emergency notifications (Item G below) should be used for notifications as provided for in paragraph 6 of Annex B.

A. Application of Annex B, paragraph 5 (preambular part) of the SPS Agreement

Recommendation:

For the purposes of Annex B, paragraphs 5 and 6 in the SPS Agreement, the concept of "significant effect on trade of other Members" may refer to the effect on trade:

- of one sanitary or phytosanitary regulation only or of various sanitary or phytosanitary regulations in combination;
- in a specific product, group of products or products in general; and
- between two or more Members (countries).

When assessing whether the sanitary or phytosanitary regulation may have a significant effect on trade, the Member concerned should take into consideration, using relevant information which is available, such elements as the value or other importance of imports in respect of the importing and/or exporting Members concerned, whether from other Members individually or collectively, the potential development of such imports, and difficulties for producers in other Members to comply with the proposed sanitary or phytosanitary regulations. The concept of a significant effect on trade of other Members should include both import-enhancing and import-reducing effects on the trade of other Members, as long as such effects are significant.

B. Timing of notifications

Recommendation:

When implementing the provisions of paragraph 5 of Annex B, a notification should be made when a draft with the complete text of a proposed regulation is available and when amendments can still be introduced and comments taken into account.

C. Translation of documents relating to notifications and address of body supplying the documents

Recommendation:

When a Member seeks a copy of a document relating to a notification which does not exist in that Member's WTO working language, it will be advised, on request, by the notifying Member of other Members that have requested, as of that date, a copy of the document. The Member seeking a copy of a document relating to a notification may then contact such other Members in order to determine whether the latter are prepared to share, on mutually agreed terms, any translation that they have or will be making into relevant WTO working language(s).

(a) When a translation of a relevant document exists or is planned, this fact shall be indicated on the WTO notification form next to the title of the document. If only a translated summary exists, the fact that such a summary is available shall be similarly indicated.

(b) Upon receipt of a request for documents, any translated summaries that exist in the language of the requester or, as the case may be, in a WTO working language, shall be automatically sent with the original of the documents requested.

(c) Members shall indicate under point 12 of the WTO notification form *(point 11 for Emergency Notifications)* the exact address of the body responsible for supplying the relevant documents if that body is not the enquiry point.

D. Processing of requests for documentation or information

Recommendation:

(a) Requests for documentation should contain all the elements permitting the identification of the documents and in particular, the WTO SPS notification number to which the requests refer. The same information should appear on the documents supplied in response to such requests.

(b) Any request for documentation or information should be acknowledged if it cannot be responded to and processed within five working days. If a delay in supplying the documentation or information requested is foreseen, this should be acknowledged to the requester.

(c) FAX facilities should be used to the extent possible in responding to requests for documentation or information.

E. Handling of comments on notifications

Recommendation:

(a) Each Member should notify the WTO Secretariat of the authority or agency (e.g. its enquiry point) which it has designated to be in charge for handling of comments received.

(b) A Member receiving comments through the designated body should without further request
   (i) acknowledge the receipt of such comments;
   (ii) explain within a reasonable time to any Member from which it has received comments, how it will proceed in order to take these comments into account and, where appropriate, provide additional relevant information on the proposed sanitary or phytosanitary regulations concerned; and
   (iii) provide to any Member from which it has received comments, a copy of the corresponding sanitary or phytosanitary regulations as adopted or information that no corresponding sanitary or phytosanitary regulations will be adopted for the time being.

(c) Favourable consideration should be given to requests for extension of the comment period, notably where there have been delays in receiving and translating the relevant documents.

F. Completion of formats - Regular notifications (Annex B, Paragraph 5)

Information contained in the notifications should be as complete as possible and no section should be left blank. Where necessary, "not known" or "not stated" should be indicated.

Item	Description
1. Member notifying	Government, including the competent authorities of the European Community, which is making the notification.
2. Agency responsible	Body elaborating a proposal for or promulgating a sanitary or phytosanitary regulation.
3. Products covered	Tariff item number(s) (normally HS, chapter or heading and number) as contained in national schedules deposited with the WTO. ICS numbers may be provided in addition, where applicable. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.
4. Title and number of pages of the notified document	Title of the proposed or adopted sanitary or phytosanitary regulation. Number of pages in the notified document.
5.	An abstract of the proposed or adopted sanitary or phytosanitary regulation clearly indicating its content. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.
6. Objective and rationale	For instance: food safety, animal health, plant protection, etc.
7. Existence of international standard	If a relevant international standard does not exist, put a cross in the box provided; otherwise briefly describe how the proposed regulation deviates from such international standard.
8. Relevant documents and language(s) in which these are available	(a) Publication where notice appears, including date and reference numbers; (b) Proposal and basic document to which proposal refers (with specific reference number or other identification), and the language(s) in which the notified documents and any summary of these are available; (c) Publication in which proposal will appear when adopted; (d) Whenever practicable, give reference to relevant international standard. If it is necessary to charge for documents supplied, the amount of the charge should be indicated.
9. Proposed date of adoption	The date when the sanitary or phytosanitary regulation is to be adopted.
10. Proposed date of entry into force	The date from which the requirements in the regulation are proposed or decided to enter into force.

11. Final date for comments and agency or authority handling comments	The date by which Members may submit comments in accordance with Annex B, Paragraph 5(b) of the SPS Agreement. A specific date should be indicated. A normal time limit for comments on notifications of sixty days has been recommended. A Member may, if necessary, however, indicate in its notification that it will proceed to implement the proposed measure after forty-five days if no comments or requests for extension of the time limit have been received from other Members within that time. Any Member, which is able to provide a time limit beyond sixty days, is encouraged to do so. The agency or authority, which has been designated to handle the comments, should be indicated.
12. Texts available from	If available from national enquiry point, put a cross in the box provided. If available from another body, give its address, telefax number and (if available) E-mail address. Such indications should not in any way discharge the relevant enquiry point of its responsibilities under the provisions of Annex B, Paragraphs 3 and 4 of the SPS Agreement.

WORLD TRADE ORGANIZATION

G/SPS/N/JOR/
date of distribution
(00-0000)

Committee on Sanitary and Phytosanitary Measures

NOTIFICATION

1.	**Member to Agreement notifying:** The Hashemite Kingdom of Jordan **If applicable, name of local government involved:**
2.	**Agency responsible:**
3.	**Products covered (tariff item number(s) as specified in national schedules deposited with the WTO. ICS numbers may be provided in addition, where applicable):**
4.	**Title and number of pages of the notified document:**
5.	**Description of content:**
6.	**Objective and rationale:**
7.	**An international standard, guideline or recommendation does not exist [ ].** **If an international standard, guideline or recommendation exists, whenever possible, identify deviations.**
8.	**Relevant documents and language(s) in which these are available:**
9.	**Proposed date of adoption:**
10.	**Proposed date of entry into force:**
11.	**Final date for comments:** **Agency or authority designated to handle comments:** National Enquiry Point
12.	**Texts available from: National enquiry point [X] or address, telefax number and E-mail address (if available) of other body:**

G. Completion of formats - Emergency notifications (Annex B, Paragraph 6)

Information contained in the notification form should be as complete as possible and no section should be left blank. Where necessary, "not known" or "not stated" should be indicated.

Item	Description
1. Member notifying	Government, including the competent authorities of the European Community, which is making the notification.
2. Agency responsible	Body elaborating a proposal for or promulgating a sanitary or phytosanitary regulation.
3. Products covered	Tariff item number(s) (normally HS, chapter or heading and number) as contained in national schedules deposited with the WTO. ICS numbers may be provided in addition, where applicable. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.
4. Title and number of pages of the notified document	Title of the proposed or adopted sanitary or phytosanitary regulation. Number of pages in the notified document.
5. Description of content	An abstract of the proposed or adopted sanitary or phytosanitary regulation clearly indicating its content. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.
6. Objective and rationale	For instance: food safety, animal health, plant protection, etc.
7. Nature of urgent problem(s)	Indication of the underlying reasons for resorting to emergency action.
8. Existence of international standard	If a relevant international standard does not exist, put a cross in the box provided; otherwise briefly describe how the proposed regulation deviates from such international standard.
9. Relevant documents and language(s) in which these are available	Measure(s) taken and basic regulation which was modified (with specific reference number or other identification), and the language(s) in which the notified documents and any summary of these are available; Publication in which regulation will appear; Whenever practicable, give reference to relevant international standard. If it is necessary to charge for documents supplied, the amount of the charge should be indicated.
10. Date of entry into force and	The date from which the requirements entered into force, and, if applicable, the period of time during which they will

period of application	apply. (For example: immediate entry into force [date], duration of two months.)
11. Texts available from and agency or authority handling comments	If available from national enquiry point, put a cross in the box provided. If available from another body, give its address, telefax number and (if available) E-mail address. Such indications should not in any way discharge the relevant enquiry point of its responsibilities under the provisions of Annex B, Paragraphs 3 and 4 of the SPS Agreement. The agency or authority, which has been designated to handle the comments, should be indicated.

WORLD TRADE ORGANIZATION **G/SPS/N/JOR**

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Committee on Sanitary and Phytosanitary Measures

NOTIFICATION OF EMERGENCY MEASURES

1.	**Member to Agreement notifying:** The Hashemite Kingdom of Jordan **If applicable, name of local government involved:**
2.	**Agency responsible:**
3.	**Products covered (tariff item number(s) as specified in national schedules deposited with the WTO. ICS numbers may be provided in addition, where applicable):**
4.	**Title and number of pages of the notified document:**
5.	**Description of content:**
6.	**Objective and rationale:**
7.	**Nature of the urgent problem(s):**
8.	**An international standard, guideline or recommendation does not exist [ ].** **If an international standard, guideline or recommendation exists, whenever possible, identify deviations:**
9.	**Relevant documents and language(s) in which these are available:**
10.	**Date of entry into force/period of application (as applicable):**
11.	**Texts available from/and agency or authority designated to handle comments: National enquiry point [X] or address, telefax number and E-mail address (if available) of other body:**

WORLD TRADE ORGANIZATION

G/SPS/N/XER/3
16 July 1996
(96-0000)

Committee on Sanitary and Phytosanitary Measures

NOTIFICATION [Hypothetic]

1.	**Member to Agreement notifying:** Xertia **If applicable, name of local government involved:**
2.	**Agency responsible:** Quarantine and Inspection Service
3.	**Products covered (tariff item number(s) as specified in national schedules deposited with the WTO. ICS numbers may be provided in addition, where applicable):** Bovine live animals (HS 0102.10)
4.	**Title and number of pages of the notified document:** Draft revised quarantine requirements for the importation of bovine animals.
5.	**Description of content:** Requirements regarding: import permits, health certificates, arrival procedures and importers' responsibilities.
6.	**Objective and rationale:** Prevent the spread of bovine tuberculosis to the domestic bovine herd. Protection of animal health.
7.	**An international standard, guideline or recommendation does not exist [X].** **If an international standard, guideline or recommendation exists, whenever possible, identify deviations:**
8.	**Relevant documents and language(s) in which these are available:** A review of the quarantine risks associated with the importation of bovine animals. Bureau of Rural Resources 1996. Available in English. Upon request, summaries may be obtained in Spanish and French.
9.	**Proposed date of adoption:** 20 September 1996.
10.	**Proposed date of entry into force:** 1 October 1996.
11.	**Final date for comments:** 16 September 1996. **Agency or authority designated to handle comments:** Quarantine and Inspection Service
12.	**Texts available from: National enquiry point [X] or address, telefax number and E-mail address (if available) of other body:**

WORLD TRADE ORGANIZATION

G/SPS/N/ERL/6
10 August 1996
(96-0000)

Committee on Sanitary and Phytosanitary Measures

NOTIFICATION OF EMERGENCY MEASURES [Hypothetic]

1.	**Member to Agreement notifying:** Earthland **If applicable, name of local government involved:**
2.	**Agency responsible:** Ministry of Agriculture
3.	**Products covered (tariff item number(s) as specified in national schedules deposited with the WTO. ICS numbers may be provided in addition, where applicable):** Potatoes (HS 0710.10)
4.	**Title and number of pages of the notified document:** Urgent communication from the Ministry of Agriculture and Plant Inspection Service.
5.	**Description of content:** The communication, dated 7 August 1996, provisionally bans the import of potatoes from Xertia.
6.	**Objective and rationale:** Plant protection.
7.	**Nature of the urgent problem(s):** Infections of *Pseudomonas solanacearum* have been detected in imports from Xertia. This disease has never been found in Earthland and provisional information indicates that there exists a potential for its spread with serious biological and economical consequences. A risk assessment will be undertaken to establish the risk of such an infection occurring and will be used as the basis for eventual further phytosanitary measures.
8.	**An international standard, guideline or recommendation does not exist [X].** **If an international standard, guideline or recommendation exists, whenever possible, identify deviations:**
9.	**Relevant documents and language(s) in which these are available:** Official Journal of Earthland, Volume 4, page 10. Available in English on request.
10.	**Date of entry into force/period of application (as applicable):** 5 August 1996. Provisionally valid until 1 November 1996.
11.	**Texts available from/and agency or authority designated to handle comments: National enquiry point [X] or address, telefax number and E-mail address (if available) of other body:**

(iii) Pesticide Regulations *

Pesticides Registration, Manufacturing, Preparation, Importing, Trading and Circulating Instructions
(Instructions No. ( ) for the Year 2002)
Issued Pursuant to the Provisions of Article No. (21) of the Agriculture Law No. ( ) for the Year 2003

FIRST CHAPTER - Definitions

Article 1

These instructions shall be known as the "Pesticides Registration, Manufacturing, Preparation, Importing, Trading and Circulation Instructions" and shall be effective forty-five days from the date of publishing in the Official Gazette.

Article 2

Without prejudice to the provisions of Article (2) of the Law of Agriculture No. ( ) for the year 2002, the following terms and expressions shall have the following meanings unless otherwise indicated by the text:

Secretary General		The Secretary General of the Ministry of Agriculture
Directorate		The Plant Protection Directorate
Director		The Director of the Plant Protection Directorate
Head		The Head of the Pesticides Registration Committee
Committee		The Pesticides Registration Committee
Secretary of the Committee		The individual who is a member of the registration committee who receives registration applications and is responsible for verifying the completeness of such as well as receiving and sending any correspondence associated with pesticides registration
Competent Governmental Authority		The governmental entity located outside the Kingdom concerned with the registration of pesticides, canceling of registration, licensing the use, organizing the manufacturing and circulation of pesticides as well as the import, export or local trading thereof.
Registration Certificate		The document that is issued by the competent governmental authority to the effect that the pesticide has been registered.
Utilization Certificate		The document that is issued by the competent governmental authority to the effect that the pesticide may be used.
Concerned international organizations		The World Health Organization, Food and Agriculture Organization, United Nations Environment Program, Environmental Protection Agency of the United States and the equivalent governmental organizations of Japan and the

		European Union countries and other official international organizations where the recommendations are proposed and approved by the member countries of the organization that is charged with protecting human and animal health and the environment from chemical hazards.
Waiting period		The time period between application of a pesticide to plants and the harvesting of the food products from the plants as recommended by the manufacture of the pesticide according to its determined residue effects.

SECOND CHAPTER - Pesticides Registration

Article 3

The Instructions provided for in the current chapter include the process of registering pesticides for use within the Hashemite Kingdom of Jordan, specification of pesticides that are permitted to be used in the Kingdom and the process of canceling registration and re-registering the same.

Article 4

Pesticides may only be registered by a corporation or company that is licensed to import pesticides or licensed to manufacture or prepare pesticides locally pursuant to the provisions of the current Instructions.

Article 5

The following pesticides shall not be eligible for registration and nor will any registration application for them be considered:

1. Those pesticides that are prohibited for use in the Kingdom.

2. Those pesticides for which use is prohibited in the country of origin for human health or environmental reasons.

3. Those pesticides that contain a chemical that is prohibited for use by the concerned international organizations as they may cause cancerous tumors or congenital deformations or genetic mutations for humans or animals or have a subsequent effect on the nervous system.

4. Those pesticides for which its waiting period is not compatible with the specific geographical, climatic and production technology in place in the Kingdom and constraints associated with such.

5. Those pesticides manufactured by a company that did not invent the active material in the pesticide unless the company is licensed by the inventing company of the same to manufacture the pesticide.

6. Those pesticides for which a risk analysis has been conducted according to international recommendations and by which the pesticide is determined to present an unacceptable health risk for the Kingdom's plants, animals or humans.

Article 6.

The pesticides described under paragraphs (A & B) of the current article shall be excluded from the obligatory registration and may be permitted to be imported or locally manufactured in the following cases:

A-1. The pesticides for the Ministry or the Ministry of Health for official use in the field of their specialization or activities on condition that their use is not prohibited by the competent international organizations or are locally prohibited.

A-2. Pesticides for approved research institutions for the purpose of research or scientific experiments on condition that a non-automatic license is obtained and the Ministry is provided with the technical bulletin of the product along with the research proposal.

A-3. Those pesticides which the Ministry determines essential in emergency cases and exceptional circumstances. Such emergency cases and exceptional circumstances shall follow official declaration of an emergency that poses a significant threat to the Kingdom's plant wealth and the use of the pesticides shall be limited to the competent Ministry staff or, as necessary, strictly monitored by competent Ministry staff.

B-1. Samples of pesticides not registered in the Kingdom for which the Ministry permits their importation for studies and observation purposes before submitting the registration application and their quantities shall be defined according to the technical requirements of the Ministry:

B-2. Samples of pesticides the registration of which is preliminarily approved of to be submitted for analysis on condition that the quantity is not more than 1 kilogram or 1 liter and observing the following:

a) A sample of one pesticide may not be entered more than once.

b) The quantity of the sample shall not exceed ten kilograms or liters.

c) The sample packages shall be clearly marked as samples or for experimental purposes and not for commercial sale.

d) The importing party shall submit an original invoice issued by the exporting company stating the value of the sample.

Article 7

Applications for registration of a pesticide will only be accepted if prepared in the format specified by the Ministry in an instruction issued for this purpose. The registration application for imported or locally manufactured pesticides shall be submitted to the Secretary of the Committee with the following documents as appropriate:

A. A certificate that the source company of the pesticide is a company producing or preparing the pesticide and not a filling or dividing company of the pesticide. However, this certificate must be issued by the governmental party specialized in registering the pesticides in the country of origin and duly legalized and only one year has passed since the issuance of the certificate.

B. For pesticides that will be imported, the certificates provided for in subparagraphs (1 & 2) of the current paragraph must be issued by the concerned governmental authority in the country of origin and the date on the certificate may not be more than one year old from the date on the registration application:

1. A certificate issued by the national or local government authority or the national Chamber of Commerce to the effect that the exporting company of the pesticide is the producing, manufacturing or preparing company for the pesticide and not a packaging or partitioning company only.

2. A certificate indicating that the pesticide is registered, approved, cleared and is used or permitted to be used in the country of origin with the same specifications (substances and active materials) as in the formulation submitted for registration with regard to the active ingredients and its concentrations, method of manufacturing and trade name or common name provided the certificate is issued by a specialized government entity in the country of origin and that the period since issuance of the certificate is at most one year.

C. The certificates and documents provided for in subparagraphs (1, 2, 3, 4) of the current paragraph shall also be attached as appropriate provided that they are issued by the producing or manufacturing or preparing company.

1. A certificate or other document issued by the manufacturing company stating that the exporting company for the pesticide is an appointed agent for the producing or manufacturing company and the date of issue of such is not more than one year old as of the date of submitting the registration application.

2. A certificate from the original manufacturing company that the manufacturing facility in the exporting country produces the same pesticide with the same specifications (if importing from another point of origin)

3. An analysis certificate for the pesticide produced in the country of origin showing that the composition of the pesticide conforms to the

stated specifications (substances) and has been prepared using the same quality and quantity of substances and, if the pesticide includes any of the Bayerthroid compounds, the percentage of (Cis-trans) in the product.

4. Three copies of the documents, in the English or Arabic language, detailing the methods of pesticide analysis, analysis of the effects of residue on humans, active technical substance analysis, and emulsification test.

5. Three copies of the technical data bulletin, in Arabic or English or translated to any of them under oath, that show the pesticide's specification, formula, toxicity, antidote, chemical and natural characteristics, application method(s), target pests, the waiting period, the pesticide's stability in water with different degrees of P.H. and any other technical data required in accordance with current international recommendations for pesticide analysis.

6. A copy of the technical study carried out by the manufacturing company confirming that the packaging for the pesticide is adequate for storage of the pesticide for the length of time between manufacturing and expiration of the pesticide and that the pesticide will not be adversely affected by it.

D. Seven copies of the label (the manifest card) proposed for the package of the pesticide prepared according to the instructions in Article (19) of the current Instructions.

E. A certificate issued by the Registrar of Patents in the Kingdom indicating that the pesticide being registered complies with the provisions of the Illegal Competition & Commercial Secrets Law

F. The uniform registration application approved by the Arab Organization for Agricultural Development must be completed by the manufacturing company of the pesticide, stamped with its adopted seal and provided in electronic form.

G. A receipt showing that the registration fees for pesticides as stipulated in the Agricultural Services Fees Regulation No. ( ) for the year 2001 have been paid.

Article 8.

If the pesticide is manufactured for export purposes by an international company that produces the active substance and the pesticide is not registered in the country of manufacture because the applicable crops do not exist in that country, copies of the registration and utilization certificates for the pesticide from any of the European Community countries, Japan or the United States' Environmental Protection Agency or any other country approved by the Committee must be attached to the application for registration in the Kingdom.

Article 9.

A.The Secretary of the Committee shall check the registration application upon receipt of the application, if possible, or within a maximum of three working days to ensure that it includes all the required data as well as check to make sure the attached documents are as required and are complete pursuant to the current Instructions. The Secretary of the Committee shall maintain the secrecy of the registration application and the documents attached with the same.

B. If the Secretary of the Committee finds that the application is missing required information or documents or finds that any of the attached documents do not satisfy the requirements provided for herein and the missing information or documents can be immediately obtained, the applicant shall be allowed to rectify the application promptly in the presence of the Secretary of the Committee.

C. In case the deficiencies in the application cannot be promptly corrected, the application shall be returned to the applicant to be completed. However, and in case it shall not be possible to return it to the registration applicant directly, then the Secretary of the Committee shall notify the registration applicant of the deficiencies in the application within three working days as from the date of receiving the application.

Article 10.

A.The Secretary of the Committee shall record those registration applications that meet the conditions and requirements specified in this Instruction in the applications record and assign the application a serial number. Applications will be referred to the Committee in consecutive order according to the serial number and subject to the following:

1. A maximum of eight applications shall be considered at any one Committee meeting.

2. No more than two applications for the same party may be submitted for consideration at any one meeting of the Committee unless the applications pending action number less than eight.

B. Pursuant to a request made in writing by the party that has more than one registration application entered in the applications record, the Secretary of the Committee may submit a later application in place of an earlier one without affecting the turn of the other parties.

Article 11.

The term set for considering a pesticide registration application may not exceed six months from the date of entry in the applications record.

Article 12.

A. The Pesticides Registration Committee shall have the following representation. Each party represented in the Committee shall nominate a substitute for its representative that will attend Committee meetings in case the attendance of the principal representative is not possible:

1. Director of the Plant Protection Department, Ministry of Agriculture	Chairman
2. A Representative from the Ministry of Health	Member
3. A Representative from the Royal Scientific Society	Member
4. A Representative from the University of Jordan with specialized knowledge of pests, pesticides or chemical properties active ingredients in pesticides	Member
5. A Representative from the General Institution for Environment Protection or other government entity responsible for environmental matters	Member
6. A Representative from the Union of the Merchants of Agricultural Substances (merchants and producers of agricultural substances) two members	Member
7. A Representative from the National Center for Agricultural Research and Technology Transfer	Member
8. The Head of the Plant Protection Laboratory, Ministry of Agriculture	Member
9. The Head of the Pesticides Division, Ministry of Agriculture	Member/Reporter

B. The Committee shall consider pesticide registration applications, cancellation of registration, determining the research and experiments required for pesticides being registered for the first time pursuant to the provisions of the current chapter.

Article 13.

A. The Committee shall hold meetings at the rate of one session every two weeks. However, it shall set the date and place of its meetings at its first meeting.

B. The Secretary of the Committee shall prepare the agenda for each session, submit such to the Chairman for approval and circulate the agenda among the members three days before the date of holding the meeting.

C. If the Chairman discovers urgent circumstance that may hinder holding the meeting on the set date, then the Secretary of the Committee shall notify the members of the committee of the delay of the meeting forty-eight hours before the original date of the meeting.

D. In urgent cases, the Chairman may call upon the Committee for an extraordinary meeting provided that the Secretary of the Committee shall notify the members forty eight hours prior to the date on which it shall be held.

E. The meeting of the Committee shall be considered legal if it is attended by two thirds of the members provided that the Chairman shall be among them.

F. In case the Chairman shall be on leave or on an official mission, then who ever is assigned his duties shall assume the chairmanship of the Committee.

G. The Committee may invite those specialists deemed suitable to attend its meetings to seek their opinions and experiences provided that they shall not have the right to vote.

H. The committee shall be entitled to call upon the applicant for registration of a pesticide or his representative to attend the meetings of the Committee at which his application will be considered but only to clarify or discuss specific points with him.

Article 14.

A. The Committee shall adopt its recommendations by the majority of the attending votes. However, and in case of the equality of the votes, then the Chairman's vote shall *be* preponderant

B. The recommendations of the Committee shall be documented at the end of each meeting by the Reporter and signed by the attendants in a special record.

Article 15.

A. The Chairman shall submit the recommendations of the Committee to the Secretary General of the Ministry or to whom ever the Secretary General shall authorize to consider the Committee's recommendations.

B. The Secretary General or whom he shall authorize may instruct the Committee to reconsider its recommendations based on directions or inquiries submitted by him.

C. In case the Committee shall confirm its previous recommendations while the Secretary General shall not be convinced with the same, then he shall submit the recommendations to the Minister, accompanied by his point of view, and the decision of the Minister shall stand as final.

E. The Reporter of the Committee shall notify the applicant for registration of the decision regarding his application in writing and send it to the applicant's mailing address within ten working days as from the date of adopting the decision provided that he shall state the causes for refusal if the application is rejected.

Article 16.

A. If the registration application is approved, then such approval shall be conditional upon completion of the remaining registration requirements provided for in the current chapter if the remaining requirements are completed within a time

period that does not exceed six months from the date on which the notification of the conditional approval is issued. If the remaining registration requirements are not completed within this time period, conditional registration will be canceled and the registration applicant shall be informed of the cancellation of the conditional approval of the pesticide's registration as well as the right to request, within a month from the date of issuing the notification, that the Reporter of the Committee return all of the application material. Should such a request not be made, the application material will be destroyed.

B. To complete the registration process for a pesticide that has been granted conditional approval, the registration applicant shall provide the Directorate with the following:

1. A sample of the pesticide that shall not be less than one kilogram or liter in the packaging that the pesticide will be sold in with the proposed label for the pesticide.

2. The label must include:

   a. The trade name of the pesticide
   b. The name of the active substances included in its formula
   c. The concentrations
   d. The method of manufacturing
   e. The name of the manufacturing company and
   f. The name, address and telephone number of the importing agent.

3. Seven copies of the label of the pesticide (the manifest card).

4. The receipt voucher by which the pesticides analysis fees provided for through the Agricultural Services Fees Regulation No. ( ) for the year 2003 would have been paid.

Article 17.

A. Should the registration applicant fulfill the requirements stated in paragraph (B) of article (19) of the current Instructions, then the sample of the pesticide shall be referred to the appointed laboratories of the Ministry with the analysis methods of the pesticide as specified in subparagraph (3) of paragraph (B) of article (7) of the current Instructions and study of the suitability of the proposed package of the pesticide shall commence.

B-1. If the laboratory analysis of the pesticide sample is inconsistent with the analysis certificate and the data submitted with the registration application or it is otherwise shown that the sample does not conform to the appointed international specifications, then the registration applicant shall be allowed to submit another sample of the pesticide to repeat the test but only after he has paid the specified analysis fees.

B-2. If the analysis methods required or recommended by the manufacturer and submitted with the registration application cannot be implemented due to technical constraints of the laboratories of the Ministry or the other laboratories appointed by the same, then the registration applicant shall be notified to submit alternative methods that may be applied by the laboratories of the Ministry or the other laboratories appointed by the same. Alternatively, an analysis according to the manufacturer's recommended methods may be conducted by a certified laboratory in a (European) country and the registration applicant shall pay the additional costs of such.

B-3. If the laboratory tests find that the package is inadequate for safely storing and selling the pesticide, then the registration applicant shall be informed of the defects found in the package in order to propose another suitable package.

C. In case the result of the analysis carried out for a second sample shows that that sample is also not consistent with the analysis certificate or does not conform to the appointed international specifications or if the registration applicant does not provide alternative methods that may be applied by the laboratories of the Ministry or other appointed laboratories or if the second proposed package is also inadequate, then the conditional approval of the registration of the pesticide shall be canceled and the registration application may not be reconsidered thereafter.

Article 18

If the result of the analysis carried out for the first or second sample of the pesticide are consistent with the analysis certificate attached with the registration application and the methods of analysis submitted by the registration applicant are applied by the laboratories of the Ministry or the other adopted laboratories and the package appears to be adequate, then the Directorate shall check the proposed label for the pesticide (the manifest card) to ensure that it includes all of the information and data identified in Article (19) of the current Instructions and that it has been prepared pursuant to the conditions mentioned therein.

Article 19

A.The label of the pesticide's package (the manifest card) shall include the following data and information:

1. The trade name of the pesticide in both Arabic & English.

2. The active substance or substances and the concentrations of the same in both Arabic & English languages.

3. The chemical name of the pesticide.

4. The form of the pesticide (liquid, powder, etc.).

5. The stability of the pesticide in water of differing P.H.

6. The names of the target pests and crops for which it is safe to use the pesticide, the application method and percentage specified in the technical data bulletin issued by the manufacturing company, and the period between application and harvest of the crop (the waiting period) according to a clarifying schedule.

7. The capability of the pesticide to be mixed with other pesticides.

8. The plants that should not be exposed to the pesticide and its toxicity to fish and bees.

9. The net quantity in the package.

10. The registration number of the pesticide.

11. The batch number, date of manufacturing, and date of expiration or the shelf life of the pesticide from the date of manufacturing. The date must be sealed in Arabic and English to the label and the package and include both the month and year.

12. The country of origin and the manufacturing company.

13. The full name of the local importer as well as his address and telephone number.

14. The precautions that must be followed when applying the pesticide, the antidote and first aid instructions in case of ingestion of the pesticide.

15. A warning by the clarifying figure adopted by the World Health Organization or the Food & Agriculture Organization provided that it shall include the phase “A poisonous substance” in a clear manner and of a size no less than that of the name of the manufacturer and that may be easily distinguished.

16. A warning to the effect the pesticide may not be applied except by an agricultural engineer in case the pesticide shall be of the restricted application pesticides.

17. A warning to the effect that the pesticide should not be applied to any crop other than those crops identified on the label.

18. A warning to the effect that grazing should not be allowed on lands sprayed with the pesticide if it is to be applied to pasture.

19. Safe storage conditions including the warning “Keep out of reach of children.”

20. The method for safely disposing of the empty package.

B. The information and data provided for in paragraph (A) of the current article shall be printed on the package and according to the case in a clear manner and fixed so that it may not be removed or altered in any way whatsoever.

C. Regardless of the provisions of paragraph (A) of the current article, if the size of the package shall not allow fixing a label that includes all the data and information provided for in paragraph (A) of the current article, then the label must include the information specified in subparagraphs (1, 2, 4, 6, 10, 11, 13, 14, 15, 17 & 18) of paragraph (A) of the current article provided that the package is accompanied by a bulletin that includes the other information and data and the bulletin shall form an integral part of the label.

Article 20.

A. If the review of the proposed label and the bulletin attached with the same finds deficiencies in the information required in Article (19) of the current Instructions or if the information is inconsistent with the same, then the Reporter of the Committee shall inform the registration applicant to that effect to rectify the violation.

B. Any amendment or addition made by the registration license applicant to the label or the bulletin attached with the same upon the request of the Reporter of the Committee shall be printed. Any amendment or addition made in hand writing may not be approved.

C. If the label and the bulletin attached with the same satisfy all of the conditions or are otherwise altered to satisfy such conditions, then the label and bulletin, as appropriate, shall be approved by the Director, stamped with the seal of the Directorate together with notation of the date of its approval, and it shall be signed by the registration application or whom he authorizes to that effect. Further, two appointed copies of the same shall be kept in the application file while one copy shall be delivered by mail to the registration applicant at the address on the registration application.

Article 21.

A. If all of the registration requirements provided for in the current chapter are satisfied, then the remaining percentage of the specified registration fees shall be collected from the registration applicant.

B. The Head of the concerned section in the Directorate shall prepare three copies of a temporary registration certificate for the pesticide. Each copy shall be signed by the Head and the Director in addition to stamping it with the official seal of the Directorate. The registration applicant shall be provided with the first copy, the second copy shall be kept in the file for the application while the third one shall be kept in the temporary registration certificates files for pesticides.

C. The temporary registration certificates shall be valid for two years as from the date of collecting the specified registration fees in full.

Article 22.

The Reporter of the Committee shall record the temporary registration of the pesticide, assigning it a unique serial number and entering all of the basic data and information related to such pesticide in the record book maintained by the Directorate for such purposes.

Article 23.

A. The pesticide that has been temporarily registered shall be subject to performance testing in minor research plots and to experiments aimed at studying the pesticide's efficiency against the target pest when applied at the rate recommended by the manufacturing company. In addition, the extent of its effects on plants and crops shall be studied. Such research shall be carried out for two agricultural seasons at the research centers and stations affiliated with the Ministry or any other site deemed suitable by it. The research findings and conclusions shall be obtained within a time period not exceeding two years.

Research plots must be carefully monitored and so it is important to have some sort of official control over the plots and limit access to them. Therefore, other suitable sites for experiments should be limited to universities and other public or private institutions.

B. The party in which name the pesticide has been registered shall provide the Directorate with sufficient quantity of the pesticide for the testing detailed in paragraph (A) of the current article free of charge provided that such quantity shall not be more than 10 kilograms or liters.

Article 24.

A. If the Committee concludes after evaluating the results of the research and experiments that the pesticide is effective and efficient as described in the documents attached with the registration application of the same and there are no negative effects on the plants or the crops, then the Committee shall submit a recommendation to the Secretary General to register the pesticide permanently. However, if there are any requirements that the Committee deems necessary to be achieved before granting permanent registration, especially with regard to amending the data on the pesticide label that was approved when temporary registration was granted, the Committee shall state such in its recommendation.

B. Pursuant to the recommendation of the Committee, the Secretary General shall issue a decision approving permanent registration for the pesticide with the requirement that any amendments recommended by the Committee be completed by the related party. The related party shall be informed of the adopted decision within five working days from the date of its issuance.

C. If the decision of the Secretary General includes conditions for executing specific requirements before issuing the permanent registration certificate, then the related party shall satisfy such requirements within thirty days as from the date of

issuing the decision and if he fails to do so, then the Secretary General may extend the time period for another thirty days if a written request is made by the related party.

D. If the related party fails to fulfill the requirements provided for by the decision of the Secretary General within the time period provided for in paragraph (C) of the current article or omitted the same, then the approval for permanent registration of the pesticide shall be canceled as shall be the temporary registration of the pesticide. The cancellation shall be effective on the date the decision is issued by the Secretary General and the related party shall be mailed a copy of the decision at the mailing address in the registration application.

Article 26.

If the related party completes the requirements stated in the decision of the Secretary General as in paragraph (B) of Article (25) within the time period allowed through paragraph (C) of article (25) of the current Instructions or if the decision of the Secretary General does not include any conditions, then:

A. Three copies of the permanent registration certificate shall be made and signed by the Head of the concerned section in the Directorate and stamped with the official seal of the Directorate. The permanent registration certificate shall be valid from the date of its issue until the expiration of its registration in the country of origin (manufacture) or in the country for which a foreign registration certificate was presented when submitting the registration application.

B. The permanent pesticide registration certificates shall be documented in the record book maintained for that purpose by the Directorate.

C.The Ministry shall not collect any fees for issuing the permanent registration certificate of the pesticide.

D. The related party shall be given the first copy of the registration certificate.

E. The Directorate shall maintain the second copy of the registration certificate in the registration application file for the pesticide while the third copy shall be kept in the file for permanent registration certificates for pesticides.

Article 27.

A. It is not permitted to change any of the data or information on the approved label or in the approved bulletin attached to the pesticide that without obtaining the prior consent of the Secretary General. The party wishing to do so shall submit an application in writing to the Directorate stating the required desired change and provide documents issued by the producing company of the pesticide that include the data and information related to the desired change. This information shall be submitted to the Committee for consideration after which a recommendation shall be made to the Secretary General to that effect.

B. Under no circumstances shall the alteration mentioned in paragraph (A) of the current article include the active substance or substances of the pesticide, the concentration of the same or the pesticide's type of manufacturing.

Article 28.

A. If the producing company of a pesticide that is either temporarily or permanently registered in the Kingdom changes the trade name of the pesticide then the party in which name the pesticide has been registered shall provide the Directorate with the documents issued by the producing company of the pesticide that are related to the change in the trade name within thirty days from the date of the change in the trade name by the manufacturing company If this is not done, importation of the pesticide under its new trade name shall be prohibited.

B. Under no circumstances shall the amendment provided for in paragraph (A) of the current article include the formula of the pesticide. Should the formula be changed, the pesticide shall be deemed to be a new pesticide for which the related party may apply for registering the same pursuant to the provisions of the current chapter.

Article 29.

The registration of the pesticide shall be restricted to the form and concentration specified in the documents attached to the registration application. A change in the form or concentration of the pesticide shall require submitting a registration application for the pesticide in its new form or concentration pursuant to the provisions of the current chapter.

Article 30.

Any party that submits an application for renewing the registration of a pesticide that was previously registered in the name of another party shall provide all the documents provided for in the current Instructions and may not use the copies of the required documents in the previous registration application file unless the same shall be authorized in writing to the Reporter of the Committee by the party in which name the pesticide had been registered.

Article 31.

Temporary or permanent registration of a pesticide shall be canceled upon a decision by the Secretary General pursuant to the recommendation of the Committee in any of the following cases:

1. If it is scientifically shown from the conclusions of the technical studies or field observations performed by the Ministry or other parties appointed by the same that the pesticide is not effective or is not as efficient as claimed in the technical data bulletin or other documents attached to its registration application or if the pesticide has otherwise lost its effectiveness or efficiency due to frequent application.

2. If it is shown that the application of the pesticide under local conditions has resulted in damage to any of the factors of the environment.

3. If use (application) of the pesticide was not authorized in the country of origin when submitting the registration application or while considering the same.

4. If its use (application) becomes prohibited by the World Health Organization, the Environment Protection Agencies or the Ministry of Health in the Kingdom or is otherwise banned from use in the country of origin for reasons that are related to the health of humans, animals, plants or the environment.

5. If it appears that any of the documents attached with the registration application have been forged or are untrue or otherwise include false or misleading information.

6. If two consecutive shipments of the pesticide within one year or any three shipments over two years are denied entry into the Kingdom for non-conformity with the registered specifications. In this case its re-registration may not be reconsidered.

Article 32.

A. If the registration of any pesticide is canceled for any of the reasons provided for in article (31) of the current Instructions and any quantity of the pesticide was previously imported into the Kingdom, then the Directorate at the Ministry shall undertake the following:

1. The party in which name the pesticide is registered shall be notified of the decision to cancel the pesticide's registration and the reason for the same within five business days from the date of the decision. The related party shall inform the Directorate of the imported quantities and places of storage for the pesticide for which registration has been canceled.

2. The Agriculture Directorates in the Governates shall be notified of the decision to cancel the pesticide's registration and they shall in turn order the stores licensed for trading pesticides to remove from display and confine the pesticide for which registration has been canceled.

3. A declaration shall be published in a local daily newspaper on two consecutive days informing the public of the decision to cancel the pesticide's registration and asking the farmers who have any quantity of the pesticide for which registration has been canceled to contact the Agriculture Directorates and report the quantities under their control.

4. To preserve the quantities confined and any quantity that is confiscated.

B. The importer shall be committed to re-export confined and confiscated quantities of the pesticide for which registration has been canceled within a time period set by the Secretary General. If the importer fails or refuses to do so the Ministry shall destroy the same pursuant to national regulations that relate to the protection of the environment and at the expense of the importer without no compensation for the destroyed product.

C. The pesticide for which registration has been canceled may not be imported for any reason whatsoever pursuant to the provisions of the current chapter.

Article 33.

The party for which the registration of a pesticide has been canceled for reasons other than those provided for in article (31) of the current Instructions may submit an application for reregistering it within one year from the date of the cancellation decision. The application shall be accompanied by a valid registration and use certificate as stated in subparagraphs (1 & 2) of paragraph (A) of Article (7) or, as necessary, Article (8) of the current Instructions and a label for the package of the pesticide pursuant to the provisions of article (19) of the current Instructions. The measures of the reregistering shall be accomplished pursuant to the provisions of the current chapter.

Article 34.

A. The party for which a pesticide's registration application made in its name shall be rejected or otherwise the registration of a pesticide registered in its name shall be canceled may submit an objection against the rejection or cancellation decision to the Director within fifteen days from the date of issue of the decision. Any objection submitted after the expiration of such term shall not be considered.

B. The Committee shall consider the points included in the objection within ten working days from the date of submitting the same. It may request that the party submitting the objection provide it with additional information or data within a set period of time that shall not exceed thirty days to enable the Committee to discern the truth. If the party submitting the objection fails to provide the Committee with the requested information or data within the period determined by the Committee, then the objection shall be deemed rejected.

C. The Committee shall refer its recommendation to the Secretary General after which he shall make the decision he deems appropriate. Such decision will be final and it shall be served upon the related party within ten working days from the date on which the decision is adopted.

Article 35.

The Directorate shall provide the Agriculture Directorates with all the basic information and data related to any pesticide for which registration is either temporarily or permanently approved within ten business days from the date of registering the same. In addition, the Directorate shall notify such Directorates of any

decision that may be adopted regarding the cancellation of registration for a pesticide or ceasing the application of the same.

Article 36.

The notices, notifications and services provided for herein shall be in writing and sent to the mailing address on the registration application. In urgent cases, a copy of the same may be sent by fax or e-mail in case the same shall be available.

Article 37.

The Ministry shall collect the fees for registering the pesticide for the first time or for reregistering the same pursuant to the provisions of the Agricultural Services Fees Regulation No. () for the year 2003.

Article 38.

The Decree No. (2) Agricultural Pestilences Pesticides for the Year 1986 shall stand null and void as of the effective date of the current Instructions.

(iv) Instructions for Importing Live Animals *

Importing Agricultural Products into Jordan

1. Obtain an Import Card if Necessary

The import card is obtained by applying to _____.

2. If Importing Live Animals, Semen, or Fresh, Chilled or Frozen Red Meat or Poultry Meat Obtain an Import Permit

An import permit is required each time you import live animals, semen, red meat and poultry meat. Submit the appropriate attached *Application for Permit to Import* and the processing fee to:

Trade Directorate
Import and Export Licensing Division
Ministry of Industry and Trade
P.O. Box _____Amman, _____

An import permit will be issued within 30 days unless there are health conditions or human safety issues that prohibit importation of the animals, semen or meat from the source country.

Important: See Attachment I (*Import Prohibitions*) for a current list of countries from which specific agricultural products may not be imported. Note that this list may change at any time. All import permits for live animals, semen and meat are subject to the import prohibitions in place when the import item arrives at the entry point. **If an import permit is held authorizing imports of live animals, semen or meat from a specific country and that country/product pair is no longer eligible for import, the consignment will not be permitted entry into the Kingdom.** The consignment must be re-exported immediately at the importers expense. Under no conditions may the Government of Jordan be held responsible or liable for any expenses of the importer if a consignment of live animals, semen, or meat is denied entry because of a change in the animal or meat health status within the exporting country.

3. Know the Health Certificate Requirements

- All agricultural products imported into the Kingdom must be accompanied by an original health certificate. Copies are not acceptable. **Any consignment of agricultural products not accompanied by an original health certificate will be denied entry and must be re-exported at the importer's expense.**

- The certificate must be issued by the official plant protection, veterinary service, or food safety authority of the exporting country.

- The certificate must include the following information:

-A unique certificate identification number
-Identification of issuing organization
-Identification of country of origin and re-export, if appropriate
-Name and address of exporter
-Name and address of importer
-Number and description of agricultural products (including botanical name if a plant)
-Intended use of product (i.e., slaughter, breeding stock, production input, animal feed, food industry use, non-food industrial use, human consumption)
-Distinguishing marks of product*
-Place of origin
-Declared means of conveyance (sea, air, road, rail, mail, passenger and ship name and voyage number or aircraft flight number)
-Declared point of entry into Jordan
-Declaration of health of the agricultural products, including disinfestation and / or disinfection treatment, if any, if a plant or plant product
-Official stamp of the exporting country's health certification authority
-Name and signature of the official government representative conducting the health examination and date of signature

- In the Declarations or Sanitary Information section of the certificate , the following must appear:

For plants and seeds for sowing:

The undersigned Official Plant Scientist certifies that the plants/s described above and examined on this day:

a) shows/show no clinical signs of pests or disease; and, if required per Attachment II,
b) satisfies/satisfy the requirements on the attached "Continuation of the International Health Certificate for Exports to Jordan—(plant)"

For plant products other than seed for sowing:

The undersigned Official certifies that the product/s described above and examined on this day:

a) show/shows no clinical signs of pests that may be transmitted to the raw product;
b) is/are fit for human/animal** consumption; and, if required per Attachment II,
c) satisfies/satisfy the requirements on the attached "Continuation of the International Health Certificate for Exports to Jordan—(plant product)"

**Include the correct word.

For live animals:

The undersigned Official Veterinarian certifies that the animal/s described above and examined on this day:

a) shows/show no clinical signs of disease; and, if required per Attachment II,
b) satisfies/satisfy the requirements on the attached "Continuation of the International Health Certificate for Exports to Jordan—(live animal)"

For edible animal products:

The undersigned Official Veterinarian certifies that the animal product/s described above and examined on this day:

a) is/are fit for human consumption; and, if required per Attachment II,
b) satisfies/satisfy the requirements on the attached "Continuation of the International Health Certificate for Exports to Jordan—(edible animal product)"

For non-edible animal products including semen:

The undersigned Official Veterinarian certifies that the animal product/s described above and examined on this day:

a) shows/show no clinical signs of disease;

For products other than semen, if required per Attachment II:

a) satisfies/satisfy the requirements on the attached "Continuation of the International Health Certificate for Exports to Jordan—(non-edible animal product)"

For semen:

a) was obtained from an accredited artificial insemination center;
b) satisfies/satisfy the requirements on the attached "Continuation of the International Health Certificate for Exports to Jordan—(species Semen)"

- If a continuation of the international health certificate is required per Attachment II, the original copy of the "*Continuation of the International Health Certificate for Exports to Jordan--…….. (product)*" must be signed, dated, and stamped by the Official signing the health certificate and attached to the certificate.

- The certificate must be completed in either Arabic or English in other than black ink.

- The certificate and agricultural products must be received at the point of entry within ____ days of issuing of the certificate.

*** Distinguishing marks for each type of agricultural product**:

- Live animals for slaughter or breeding
  - Distinguishing marks or official ear tag or ear mark number
  - Species Breed Age Sex
- **Day old chicks**
  - Mark Species Breed
- Bees
  - Type of bees (hive with bees, swarm, consignment of bees (worker bees, drones), queen bees, brood-combs, royal cells, etc.)
  - Breed and variety Marks or age or weight or surface Packing material

- Accompanying products
- Other live animals
  - Species Breed Sex Age Coat type and marking Distinctive marks Edible animal products
  - Type of portions Type of package Number of packages
- Inedible animal products except semen
  - Type of product Type of package Number of packages
- Semen
  - Type of package Package markings
- Plants and fresh plant products
  - Description of packages Distinguishing marks on packages
- Food, mixtures of animal and/or plant products, including animal feeds
  - Number and description of packages (include lot identifier or date coding)
  - Name of manufacturer and manufacturing establishment identifier

- **Know the Technical Regulations**

All agricultural products imported into Jordan must meet mandatory standards as defined in technical regulations. Note that only MANDATORY specifications must be met—standards are voluntary and will not be subjected to testing for compliance. However, any consignment of agricultural products may be tested for compliance with technical regulations for that specific product. A summary of the current technical regulations follows.

- Meat—class specifications for sheep meat (JS471-1991 (Beef), JS989-2000 (Sheep meat); hormone residue; chemical material content limits; certificate of Halal slaughter
- Eggs—classes/grades; hormone residue
- Plant products—classes/grades; pesticide residue
- Plants for seedlings—stem diameter, etc.

For more information on any of the technical regulations referenced above, contact JISM or MOA…. Conditions for Entry of Agricultural Products and Inputs into the Kingdom

Entry of agricultural products into the Kingdom is permitted under the following conditions:

1. An authentic and valid health certificate accompanies the consignment. **Consignments with non-authentic or invalid health certificates will not be permitted entry and must be re-exported at the importer's expense.**

   - The certificate is authentic if it is:
     - Authorized by the exporting country's animal, plant or human health organization

- Issued on forms authorized by the issuing animal, plant or human health organization
- Issued by persons authorized by the issuing animal, plant or human health organization
- Does not contain false information

o The certificate is *invalid* if it is:
- Illegible
- Incomplete
- Out of date
- There are uncertified alterations or erasures
- There is conflicting or inconsistent information
- There is use of wordings that are inconsistent with the required content and wording of the certificate

2. The captain or other authority from the transport vehicle declares, on the form in Attachment III, compliance with international guidelines and standards for transport of live animals, animal products, plant, or plant products.

3. Required technical certificates are presented to border authorities (Certificate of Halal Slaughter, Certificate of Compliance with Grades for _____, etc.).

4. Visual inspection of the agricultural product finds that there are no indications of disease. If the visual inspection show signs of disease (for animals), pests (for plants) or lack of fitness for human or animal consumption the products will be tested before being off loaded from the transport vehicle. If there is a significant incidence of disease, pests or lack of fitness for human or animal consumption found in the consignment, it will not be allowed to offload from the ship and must be re-exported at the importer's expense.

5. If necessary according to current law, quarantine is completed according to the current instructions for live animals, plants and their products.

MOA logo
MIT logo

Arabic title

Application for Permit to Import Live Animals

Applicant's name: ……. ……

Applicant's address: …….. ……..…… ……..

Applicant's telephone no.: ……..

Species of animal(s): ……..

Breed of animal(s): ……..

Purpose of importing: ☐ Breeding stock ☐ Production ☐ Slaughter ☐ Other

Number of head:
Country of origin:
State/region/district in country of origin:
Declared entry point:
Countries of transit:
Facility where animals will be kept after entering Jordan:
Capacity of facility (head):
Signature of applicant
Date of application:
Do not write below this line.
Date received ……
Date forwarded to Ministry of Agriculture ……
This application is: ☐ Approved ☐ Not approved
If not approved provide explanation:
……..

Forms to send to applicant upon approval
- ☐ Continuation of the International Animal Health Certificate for Exports to Jordan—…….. (species)
- ☐ Summary of Health Certificate Requirements for Imported Agricultural Products
- ☐ Summary of Technical Regulations (species)
- ☐ Other (specify

Date of action: Authorized Signature Ministry of Agriculture

(official stamp)

??? ??? ? ? ??? ? ??? ????? ?? ????
Application for Permit to Import Animal Semen

???? ?? ?? ?? ? ? ? Address Applicant's								?? ????? ???? Applicant's name
? .?	P.o.box	? ?? ?	fax	? ? ? ??	Tel No	?? ???? ??	***City***	

Country of origin:		
State/region/district in country of origin:		
Artificial insemination collection center (name, address):		
Species of animal:		
Breed of animal:		
Declared entry point:		
Countries of transit		
Facility where semen will be kept after entering Jordan		

Signature of applicant

Date of application

Do not write below this line.

Date received

Date forwarded to Ministry of Agriculture

This application is: ☐ Approved ☐ Not approved

If not approved provide explanation:

Forms to send to applicant

☐
☐ Continuation of the International Animal Health Certificate for Exports of Semen to Jordan—…….. (enter species)
☐ Summary of Health Certificate Requirements for Imported Agricultural Products
Technical Regulations--……. (enter species)
Other (specify

Date of action: Ministry of Agriculture Authorized Signature
(official stamp)

Arabic title

Application for Permit to Import Fresh, Chilled or Frozen Red Meat, Poultry Meat or Fish

Applicant's name:		
Applicant's address:		
Applicant's telephone no. Applicant's fax number:		
Product and form (fresh, chilled, frozen; whole, carcass, cuts):		
Country of origin:		
State/region/district of animals in country of origin:		
Declared entry point:		
Countries of transit:		
Facility where meat will be kept after entering Jordan:		
Capacity of facility:		

Signature of applicant

Date of application

Do not write below this line.

Date received ……

Date forwarded to Ministry of Agriculture ……

This application is ☐ Approved ☐ Not approved

If not approved provide explanation:

Forms to send to applicant

Continuation of the International Meat Certificate for Exports to Jordan (enter meat)

Summary of Health Certificate Requirements for Imported Agricultural Products

Technical Regulations--……. (enter meat)

Other (specify)……

Date of action: Authorized Signature (official stamp) Ministry of Agriculture

ATTACHMENT I

Import Prohibitions: Live Animals (effective 1 June 2000)

Multiple Species Diseases

Country/Region Of Origin	Disease in Country of Origin	Source of Disease Notice	Date of Disease Notice
Austria	Rabies	OIE	22 Oct 99
France	Rabies	OIE	13 Aug 99
Kuwait	Old world screwworm [List B]	OIE	13 Nov 98
USA	New world screwworm (cochliomyia hominivorax) [List B]	OIE	14 Apr 00

Bovine (cattle)

Country/Region of Origin	Disease in Country of Origin	Source of Disease Notice	Date of Disease Notice
Algeria	FMD	OIE	26 Mar 99
Armenia	FMD	OIE	13 Nov 98
Bahrain	FMD	OIE	24 Dec 98
Botswana	FMD	OIE	16 Jul 99
Brazil	FMD	OIE	12 May 00
China, Peoples Rep.	FMD	OIE	4 Jun 99
Denmark	Bovine Spongiform Encephalopathy (BSE) [List B]	OIE	3 Mar 00
Eritrea	Lumpy skin disease	OIE	20 Nov 98
Guinea	FMD	OIE	23 Apr 99
Iran	FMD	OIE	15 Oct 99
Israel	FMD	OIE	12 Feb 99
Israel	Bovine tuberculosis [List B]	OIE	9 Jul 99
Kazakhstan	FMD	OIE	24 Sep 99
Korea	FMD	OIE	14 Apr 00
Kuwait	FMD	OIE	4 Dec 99
Kyrgyszatn	FMD	OIE	12 Feb 99
Malawi	FMD	OIE	5 May 00
Malaysia	FMD	OIE	11 Feb 00
Mongolia	FMD	OIE	19 May 00
Morocco	FMD	OIE	9 Apr 99
Mozambique	Lumpy skin disease	OIE	19 May 00
Nigeria	Contagious Bovine Pleuropneumonia	OIE	22 Oct 99
Peru	FMD	OIE	14 Jan 00
Philippines	FMD	OIE	17 Sep 99
Russia	FMD	OIE	28 Apr 00
Saudi Arabia	FMD	OIE	14 Apr 00
Taiwan (Taipei)	FMD	OIE	3 Mar 00

Country/Region of Origin	Disease in Country of Origin	Source of Disease Notice	Date of Disease Notice
Tunisia	FMD	OIE	19 Mar 99
Turkey	FMD	OIE	24 Dec 99
Turkmenistan	FMD	OIE	21 May 99
Zambia	Contagious Bovine Pleuropneumonia	OIE	24 Mar 00
Zimbabwe	FMD	OIE	4 Feb 00
Benin	Rinderpest	OIE	4 Jun 99
Cameroon	Rinderpest	OIE	11 Jun 99
Chad	Rinderpest	OIE	5 Feb 99
Eritrea	Rinderpest	OIE	18 Jun 99
Ethiopia	Rinderpest	OIE	14 May 99
Kenya	Rinderpest	OIE	19 Mar 99
Lebanon	Rinderpest	OIE	31 Mar 00
Mauritania	Rinderpest	OIE	21 May 99
Niger	Rinderpest	OIE	29 Oct 99
Nigeria	Rinderpest	OIE	26 Nov 99
Sri Lanka	Rinderpest	OIE	19 Nov 99
Sudan	Rinderpest	OIE	5 Nov 99
Turkey	Rinderpest	OIE	12 Mar 99
Uganda	Rinderpest	OIE	14 May 99
USA	Vesicular stomatitis	OIE	19 Feb 99

Ovine and Caprine (Sheep and Goats)

Country/Region of Origin	Disease in Country of Origin	Source of Disease Notice	Date of Disease Notice
Austria	Scrapie	OIE	4 Feb 00
Bulgaria	Bluetongue	OIE	31 Mar 99
Canada	Bluetongue	OIE	11 Dec 98
Egypt	Sheep pox	OIE	9 Jul 99
Eritrea	Peste des petits ruminants	OIE	20 Nov 98
Greece	Bluetongue	OIE	10 Mar 00
Israel	Peste des petits ruminants	OIE	18 Jun 99
Japan	Scrapie	OIE	8 Oct 99
Mauritania	Rift Valley fever	OIE	31 Dec 98
Russia	Sheep pox	OIE	4 Dec 98
Saudi Arabia	Sheep pox	OIE	28 May 99
South Africa	Rift Valley fever	OIE	5 Feb 99
Tunisia	Bluetongue	OIE	11 Feb 00
Turkey	Bluetongue	OIE	24 Dec 99
Turkey	Peste des petits ruminants	OIE	1 Oct 99
Zimbabwe	Rift Valley fever	OIE	14 May 99

OIE=Office International des Epizooties, *Disease Information*

Import Prohibitions: Live Animals (effective 1 May 2000)

Bubaline (Buffalo)

Country/Region of Origin	Disease in Country of Origin	Source of Disease Notice	Date of Disease Notice

Import Prohibitions: Live Animals (effective 1 May 2000)

Equine (Horses)

Country/Region of Origin	Disease in Country of Origin	Source of Disease Notice	Date of Disease Notice
New Zealand	Equine infectious anaemia [List B]	OIE	13 Aug 99
Hong Kong	Equine piroplasmosis [List B]	OIE	31 Mar 00
Brazil	Glanders [List B]	OIE	24 Dec 99

Porcine (Swine)

Country/Region of Origin	Disease in Country of Origin	Source of Disease Notice	Date of Disease Notice
Argentina	Classical Swine Fever	OIE	4 Jun 99
Botswana	African Swine Fever	OIE	30 Jul 99
Bulgaria	Classical Swine Fever	OIE	7 Apr 00
Croatia	Classical Swine Fever	OIE	19 Nov 99
Germany	Classical Swine Fever	OIE	19 Nov 99
Ghana	African Swine Fever	OIE	19 Nov 99
Italy	African Swine Fever	OIE	31 Dec 99
Italy	Classical Swine Fever	OIE	31 De 99
Italy	Swine vesicular disease	OIE	24 Mar 00
Luxembourg	Classical Swine Fever	OIE	19 Nov 99
Madagascar	African Swine Fever	OIE	15 Jan 99
Moldavia	Classical Swine Fever	OIE	13 Nov 98
Mozambique	African Swine Fever	OIE	28 Apr 00
Portugal	African Swine Fever	OIE	19 Nov 99

Senegal	African Swine Fever	OIE	12 Feb 99
Spain	Classical Swine Fever	OIE	22 Jan 99
Thailand	Classical Swine Fever	OIE	10 Mar 00

Gallus Domesticus (Chickens)

Country/Region of Origin	Disease in Country of Origin	Source of Disease Notice	Date of Disease Notice
Argentina	Newcastle disease	OIE	10 Sep 99
Australia	Newcastle disease	OIE	21 Apr 00
Austria	Newcastle disease	OIE	19 Mar 99
Belgium	Newcastle disease	OIE	4 Jun 99
Brazil	Newcastle disease	OIE	27 Aug 99
Canada	Newcastle disease	OIE	21 May 99
Czech Republic	Newcastle disease	OIE	22 Jan 99
Eritrea	Newcastle disease	OIE	20 Nov 98
France	Newcastle disease	OIE	17 Dec 99
Italy	Newcastle disease	OIE	11 Dec 98
Italy	Highly pathogenic avian influenza	OIE	17 Mar 00
Japan	Newcastle disease	OIE	21 Jan 00
Luxembourg	Newcastle disease	OIE	17 Dec 99
Madagascar	Avian Infectious Bronchitis	OIE	9 Apr 99
Mexico	Newcastle disease	OIE	5 May 00
Netherlands	Newcastle disease	OIE	6 Aug 99
USA	Newcastle disease	OIE	15 Jan 99
Venezuela	Newcastle disease	OIE	23 Jul 99

Import Prohibitions: Live Animals (effective 1 May 2000)

Other Poultry Birds

Country/Region of Origin	Type of Bird	Disease in Country of Origin	Source of Disease Notice	Date of Disease Notice

Other Animals

Country/Region of Origin	Animal	Disease in Country of Origin	Source of Disease Notice	Date of Disease Notice
New Zealand	Bees	Varroosis	OIE	21 Apr 00
USA	Rabbits	Rabbit haemorrhagic disease	OIE	14 Apr 00

ATTACHMENT II

Continuation of International Health Certificate for Exports to Jordan—Cattle

-The cattle must be free of the following diseases:
-FMD
-Brucellosis
-Bovine plueronemonia

The cattle must undergo the following treatment before transportation from the exporting country:

-Quarantine at port for 14 days
-Vaccination against the diseases mentioned above

No mingling of quarantine animals with those of uncertain health status or a health status other than the quarantine animals during transport to the ship/airplane/truck.

(v) Veterinary Quarantine Regulations *

Key Articles in the Veterinary Quarantine Regulations

Article 6
On Ship Inspection and Testing Procedures

On observing the provisions of Paragraph (c) under Article (5) of these Instructions, if it is assured that the required documents are complete and correct, a committee, comprising a veterinarian of the Center's staff, or a special panel set-up for this purpose, will climb the ship anchored in the territorial waters and perform the following:

a) Receive the following documents from the Master (captain of the ship) and assuring themselves of completion and correctness of such documents:

The certificate accompanying the consignment signed by the veterinarian who is officially authorized by the authority in the country of export. This certificate shall testify that an authorized veterinarian in the country of export duly examined the animals before shipment and that the animals comply with the Kingdom's required health conditions as stipulated in Article __ of this regulation.

A document signed by the master asserting that no animals from countries other than the exporting country were aboard his ship during the voyage from the port of export. He also must declare that he did not, during the voyage, unload or allow unloading any of the animals imported to Jordan in any other seaport, or reload such animals or other animals. He must confirm that no injuries or diseases or deaths had taken place among the animals transported aboard his ship during the voyage. If any of such casualties occurred, the Master should specify the casualties and how they happened. He must declare illness cases and the steps taken to treat them.

A document indicating the voyage route of the ship from the export port to Aqaba seaport.

b) Inspecting, examining, and testing of animals aboard the ship to confirm their health condition shall be undertaken according to the measures in paragraph c of this Article. The provisions of this Paragraph and the next one shall be applicable to animals imported via land, air, or railroad.

c) The following procedures shall be followed:

i) The animals shall be (externally) physically examined to identify their general health condition provided that the examined heads shall not be less than (__%) of the total animals on board.

ii) Conducting tests on animals using test kits supplied by the importer.

iii) Conducting post-mortem examination on any dead animals to determine causes of death.

iv) Taking serological samples of the animals' blood, and delivering them under internationally recommended sanitary conditions to the labs to make advanced tests & analyses. The Director of the Veterinary Service shall issue instructions for the procedures to be followed when transmitting samples to the laboratories.

d) The Director of the Veterinary Department shall issue instructions as necessary t0 establish the rates at which on-ship testing and the taking of serological samples of the animals' blood shall be done. The rate (percentage of animals in the consignment) shall be according to the health risk from the type of animal and country of origin and countries or areas thereof of transit, if applicable. The health risk shall be determined based on the incidence of disease in the country of origin or area thereof relative to Jordan, the economic cost of transmission of animal disease to domestic animals, and prior incidence of disease in consignments from the country of origin or areas thereof and, if applicable, the countries or areas thereof of transit.

Article 7

Incomplete Documentation or Animals Not Healthy

If the documents identified under Paragraph (a) of Article (6) of these Instructions are unavailable or incomplete, or if the external physical examination of animals, or the results of on-board tests or serological tests or autopsy of any of the dead animals show some of them are sick or stricken by quarantine diseases, the motor vessel will not be allowed to anchor on any dock of the port nor will it be permitted to unload the animals thereat. In addition, the motor vessel shall be removed from territorial waters within a reasonable number of hours.

Article 8

Complete Documentation and Animal Health Verified

If the documents mentioned in Paragraph (a) under Article (6) of these Instructions are handed over and are proven to be out of suspicion and complete with no sign of any quarantine disease among the animals shipped on the motor vessel and the results of the external physical examination, on-board tests and serological tests, and any autopsies made on board show that the animals are free of all quarantine diseases, the motor vessel will be allowed to anchor on the docks and unload its consignment and the animals will be transported to the specified quarantine under the conditions specified in Article (9) of this regulation at the expense of the importer and under his responsibility.

Article 13

Quarantine Requirements

1. The animals detailed below, whether imported or exported, shall be subjected to quarantine except those excluded there from in accordance with Paragraph (b) of this Article:

   Sheep, goats, cows, antelopes (buffaloes), camels, horses, mules, poultry donkeys, pigs, deer, ostriches, circus animals, and big wild life animals.

2. The following animals shall be excluded from the quarantine operation:

   The below-mentioned animals on condition that they are imported from a permitted country as defined under Article ___ of this regulation. They must be accompanied with a veterinary health certificate containing the information required according to current legislation and instructions and be signed and stamped by the veterinary authorities of the exporting country, confirming that the animals meet the Kingdom's health requirements. However, the Director of the Veterinary Department may order their isolation with the importer for the period he would specify. The quarantined animals must be followed-up by a visit from an accredited veterinarian doctor.

   Test and experiment animals and domestic pets.

   Animals imported directly from a country that has signed with Jordan an agreement on mutual recognition of veterinary quarantine measures. These animals shall be accompanied by a health certificate accredited by the veterinary authorities in that country affirming that the animals meet the agreed upon health requirements.

   Animals directly imported from a country which is internationally known to be free of all animal diseases not found in Jordan and which are accompanied by a health certificate accredited by the veterinary authorities in that country affirming that the animals meet the health requirements of Jordan.

Article 39

Quarantine Period

The quarantine period for each species of animal shall be according to instructions issued by the Minister upon the recommendation of the Director of the Veterinary Department. The Director shall base the required quarantine period on the risks associated with transmissible diseases and recommendations of international animal health organizations and other reliable information. Reliable information includes guidelines of the Veterinary Services of countries internationally known to have an effective animal health program, scientific journals, veterinary magazines, and other such published material.

Article xx

Permitted Countries for Imports of Live Animals

1. It shall be prohibited to import live animals from any country or any zone within a country that is endemic or epidemic with any OIE List A disease that is not known to occur in Jordan.

2. The Director of the Veterinary Service shall issue instructions, as needed identifying those countries from which live animals may be imported. The permitted countries shall be listed for each species and type of animal product. The instructions shall be updated within 48 hours of receipt of official or reliable information of a change in the List A disease status of any country.

3. The Director of the Veterinary Department shall identify those countries that are endemic or epidemic with OIE List A diseases based on any or all of the following information:

-The most recent issue of "World Animal Health" published by the OIE;

-The OIE Disease Bulletin;

-The lists published by countries internationally known to have an effective Veterinary Service of those countries free from or endemic and epidemic with OIE List A diseases; and

-An evaluation of the effectiveness of an exporting country's Veterinary Service in detecting, preventing and controlling animal diseases and certifying the health condition of exported live animals. Such an evaluation must conclude that the effectiveness of the exporting country's Veterinary Service is at least as effective as that of the Kingdom.

4. Any evaluation of the effectiveness of the exporting country's Veterinary Service must be based OIE recommended procedures and considerations for evaluating a Veterinary Service. The evaluation may have been completed by the OIE or other reputable international organization, by an internationally known effective Veterinary Service in a third country, or by the Kingdom's Veterinary Service.

5. Regardless of what is concluded under paragraph 3 of this Article, any country that is a member of the OIE and does not fulfill its reporting requirements shall be considered ineligible for exporting live animals to the Kingdom.

6. Should any country that is identified according to paragraphs 2 and 3 above to be a permitted country for importing live animals is proven to have issued an invalid or incorrect health certificate three times, that country shall no longer be eligible for exporting live animals to the Kingdom until the conditions leading to false certification are corrected. The Director of the Veterinary Department shall determine when such conditions have been corrected and then may place that country back on the permitted country list.

(vi) Veterinary Definitions

SECTION 1.1.
DEFINITIONS

Article 1.1.0.1.

For the purposes of this *Code:*

"Abattoir" means premises used for the slaughter of *animals* for human or *animal* food and approved by the *Veterinary Administration* for export purposes. The abattoir must comply with recognized international standards of structural and Veterinary hygiene requirements.

"AI center" means a facility for the production of *semen* approved by the *Veterinary Administration* and used exclusively for donor animals, which meet the conditions set out in this *Code.*

"Aircraft" means an aeroplane making an international flight

"Animal" means a mammal (with the exception of marine mammals) or bird (domestic and wild species).

"Animal for breeding or rearing" means an animal of the bovine, bubaline, cameline, caprine, equine, ovine or porcine species, as well as farmed or domesticated deer and birds, which is not destined for immediate slaughter.

"Animal for slaughter" means an animal of the bovine, bubaline, cameline, caprine, equine, ovine or porcine species, as well as farmed or domesticated deer and birds, destined to be transported or taken following arrival in the importing country, under the control of the relevant Veterinary Authority, to an abattoir for immediate slaughter.

"Animal Health Status Report" means the report sent by countries to the Central Bureau in accordance with Articles 1.2.0.2. and 1.2.0.3. of this Code.

"Animal Health Yearbook" means the Yearbook produced each year jointly by the FAO (food and Agriculture Organization of the United Nations), WHO (World Health Organization) and OW (Office International des Epizooties), showing the occurrence of animal diseases and the control measures undertaken in each country against these diseases.

"Animal pathogen" means any organism or agent, including genetically engineered organisms, known or suspected of being able to cause disease in animals.

"Animal products" means meat products, and products of animal origin for human consumption, for use in animal feeding or for pharmaceutical, agricultural or industrial use.

"Apiary" means a collection of hives situated in the same bee-keeping establishment.

"Area of direct transit" means a special area established in an *international airport* or in the vicinity of such an airport approved by the relevant *Veterinary Administration* and placed under its immediate control, where *aircraft* stay for a short period of time when passing through the *transit territory.*

"Artificial insemination centre" see *AJ centre.*

"Biological products" means:

a) biological reagents for use in the diagnosis of certain diseases;
b) sera for use in the prevention or treatment of certain diseases;
c) inactivated or modified vaccines for use in the preventive vaccination against certain diseases;
d) microbial genetic material.

"Breeding birds" means birds kept for the purpose of producing *hatching eggs.*

"Bulletin" means the monthly publication that, in particular, gives the status of *List A* diseases reported during the month to the *Central Bureau.*

"Case" means an individual *animal* affected by one of the infectious or parasitic diseases recognized by the OW, the criterion by which 'affected' is defined being made clear in each instance (for example: clinical signs, serological evidence).

"Central Bureau" means the Headquarters of the Office International des Epizooties, 12, rue de Prony, 75017 PARIS, France:

telephone: 33-(0)I 44 15 18 88
fax: 33-(0)l 426709 87
telex: 642 285 EPIZOTI
e-mail: 100765.546@compuserve.com
WWWS http://www.oie.int

"Code Commission" means the OW Commission responsible for up-dating the ***Code*** in the intervals between General Sessions of the *Committee.*

"Cold storage" means a facility using low temperature for the preservation of *meat* and *products of animal origin for human consumption,* conforming to the recommendations of the International Institute of Refrigeration concerning planning, equipment and operation, and approved by the *Veterinary Administration* and placed under the control of an *Official Veterinarian.*

"Collecting centre" means premises or place in which *animals for breeding, rearing* or *slaughter* coming from different *establishments* or *markets* are collected together and which is.

a) under the control of an *Official Veterinarian;*
b) not located in an *infected zone* and is disinfected before and after use;

c) used only for *animals for breeding, rearing or slaughter* which meet the conditions of the *Code,*

"Collection unit" means a facility for the collection of embryos/ova approved by the *Veterinary Administration* and used exclusively for donor animals which meet the conditions of the *Code.*

"Colonies of bees suspected of being infected" means colonies which are apparently healthy, but which are situated in an *apiary* where a bee disease in *List* B has been diagnosed.

"Committee" means the Committee of Permanent Delegates to the OIE of the Governments which have adhered to the *international Agreement.*

"Container" means a transport appliance:

a) of a permanent design, sufficiently strong to enable repeated use;
b) specially constructed for the continuous transportation of *animals* and *animal products* by one or several means of transport;
c) provided with fittings which facilitate handling, particularly for trans-shipment from one kind of transport to another;
d) water-tight in construction, easy to load and unload and capable of being cleansed, disinfected and disinsectised;

"Day-old birds" means birds aged not more than 72 hours after hatching.

"Disease Information" means the weekly publication dispatched by the *Central Bureau,* to communicate epizootiological data received from a country by telex, telegram or fax.

"Disinfection" means the operation, after thorough cleansing, destined to destroy the infectious agents of animal diseases, including zoonoses; this applies to *animals,* premises, *vehicles* and different objects which can be directly or indirectly contaminated by animals or *animal products.*

"Disinsectisation" means the operation destined to kill arthropods, which may cause diseases or are potential vectors of animal diseases, including zoonoses, which may be present in premises and vehicles or containers

"District" means a section of a territory with clearly defined boundaries and having an appropriate veterinary organization to apply the measures, which the *Code* permits and provides.

"Embryo" means a viable fertilized ovum of a mammal or bird.

"Establishment" means an agricultural establishment in which animals for breeding, rearing or slaughter are raised or kept.

"Exotic FMD virus type" means both serotypes and strains, including new strains, which are sufficiently different that cattle prophylactically vaccinated by

conventional regimens would not be protected (see detailed explanation in Appendix VI of the Report 59 SO/i 3/CS 4A of the FTAD and other Epizootics Commission, adopted by the Committee, in May 1991).

"Exporting country" means a country from which animals, bees, semen, embryos/ova, hatching eggs, brood-combs of bees, animal products, biological products or pathological material are sent to a destination in another country.

"Flock of birds" means any group of birds continuously housed in one building or part of a building separated from other parts of that building by a solid partition and having its own ventilation system. In the case of free-range birds, a flock means any group of birds having common access to one or more buildings or houses. More than one flock may exist on any one establishment

"Free zone" means a clearly defined territory within a country in which no case of a disease included in the Code has been reported during the period stated for such disease in the Code, and within which and at the borders of which official veterinary control is effectively applied for animals and animal products, and their transportation.

"Fresh meat" means meat, which has not been subjected to any treatment irreversibly modifying its organoleptic and physico-chemical characters; for the purposes of the Code, fresh meat includes frozen and chilled meat.

"Frontier post" means *any international airport*, or any port, railway station or road post open to *international traffic.*

"Hatching eggs" means fertilized bird eggs, suitable for incubation and hatching.

"Importation and exportation animal health regulations" means all the sanitary Control measures applied to both the entry into and the exit from a country of *animals*, bees, *semen, embryos/ova, hatching eggs,* brood-combs of bees, *animal products, biological products* and *pathological material.*

"Imported case" means a ***case*** introduced into a territory from another country

"Importing country" means a country to which *animals*, bees, *semen, embryos/ova, hatching eggs,* brood combs of bees, *animal products, biological products* or *pathological material* are sent.

"Incidence" means the number of new *cases* or *outbreaks* within a specified period of time in a defined animal population.

"Incubation period" means the longest period which elapses between the introduction of the pathogen into the animal and the occurrence of the first clinical signs of the disease.

"Infected colonies of bees" means colonies in which the presence of a bee disease in *List B* has been diagnosed.

"Infected zone" means a clearly defined territory within a country in which a disease included in this *Code* has been diagnosed. This area must be clearly defined and decreed by the *Veterinary Authority* in accordance with the environment, the different ecological and geographical factors as well as all the epizootiological factors and the type of animal husbandry being practiced.

The territory in question should be part of a country with a radius from the centre or centres of the disease of at least 10 kilometers in areas with intensive livestock raising and *50* kilometers in areas where extensive livestock raising is practiced.

Within and at the border of an infected zone, there must be effective official veterinary control in operation for *animals* and *animal products,* and their transportation.

The length of time during which the *infected zone* is maintained will vary according to the disease and to the sanitary measures and control methods applied.

*"**Infective period"*** means the longest period during which an affected animal can be a source of infection.

*"**International Agreement"*** means the Convention creating the Office International des Epizooties, signed in Paris on *25* January 1924.

*"**International airport"*** means an airport designated by the country in the territory of which it is situated as an airport for the entry or departure of international air traffic of *animals,* bees, *semen, embryos/ova, hatching eggs,* brood-combs of bees, *animal products, biological products* and *pathological material.*

*"**Intentional animal health certificate"*** means a certificate issued by *an Official Veterinarian* of the *exporting country, certifying* the state of good health of *the animal* or animals and *bees,* and giving particulars where applicable of the biological test or tests to which the animal or animals has or have been subjected and the vaccination or vaccinations carried out on the animal or animals which is or are the subject of the certificate, and which may be either individual or collective certificates depending on the species of animals under consideration or the particular conditions of the shipment; this term also applies to a certificate covering *semen, embryos/ova, hatching eggs,* brood-combs of bees, giving particulars of the measures taken to prevent the spread of epizootics.

*"**International sanitary certificate"*** means a certificate issued by *an Official Veterinarian* certifying that the *meat* or *animal products* destined for food conforms with recognized international standards for veterinary food hygiene and/or animal health.

"International traffic" means importation, exportation and transit of animals, bees, semen, embryos/ova, hatching eggs, brood-combs of bees, *animal products, biological products and pathological material*

"Laboratory" means a properly equipped institution staffed by technically competent personnel under the supervision of a specialist in veterinary diagnostic methods. The *Veterinary Administration* approves and monitors such laboratories in regard to tests for specific diseases for international trade.

"Laying birds" means birds kept for the purpose of producing eggs for eating.

"List A" means the List of transmissible diseases which have the potential for very serious and rapid spread, irrespective of national borders, which are of serious socio-economic or public health consequence and which are of major importance in the international trade of *animals* and *animal products.* Reports are submitted to the OW as often as necessary to comply with Articles 1.2.0.2. and 1.2.0.3. Diseases in List A are set out in Section 6.1. of the *Code.*

"List B" means the List of transmissible diseases, which are considered to be of socioeconomic, and/or public health importance within countries and which are significant in the international trade of *animals* and *animal products.* Reports are normally submitted once a year, although more frequent reporting may in some cases be necessary to comply with Articles 1.2.0.2. and 1.2.0.3. Diseases in List B are set out in Section 6.2. of the *Code.*

"Manual" means the OIE Manual of Standards for Diagnostic Tests and Vaccines.

"Market" means a market which:

a) is placed under the control of an *Official Veterinarian;*
b) is not located in an *infected zone* and is disinfected before and after use
c) is used only for *animals for breeding, rearing* or *slaughter* which conform with the conditions provided in the *Code.*

"Meat" means *any edible part of a carcass of an animal, including offal.*

"Meat-and-bone meal" means the protein product obtained when waste animal tissues are treated by heat (rendered), and includes any intermediate protein product.

"Meat products" means products of *meat, which* have been subjected to treatment by cooking, drying, salting, brining or smoking.

"Modified damping-out policy see *stamping-out policy.*

"Observation" means the inspection carried out by the *Veterinary Authority* in order to ensure that an *animal* is free from the diseases considered in the *Code;* the inspection may call for clinical examination, allergy tests, laboratory tests and, generally, the application of other procedures which could reveal infection which may he present in an animal.

"Official Veterinarian" means a civil service veterinarian or a specially appointed veterinarian, as authorized by the *Veterinary Administration* of the country.

"OIE - FAO Agreement "means the Agreement concluded between the Food and Agriculture

Organization of the United Nations and the Office International des Epizooties, approved by the FAO in November 1952 and by the OW inMay 1953.

"01E- IICA Agreement" means the Agreement concluded between the Interamerican Institute for Cooperation on Agriculture and the Office International des Epizooties, approved by the OW in May 1981 and by the IICA in June 1981.

"01E- WHO Agreement" means the Agreement concluded between the World Health Organization and the Office International des Epizooties, approved by the WHO in February 1961 and by the OW in May 1962.

"Outbreak of disease" means an occurrence of one of the diseases in *List A* or *B* in an agricultural establishment, breeding establishment or premises, including all buildings and all adjoining premises, where *animals* are present.

Where it cannot be defined in this way, the outbreak shall he considered as occurring in the part of the territory in which, taking local conditions into account, it cannot be guaranteed that both susceptible and non-susceptible animals have had no direct contact with affected or suspected *cases* in that area.

For example, in the case of certain parts of Africa, an outbreak means the Occurrence of the disease within a sixteenth square degree. The occurrence is still referred to as an outbreak even though the disease may occur in several places within the same sixteenth square degree.

"Part of the territory of a country "means a geographical or administrative entity possessing an authorized administrative veterinary organization capable of taking and controlling the appropriate measures.

"Pathological material" means strains of infectious agents, specimens of infectious or parasitic material obtained from live animals, excreta and tissues and organs obtained from carcasses, to be sent to a specialized laboratory or to a reference laboratory recognized by the OW, WHO, FAO, etc.

"Place of shipment" means the place where the *animals,* bees, *semen, embryos/ova, hatching eggs,* brood-combs of bees, *animal products, biological products* and *pathological material* are loaded into the *vehicle* or handed to the agency which will transport them to a foreign country.

Prevalence" The number of *cases/outbreaks* of a given disease in a given population over a clearly defined period of time.

"Products of animal origin destined for human consumption "means *meat, meat products,* eggs, egg products, milk, milk products and honey.

"Products of animal origin destined for industrial use" means raw hides and skins, fur, wool, hair, bristles, feathers, hooves and horns, bones and ground-up bones, blood, casings, fertilizer of animal origin, guano, as well as milk products when intended for industrial purposes.

"Products of animal origin destined for pharmaceutical use" means organs, glands, organic animal tissues and fluids to be used in the preparation of pharmaceutical products.

"Products of animal origin destined for use in animal feeding'[1] means meat-meal, liver-meal, bone-meal; blood-meal, feather-meal, scraps of pork fat and milk products when intended for use in animal feeding.

"Quarantine establishment" means a building or a collection of buildings where *animals* are maintained in complete isolation, with no direct or indirect contact with other animals, in order to undergo *observation* for various lengths of time and to be subjected to various control tests so that the *Official Veterinarian* may be assured that they are not affected with certain diseases.

"Quarantine regulations" means all the measures relating to the entry and detention of the *animals* in the *quarantine establishment,* as well as their movement to and from this establishment

"Quarantine station" see *quarantine establishment*

"Resolutions" means the resolutions formulated and approved by the *Committee.*

"Semen" means the sperm of breeding animals (mammals and birds) intended for artificial insemination.

"Shipment" see place of shipment.

"Stamping -out policy" means the -carrying out under the authority of the Veterinary Administration, on confirmation of a disease, of animal health prophylactic measures, consisting of killing the animals which are affected and those suspected of being affected in the herd and, where appropriate, those in other herds which have been exposed to infection by direct animal to animal contact, or by indirect contact of a kind likely to cause the transmission of the causal pathogen. Ml susceptible animals, vaccinated or unvaccinated on an infected premises should be killed and the carcasses destroyed by burning or burial, or by any other method which will eliminate the spread of infection through the carcasses or products of the animals killed.

This policy should be accompanied by the cleansing and disinfection procedures as defined in the Code.

The term "modified stamping-out policy" should be used in communications to the OIE whenever the above animal health measures am not implemented in full and details of the modifications should be given.

"Statistics" means the annual Statistics published by the Central Bureau, consisting of table showing:

a) he monthly incidence of List A diseases by country;
b) the monthly incidence of new outbreaks of epizootic by disease; reported to the Central Bureau by Veterinary Administrations in their Animal Health Status Reports, or other international organizations.

SECTION 1.5.
IPORT/EXPORT PROCEDURES
CHAPTER 1.5.1.
RECOMMENDATIONS FOR TRANSPORT

Article 1.5.1.1.

General Arrangements

1.*Vehicles* (or *containers)* used for the transport of *animals* shall be designed, constructed and fitted in such a way as to withstand *the* weight of the animals and *to* ensure their safety and welfare during transportation. Vehicles shall be thoroughly cleansed and disinfected before use. There shall be adequate ventilation, which can be adjusted to meet the possible variations in climate.

2.Animals in transit shall be provided with adequate space and, unless special provisions require to the contrary, room to lie down. They shall be segregated where appropriate, according to species, and uncastrated mature male animals shall be segregated from females and from each other. Homed cattle shall be segregated from animals without horns.

3. Vehicles (or containers) in which animals are confined during carriage by sea or by air shall be secured to the structure of the ship or *aircraft* and shall be stowed in such a way as to ensure that there is no interference with ventilation and to allow easy access to the animals by the attendant.

4. Animals, which are being transported, shall be offered food and water at suitable intervals.

5. These arrangements should be compulsory in all countries either by legislative or regulatory texts and should be compiled with methods of application in a manual available to all concerned.

Transport

Article 1.5.1.2.

Particular arrangements for *containers*

1.The construction of containers intended for transportation of animals shall be such that the release of excreta, bedding etc. is prevented when opened.

2.In the case of the transportation of *animal products*, provision shall be made to enable preliminary observation of the contents (for example, a window or hatch).

3.Containers in transit in which there are animal products shall not be opened unless the *Veterinary Authorities* of the *transit country* consider it necessary that they should be opened and, only if subject to precautions being taken to avoid any risk of contamination.

4.Containers shall be loaded only with one kind of product or, at least, with products not likely to be contaminated one by another.

5. In any case, it rests with each country to decide on the facilities it intends to give to the transit and importation operations of *animals* and animal products in containers.

Article 1.5.1.3.

Particular arrangements for the transpose of animals by air

1. The space allowed for the transport of animals in *aircraft* or *containers* should be determined by taking the following into consideration:

a) the available floor and air space for each animal;

b) the height and other dimensions of the container and aircraft; and

c) the ventilation capacity of the aircraft and containers whilst on the ground and during all stages of the flight.

With regard to cattle, pigs and sheep, the space reserved for each animal in aircraft or containers which have been fitted for the separate transportation of several animals or for the transportation of groups of animals, should comply with the conditions specified in Appendix 4.4.1.1.

2.IATA Regulations for live animals (which are approved by the OIE) may be adopted if they do not conflict with national legislative arrangements. (Copies of these Regulations are obtainable from the International Air Transport Association in Montreal, Canada.)

Article 1.5.1.4.

Disinfection and other measures

1. Disinfection, *disinsectisation* and all other work should be carried out in order to:

a) avoid all unjustified inconvenience and to prevent damage or injury to the health of people and animals;

b) avoid the risk of *fire;*

c) avoid damage to the structure of the *vehicle* or its appliances;

d) prevent, as far as possible, any damage to *animal products, semen, embryos/ova,* hatching eggs, brood-combs of bees and also to food-stuffs for the embarked livestock and baggage of the attendant.

2. On request, the *Veterinary Authority* shall provide those responsible for transportation with a certificate indicating the measures, which have been applied to all vehicles, the parts of the vehicle, which have been treated, the methods used and the reasons which led to the application of the measures.

In the case of *aircraft,* the certificate may be replaced on request, by an entry in the General Declaration of the aircraft.

3. Similarly, the Veterinary Authority shall issue on request:

a) a certificate showing the date of arrival and departure of the animals;

b) a certificate to the shipper or exporter, the consignee and transporter or their representatives, indicating the measures applied.

Article 1.5.1.5

The *Veterinary Authority* shall take all practical measures to prevent the discharge of any infective into internal or territorial waters.

CHAPTER 1.5.2.

ANIMAL HEALTII MEASURES APPLICABLE BEFORE AND AT DEPARTURE

Article 1.5.2.1.

1.Countries should only authorize the exportation from its territory of *animals for breeding, rearing* or *slaughter* which are correctly identified and which come from an *establishment* free from *List A* diseases and not situated in an *infected zone.*

2.Biological tests and/or vaccinations required by the *importing country* should be carried out in accordance with the recommendations in the *Code* and *Manual,* as well as *disinfection* and *disinsectisation* procedures.

3.Observation of the animals before leaving the country may be carried out either *in* the establishment where they were reared, or in a *quarantine station.* When they have been found to be clinically healthy and free from List A diseases or any other infectious disease by *an Official Veterinarian* during the period of observation, the animals should be transported to the *place of shipment in* specially constructed *vehicles,* previously cleansed and disinfected, without delay and without coming into contact with other susceptible animals, unless these animals have sanitary guarantees similar to those of the transported animals.

The transportation of the animals for breeding or rearing or slaughter from the establishment of origin to the point of departure from the *exporting country* shall be carried out in conformity with the conditions agreed between the importing and exporting countries.

Article 1.5.2.2.

Countries should only undertake the exportation from its territory of:
-semen
-embryos/ova
-hatching eggs

Departure from the exporting country from *Al centres, collection units* or *farms* which are officially controlled by the *Veterinary Authority* of the *district* of origin, free from *List A* diseases and not situated in an *infected zone* (infected with one of the diseases to which the *animals of* the corresponding species are susceptible).

Article 1.5.2.3.

Countries *exporting animals, semen, embryos/ova* or hatching eggs, should inform the country of destination and where necessary the *transit countries* it after exportation, *a List A* disease occurs within the *incubation period* of that particular disease, *in* the *establishment* of origin, or *in an animal* which was in a *collecting center,* or in *a market, at* the same time *as* the exported *animals.*

Article 1.5.2.4.

Before the departure of *animals,* bees, *semen, embryos/ova,* hatching eggs and brood-combs of bees, an *Official Veterinarian* should, within the 24 hours prior to shipment, provide an *international animal health certificate* conforming with the models approved by the OIE (as shown in Part 5 of the *Code)* and worded in the languages agreed upon between the *exporting country and* the *importing country,* and where necessary, with the *transit countries.*

Article 1.5.2.5.

1. Before the departure of an *animal* or *a* consignment of animals on *an* international journey, the *Veterinary Authority* of *the* port, airport or *district* in which *the frontier post is* situated may, if it is considered necessary, carry out a clinical examination of the animal or consignment. The time and place of the examination

shall be arranged taking into account customs and other formalities and in such a way as not to impede or delay departure.

2. The Veterinary Authority referred to in paragraph 1 above shall take necessary measures to:

a) prevent the shipment of animals affected or suspected of being affected with *any List A* disease or with any other infectious disease;

b) avoid entry into the *vehicle* of possible vectors or causal agents of infection.

Departure from the exporting country

Article 1.5.2.6.

1. Countries should only authorize the exportation from its territory of *meat* and *products of animal origin destined for human consumption,* which is fit for human consumption and accompanied by an *international sanitary certificate* conforming with the models approved by the OW (as shown in Part 5 of this *Code)* and worded in the languages agreed upon between the *exporting country* and the *importing country,* and where necessary, with the *transit countries.*

2. Products *of animal origin destined for use in animal feeding,* or *for pharmaceutical* or *industrial use,* should be accompanied by an international *sanitary* certificate conforming with the models approved by the OIE (as shown *in* Part *5* of this Code).

CHAPTER 1.5.3.

ANIMAL HEALTH MEASURES APPLICABLE DURING TRANSIT FROM THE PLACE OF DEPARTURE IN THE EXPORTING COUNTRYTO THE PLACE OF ARRIVAL IN THE IMPORTING COUNTRY

Transit

Article 1.5.3.1.

1.Any country through which the transit of *animals* and bees has to be made, and which normally conducts commercial transactions with the *exporting country,* should not refuse transit, subject to the reservations mentioned below and on condition that notification is made of the proposed transit to the *Veterinary Administration* and *Veterinary Authority* in charge *of frontier posts.*

This notification shall state the species and number of animals or consignments of bees, the methods of transport and the frontier posts of entry and exit in accordance with a previously arranged and authorized itinerary in the *transit country.*

2. Any country through which transit is to take place may refuse if, in the exporting country or transit country which precedes it on the itinerary, certain diseases exist which are considered by the country in question as capable of being transmitted to its own animals or bees.

3. Any transit country may require the presentation of *international animal health certificates.* Such a country may; in addition, cause an examination to be made by an *Official Veterinarian* of the health status of animals or bees in transit, except in cases where transport in sealed *vehicles* or *containers* is a condition of transit.

4. Any transit country may refuse passage through its territory of animals or bees presented at one of its frontier posts if an examination carried out by an Official Veterinarian shows that the animal or consignment of animals or bees in transit is affected by or infected with any of the compulsorily notifiable epizootic diseases, or if the international animal health certificate is inaccurate and/or unsigned.

In these circumstances, the Veterinary administration of the exporting country shall he informed immediately, thereby providing an opportunity of checking the findings or correcting the certificate.

If the diagnosis of an epizootic disease is confirmed or if the certificate cannot be corrected, the animal or consignment of animals or bees in transit shall either he returned to the exporting country, or be slaughtered or destroyed.

5. This Article does not apply to bees which arc transported in securely closed vehicles or containers.

Article 1.5.3.2.

1. Any *transit country* may require railway wagons and road *vehicles* used for the transit of animals through its territory to be so constructed to prevent the escape and dispersion of excrement.

2. The unloading of animals in transit shall be permitted in the territory of the transit country only for purposes of watering and feeding or for welfare or other essential reasons and under the effective control of an *Official Veterinarian* of the transit country, who should ensure that the animals have no contact with any other animals. The *importing country* shall be informed of any unforeseen unloading in the transit country.

Article 1.5.3.3.

Any country through which transit of the following must be made:

-semen

-embryos/ova
-hatching eggs brood-combs of bees *animal products*

and which allows the importation of those products, should not refuse their transit, subject to the following conditions:

1. Notification shall be made of the proposed transit to both the *Veterinary Administration* and *Veterinary Authority* in charge of the control of the *frontier posts.*

The notification shall contain information on the identification of the *species* and the quantity of the products, the method of transport, and the frontier posts of entry into and exit from the country, according to an itinerary previously arranged and authorised in the territory of the *transit country.*

2. If inspection indicates that the above-mentioned products are capable of being dangerous to the health of persons or *animals*, the Veterinary Authorities of the transit country may order their return to the *exporting country.*

If they cannot be returned, the Veterinary Administration of the exporting country shall be informed immediately, thereby providing an Opportunity of confirming the findings before destruction of the products.

3. Strict sanitary requirements need not apply to the transit of the products mentioned in this Article when they are transported in sealed *vehicles* or *containers.*

Article 1.5.3.4.

Vessels stopping in a port or passing through a canal or other navigable waterway situated in the territory of a country, on their way to a port situated in the territory of another country, must comply with the conditions required by the *Veterinary Administrations*, especially to prevent the risk of introduction of diseases transmitted by insects.

Article 1.5.3.5.

1. If, for reasons beyond the control of its captain, a ship or *aircraft* calls or lands somewhere other than at a port or airport, or at a port or airport other than that at which it should normally call or land, the captain of the ship or aircraft shall immediately notify the nearest *Veterinary Authority* or other public authority of the new port of call or place of landing.

2. As soon as the Veterinary Authority is notified of the calling or landing place, it shall take appropriate action.

3. Except for the circumstances mentioned in paragraph 5 below, the *animals* and the attendants on board the ship or aircraft shall not be permitted to leave the vicinity of the docking or landing place and the removal from the vicinity, of any equipment, bedding or feed stuff accompanying them shall not be permitted.

4. When the measures prescribed by the Veterinary Authority have been carried out. The ship or aircraft shall be permitted, for sanitary purposes, to proceed to the port or airport at which it would normally have called or landed or, if there are technical reasons whereby this cannot be done, to a port or an airport which is more suitable.

5. In an emergency, the captain of the shipment or aircraft shall take all necessary measures to maintain the health and safety of all passengers, crew, attendants and animals on board.

CHAPTER 1.5.4.

FRONTIER POSTS AND QUARANTINE STATIONS IN THE IMPORTING COUNTRY

Article 1.5.4.1.

1. *The countries* and their *Veterinary Administrations* shall, wherever possible, take the necessary action to ensure that the *frontier posts* and *quarantine stations* in their territory shall be provided with *an* adequate organization and sufficient equipment for the application of the measures recommended in the *Code.*

2. Each frontier post and quarantine station shall be provided with facilities for the feeding and watering of *animals.*

Article 1.5.4.2.

When justified by the amount of *international traffic* and by the epizootiological situation, *frontier posts* and *quarantine stations* shall be provided with a Veterinary Service comprising personnel, equipment and premises as the case may be and, in particular, means for:

a) making clinical examinations and obtaining specimens of material for diagnostic purposes from live *animals* or carcasses of animals affected or suspected of being affected by an epizootic disease, and optimizing specimens of *animal products* suspected of contamination;

b) detecting and isolating animals affected by or suspected of being affected by an epizootic disease;

c) carrying out *disinfection* and possibly *disinsectisation* of *vehicles* used to transport *animals* and *animal products.*

In addition to this, each port and *international airport* should ideally be provided with equipment for the sterilization or incineration of swill or any other material dangerous to animal health.

Border control

Article 1.5.4.3.

When required by *international traffic in transit,* airports shall be provided, as soon as possible, with *areas of direct transit;* these must, however, comply with the conditions required by *Veterinary Administrations,* especially to prevent the risk of introducing diseases transmitted by insects.

Article 1.5.4.4.

Each *Veterinary Administration,* when requested, shall make available for the *Central Bureau* and any interested country on request:

a) a list *of frontier posts, quarantine stations, abattoirs* and storage depots in its territory which are approved for *international traffic;*

b) the period of time required for notice to be given for the application of the arrangements contained in paragraph 2 of Articles 1.5.5.1. to 1.5.5.4.;

c) a list of airports in its territory which are provided with an *area of direct transit.*

CHAPTER 1.5.5.

ANIMAL HEALTH MEASURES ON ARRIVAL

Arrival in the importing country

Article 1.5.5.1.

1. *An importing country* should only accept into its territory, *animals* or bees, which have been subjected to a health examination by *an Official Veterinarian* of the *exporting country* and are accompanied by an *international animal health certificate* provided by the *Veterinary Authority* of the exporting country.

2. An importing country may require adequate advance notification regarding the proposed date of entry into its territory of animals or bees, stating the *species,* quantity, means of transport and the name of *the frontier post* to be used.

In addition, importing countries shall publish a list of the frontier posts equipped to conduct control operations related to importation and enabling the importation and transit procedures to be carried out in the most speedy and efficacious way.

3. An importing country may prohibit the introduction into its territory of animals or bees when the exporting country or *transit countries, which precede it on the itinerary,* are considered as being infected with certain diseases capable of being transmitted to its own animals or bees. In the case of transit countries, the prohibition should not apply to bees, which are transported in securely closed *vehicles* or *containers.*

4. An importing country may prohibit the introduction into its territory of animals or bees, if these are found, on examination at the frontier post by an Official Veterinarian, to be affected, suspected of being affected or infected with a disease capable of being transmitted to the animals or bees in its territory.

Animals or bees, which are not accompanied by an international animal health certificate conforming with the requirements of the importing country, may also be refused entry.

In these circumstances, the *Veterinary Administration* of the exporting country shall be informed immediately, thereby providing an opportunity of confirming the findings or correcting the certificate.

However, the importing country may prescribe that the importation be placed immediately in quarantine in order to carry out clinical *observation* and biological examinations with a view to establishing a diagnosis.

If the diagnosis of an epizootic disease is confirmed, or if the certificate cannot be corrected, the importing country may take the following measures:

a) return the animals or bees to the exporting country, if this measure does not involve transit through a third country;

b) slaughter and destroy in cases where this measure would be dangerous from the health point of view or impossible from a practical point of view.

5. Animals or bees, accompanied by a valid international animal health certificate and found to be healthy by the Veterinary Authority at the frontier post, shall be permitted to be imported and transported in accordance with the requirements of the importing country to the point of destination.

Article 1.5.5.2.

1. Any *importing country* should only accept into its territory:
   -semen
   -embryos/ova
   -hatching eggs brood-combs of bees

   which are accompanied by an *international animal health certificate.*

2. An importing country may require adequate advance notification regarding the proposed date of entry into its territory of any consignment of the above-mentioned products, stating the species, quantity, nature and packaging of the products, and the name of *the frontier post* to be used.

Arrival in the importing country

3. A country may prohibit the importation of the above-mentioned products into its territory when in the *exporting country* or in the *transit countries, which precede it on the itinerary, certain diseases,* exist which are considered by the country concerned as being capable of being introduced by these products.

4. A country may prohibit the introduction into its territory of the above-mentioned products presented at one of its frontier posts, if they are not accompanied by an international animal health certificate complying with the requirements of the importing country.

In these circumstances, the *Veterinary Administration* of the exporting country shall be notified at once and the products may either be returned to the exporting country or placed in quarantine and/or destroyed.

Article 1.5.5.3.

1. An *importing country* should only accept into its territory *meat* and *products of animal origin destined for human consumption* which have been found to be fit for human consumption by *an Official Veterinarian* of the *exporting country* and are accompanied by a valid *international sanitary certificate.*

2. An importing country may require adequate advance notification regarding the proposed date of entry into its territory of a consignment of meat or products of animal origin destined for human consumption, together with information on the nature, quantity and packaging of the meat or products, and the name of the *frontier post* to be used.

3. However, if inspection of the consignment shows that the meat or the products of animal origin destined for human consumption might be a danger to the health of persons or *animals,* or if the international sanitary certificate is not correct or does not apply to the products, the *Veterinary Authority* of the importing country may cause the meat or products to be returned or be subjected to adequate treatment to ensure their innocuity. When the products are not returned, the *Veterinary Administration* of the exporting country shall be informed immediately, thereby providing an opportunity of confirming the findings.

Article 1.5.5.4.

1. An *importing country* should only accept into its territory *products of animal origin destined for use in animal feeding,* or *for pharmaceutical* or industrial *use, which* are accompanied by an *international sanitary certificate* provided by *the* relevant *Veterinary Authority* of the *exporting country.*

2. An importing country may require adequate advance notification regarding the proposed date of entry into its territory of a consignment of products of animal origin destined for use in animal feeding, or for pharmaceutical or industrial use,

together with information on the nature, quantity and packaging of these products, and the name of the *frontier post* to be used.

3. An country may prohibit the importation into its territory of products of animal origin destined for use in animal feeding, or for pharmaceutical or industrial use, when certain diseases exist in the exporting country which are considered by the importing country as capable of being introduced by these products; there may also be prohibition of transit through countries where these diseases exist, except where the transport is carried out in sealed *vehicles* or *containers.*

4. When the international sanitary certificates have been examined and found to be correct, the importation of the above-mentioned products shall be permitted.

5. An importing country may require that the products of animal origin destined for use in animal feeding, or for pharmaceutical or industrial use, be consigned to *establishments* approved by the *Veterinary Administration* and under its supervision.

6. However, if inspection of the consignment shows that the products are capable of endangering the health of persons or *animals,* or if the international sanitary certificates are not correct or do not apply to the products, the Veterinary Authorities of the importing country may either return the products to the exporting country or cause them to be rendered safe.

When the products are not returned, the Veterinary Administration of the exporting country shall be informed immediately, thereby providing an opportunity of confirming the findings or correcting the certificate.

Article 1.5.5.5.

On arrival at a *frontier post* of a *vehicle* transporting an *animal* or animals infected with any *List A* disease, the vehicle shall be considered as contaminated and the *Veterinary Authority* shall apply the following measures:

1. Unloading of the vehicle and immediate transportation of the animal or animals, in a leak-proof vehicle direct:

a) to an *establishment* approved by the *Veterinary Administration* for the slaughter of the animal or animals and the destruction or possibly sterilization of their carcasses; or

b) to a *quarantine station* or, in the absence of a quarantine station, to a place assigned in advance which is well isolated and near the frontier post.

2. Unloading of the vehicle and immediate transportation of the litter, forage and any other potentially contaminated material to an establishment assigned in advance for their destruction and the strict application of the sanitary measures required by the *importing country*.

3. *Disinfection* of:

a) all baggage of the attendants:

b) all parts of the vehicle which were used in the transport, feeding, watering, moving and unloading of the animal or animals.

4. *Disinsectisation,* in cases where any insect vector diseases are present.

Article 1.5.5.6.

On arrival at a *frontier post* of a *vehicle* transporting an *animal* or animals suspected of being affected with any *List A* disease, the vehicle shall be considered as being contaminated and the *Veterinary Authority* may apply the measures provided in Article 1.5.5.5.

Article 1.5.5.7.

The *vehicle* shall no longer be considered as contaminated when the measures prescribed by the *Veterinary Authority* in accordance with Article 1.5.5.5. have been carried out.

The vehicle may then be allowed to enter.

Article 1.5.5.8.

Ships and *aircrafts* should not be refused *access* to a port or airport for *animal* health reasons *in* cases of emergency.

Nevertheless, the ship or aircraft should be subjected to all the animal health measures which the port or airport *Veterinary Authority* may consider necessary.

Article 1.5.5.9.

1. *An aircraft* transporting *animals* or *animal products* need not be regarded as coming from *an infected zone* solely because it landed in such a zone at one or more airports *as* long as these airports are not infected.

This should be considered direct transit provided no offloading of animals and animal products takes place.

2. Any aircraft coming from a foreign country where animal diseases transmitted by insect vectors are present shall be subjected to *disinsectisation immediately* after landing, except when such disinsectisation was carried out immediately before departure or during the flight.

(vii) Instructions / Health for products of Animal Origin *

These instructions are called the "Instructions of Health Precautions for Products of Animal Origin". They shall go into effect forty five (45) days after publication in the Official Gazette.

Considering the definitions mentioned under Article (2) of Agriculture Law No. ( ) for the year 2002, the following terms and words shall have the meanings apposite each of them unless the context otherwise indicates

The provisions of these instructions shall be enforced on the following animal products:

-Animal products for human consumption: meats, meat by-products of all forms and types, table eggs, egg products, milk, milk products and honey.

-Animal products for industrial purposes:

Untanned or unprocessed hides, fir, wool, hair, camel-hair, feathers, hoofs, horns, bone, shells, blood, bowels, entrails, natural fertilizers, and milk by-products for industrial purposes.

-Animal products specially identified for medical industries, including: animal organs, glands, organic animal tissues, liquids from animal origin used for preparing pharmaceutical products including artificial insemination liquid.

-Animal products, which are used in the fodder industry comprising: meat mixtures/preparatory, lever, bones, blood, feathers, remains of pig-fat, and milk products used to feed animals.

A non-automatically renewed import license shall be obtained from the Ministry allowing the import of fresh or frozen meat and any other stuff of animal products provided for under Chapter Two of the Customs Tariff Schedule, as well as the import of frozen animal semen and veterinary medicines.

Animal products shall not be permitted into the Kingdom unless they are accompanied by the original health certificate, which must be signed by the veterinary registered in the country of export. A copy of this document shall not be accepted the health certificate, containing fundamental data, shall also include a declaration by the vet illustrating the following

The animal products prepared for human consumption, medical industries or fodder manufacturing is originating from healthy animals. They must not have more than the internationally accepted maximum residue levels for pesticides, hormones, veterinary medicines and radiation.

Tanned / untanned hides were, to his best knowledge, not taken from animals suffering from carbuncle / anthrax or any other similar disease, or from any animals that died of such diseases. The hides must be wet or dry-salted, or chemically treated, or disinfected by internationally permissible chemicals under internationally accepted guidelines

Wool, hair, or camelhair is clean, parasite-free and was well sheared

Animal products imported into the Kingdom may only enter or exit the country through the land, sea, and air crossing ports specified under Article () of the Veterinary Quarantine Instructions No () of 2000.

The Ministry's concerned official at the entry point should confirm the existence of the official import documents, which must accompany the consignment. He shall scrutinize and check them to ensure they are complete, in order, duly prepared, and issued by the competent official authorities in the exporting country.

If the official in charge sees that the accompanying documents are incomplete or lacking basic or legally incorrect information, the consignment will not be inspected. The importer or his agent shall be informed accordingly, provided that he should be granted a grace period proportional to the nature of the shipment, but not exceeding 7 days, in order to bring in the missing items and rectify the situation

If the importer fails to rectify the situation within the grace period, he will not be allowed clearance of the shipment, and the consignment shall be re-exported within the time limit fixed by the Director of the Veterinary Department, or it shall otherwise be destroyed at the expense of the importer

If the required documents are complete with no missing items or legal fault, the concerned official at the entry point will visually inspect the consignment to ensure its good health condition.

If the official finds the results of the external inspection sound, he shall proceed with the clearance procedures on the shipment in accordance with the following arrangements:

1. If the consignment contains fresh, frozen, or chilled meat, a sample shall be taken for lab testing to confirm that it is free from any epidemic which may cause diseases that may be contacted to humans and animals, or diseases attacking humans & animals alike. The meat shipment shall then be referred to the slaughterhouse, under a judicial undertaking that the shipment would not be disposed of, but only after the lab report is issued

2. If the consignment comprises animal products for human consumption, in whatever form with the exception of the products under item (1) of this Paragraph, a sample shall be taken for lab test to confirm that it is free from defects or diseases, which prevent it from consumption. The consignment shall be allowed out of the customs courtyard and delivered to the importer provided that the stuff should be stored at warehouses meeting proper hygienic conditions. The importer shall sign a judicial undertaking not to dispose of such stuff until the issuance of the lab report. If the analysis shows that the sample is safe and sound, customs procedures will be completed. If to the contrary, the consignment will be re-exported within the limited period to be specified by the Director of the Veterinary Department, or it will be destroyed.

3. If the shipment comprises animal products for industrial purposes, to the exclusion of tanned / untanned hides, hair, wool, feathers, the material may be released from the customs courtyard and delivered to the importer against an undertaking not to dispose it of. The shipment must be stored in warehouses meeting hygienic storage conditions, until it is cleared by the competent authority

4. If the shipment is from untanned hides, it will be cleared off but it must be immediately transferred to the tannery plant where it will be processed unless it needs treatment or disinfecting. In such a case it shall be transferred to a place to be fixed by the Director of the Veterinary Department for proper and due purification and treatment. The importer shall bear the transport costs, purification fees and any other resulting expenses.

5. If the consignment comprises bones, horns, shells, hoofs, hair, wool, camel-hair, or feathers, clearance steps shall be completed, but the material shall be transported to a seclusion station or to any other place to be

specified by the Director of the Veterinary Department for treatment and purification in accordance with the normal practice observed

6. In case the consignment incorporates animal products to be used in the fodder industry, the required measures shall be completed according to Instructions on Fodder No. () for the year 2003, issued under Agriculture Law No. () for the year 2002

7. If the consignment incorporates animal products for veterinary pharmaceutical industry, relevant procedures shall be completed according to Instructions No. () for the year (), issued under Agriculture Law No. () of 2002. But if they are used in human pharmaceutical industry, they shall be handed over to the importer against a judicial undertaking not to dispose it of. The shipment must be stored at a warehouse meeting hygienic conditions until the competent authority license it.

If the consignment is proved to be unsound following the external physical inspection, and have qualities barring it from trading (distribution), no clearance shall be made on it, and the importer should consequently:

1. Untanned hides or animal limbs or any part thereof may not be taken out of the customs courtyard at the entry point if they arrive there unpacked or improperly packed unless the importer re-packs them at his own expense, and the competent official affirms the same.

2. The sacks, containers and materials in which the animal hides, limbs, or any parts thereof were packed and kept must be destroyed unless they can be duly and properly washed up and treated with disinfectants at the importer's expense.

The veterinary authorities in Jordan and the competent Ministry official at the entry point must apply the quarantine provisions enforceable in the country to any animal products that will be exported from Jordan.

The accredited Government veterinarians at the entry point issue a health certificate for the animal products to be exported from the Kingdom according to the accredited form after inspecting and examining them.

If the accredited Government veterinarian at the entry point sees that there is need for treating or disinfecting the animal hides, limbs, or any other parts thereof to be exported, or if the quarantine provisions in the importing country stipulate the same, the importer shall, at his own expense, treat and disinfect the materials according to the current internationally accepted guidelines or, if the importing country requirements are stricter, according to the importing country's requirements under the technical directives of the accredited Government veterinarian.

The inspection, examination and laboratory testing and disinfecting fees shall be collected per Agricultural Services Regulations No. ( ) for the year 2000.

The quantity is, for fees collection purposes, calculated on the basis of the net weight of the shipment.

(viii) Animal Quarantine Regulations *

Veterinary Quarantine Instructions

Issued under Article of Agriculture Law year 2002

Article 1

These instructions are called the "Veterinary Quarantine Instructions" and will be enforced thirty days after publication in the Official Gazette.

Article 2

Considering the definitions mentioned under Article 2 of Agriculture Law No. () for the year 2002, the following terms and words shall have the meanings specified opposite each of them unless the context otherwise indicates.

Article 3

The importer who has obtained a license from the Ministry for importing live animals shall notify the concerned authority, either at the Ministry or the Agricultural Center at the crossing port, of the arrival date of the consignment, at least one week before its arrival date.

Article 4

A. Entry of imported animals to the Kingdom or export thereof is, according to the shipping method, allowed only via any of the following border ports (posts). The importer should be bound to use the border port specified by the Ministry in the Import License with no permission to change it.

1. Via land: from one of the following border posts: Karamah, Ramtha, Jaber, Mudawarrah, Omari, Sheikh Hussein Bridge crossing, King Hussein Bridge crossing Eilat, Prince Mohammed Bridge, Dorrah or any other crossing to be authorized in the future.

2. Via air: Queen Aliaa' International Airport, Amman Airport or any other airport to be authorized in the future.

3. Via Sea: Aqaba Sea Port or any other port that is authorized now or in the future.

4. Via railroad: Mafraq.

a) The animals crossing through one of the above mentioned posts under paragraph (a) of this Article will be quarantined (confined / secluded / isolated) at the quarantine specified in the Import License in any of the following quarantine stations, any of which may not be substituted unless the Ministry, for technical reasons, sees otherwise.

1. Jaber Quarantine
2. Mafraq Quarantine

3. Ramtha Quarantine
4. Sarrah Quarantine
5. Any quarantine approved by the Ministry for this purpose.
6. Any quarantine to be constructed and announced by the Ministry at a later date.

Article 5

A. If the consignment is coming via sea, the importer or his agent should provide the Ministry's official at the crossing post with official documents related to the shipment including the Import License and the health certificate

.

B. The official in charge should assure that all required documents are available and meet the conditions. In case that such documents are not available or incomplete, or the information given thereunder is inaccurate, the consignment will not be inspected. The importer will be given 72-hour grace period to complete the missing items & required information, but if he fails to do so in time, the consignment will not be inspected & examined unless the missing items are confined to non-stamp & seal of the documents for authenticity purposes. The importer shall shoulder both any loss and additional expenditures caused by the delay, that he might incur.

C. If the official authorities do not authenticate the documents submitted by the importer, the shipment will be examined and inspected. If the shipment is found sound and safe and free of any disease symptoms, then it will be allowed into the quarantine after the importer undertakes in writing to duly stamp and seal the documents. If he fails to do so, the importer must pay doubled fines and taxes.

D. No shipment of living animals will be permitted into the kingdom if any other country rejects it for health reasons.

Article 6

On observing the provisions of Paragraph (C) under Article (5) of these Instructions, if it is assured that the required documents are complete and correct, a committee, comprising a veterinarian of the Center's staff, or a special panel s t-up for this purpose, will climb the ship anchored in the territorial waters and perform the following:

A. Receiving the following documents from the Master (captain of the ship) and assuring themselves of completion and correctness of such documents:

1. The certificate accompanying the consignment signed by the veterinarian who is officially authorized by the authority in the country of export. This certificate shall testify that an authorized vet in the country of export had duly examined the animals before shipment. The

certificate should confirm that there were no animals suffering from cow-plague, pneumonia, blue tongue, "foot and mouth" disease, African horse sickness, cowpox, or any other epidemic disease.

2. A document signed by the master asserting that he did not ship any animals banned to enter the kingdom aboard his ship during his voyage's time from the port of export. He also must declare that he did not, during the voyage, unload or allow to unload any of the animals imported to Jordan in any other seaport, or reload such animals or other animals. He must confirm that no injuries or diseases had taken place among the animals transported aboard his ship during the voyage. If any of such casualties occurred, the Master should specify the casualties and how they happened. He must declare illness cases and the steps taken to treat them.

3. A document illustrating the voyage route of the ship from the export port to Aqaba seaport.

B. Inspecting, examining, and testing of animals aboard the ship to confirm their health condition according to the following measures. The provisions of this Paragraph and the next one shall be applicable on animals imported via land, air, or railroad.

1. The animals shall be (externally) physically examined to identify their general health condition provided that the examined heads shall not be less than (__%) of the total animals on board.

2. Conducting laboratory tests on animals by the detectors, which should be supplied by the importer.

3. Conducting anatomy / post mortal examination on any of the dead animals to fix causes of death. Autopsy shall also be made on any living animals whose health is under suspicion. The rate of dissected animals must not be more than (%) of the total living animals (consignment) on board.

4. Taking serological samples of the animals' blood, and delivering them safely to the labs to make advanced tests & analyses thereon.

C. Steps mentioned under items (2 and 4) of Paragraph (b) under this Article shall be carried out as follows:

1. On all the consignment if the animals' figure range between 1-100 heads.

2. On (%) if the animals' figure range between 1-1000 heads.

3. On (%) if the animals' figure range between 1001-10000 heads.

4. On (%) if the animals' figure range between 10001-100,000 heads.

Article 7

If the documents identified under Paragraph (A) of Article (6) of these Instructions are unavailable or incomplete, or if the external physical test of animals, or the results of serological test or autopsy of any of the living / dead animals show some of them are sick or stricken by banned diseases, neither the motor vessel will be allowed to anchor on any dock of the port ground, nor will it be permitted to unload the animals on thereat.

Article 8

If the documents mentioned in Paragraph (A) under Article (6) of these Instructions are handed over and are proven to be out of suspicion and complete with no sign of any epidemic among the animals shipped on the motor vessel; and if also the result of the external physical test, serological examination, and autopsy made on board show that the animals are free of any illnesses under lists A and B, the motor vessel will be allowed to anchor on the docks and unload its consignment, and the animals will be transported to the specified quarantine at the expense of the importer and under his responsibility.

Article 9

Under the supervision of the committee along with that of the representatives of the Customs Department and other governmental authorities, the animals shall be unloaded from the ship to the port ground. They shall be loaded on the transport means prepared for this purpose, and transported to the specified quarantine. It shall be ascertained that the transport facility should be cleaned by disinfectants and equipped with devices needed to secure safety of animals, and that the Jordanian lands should be safeguarded of pollution from animal droppings.

Article 10

The Committee supervising the load and unload operation at the port shall give the driver of the transport means a document identifying the type of animals shipped, their figures and any other information it deem necessary. The driver shall keep-up the document during his drive from the port to the quarantine. He shall hand over these documents and other official papers to the official in charge of the veterinary quarantine station. The latter official shall match the information on these documents with the load.

Article 11

If the imported animals are coming via land, air or railroad, the importer or his agent shall present the required shipment-specific official documents to the concerned Ministry's official at the Crossing Port Center. The official shall check the documents to confirm availability of all required documents, their correctness, and that the documents meet the conditions and provide the needed information.

A. If the official at the Crossing Port Center finds that the documents are not available, incomplete, or with a legal fault, or some of the referred information is missing, the animals shall not be permitted into the kingdom's territory or allowed to be unloaded, there onto.

B. The importer shall be granted the grace period specified under Paragraph (C) of this Article to complete the documents or bring in or correct the missing information, provided that the importer should bear the loss that may be incurred plus the extra expenses resulting from the delay. He should also provide food and drinking water to the animals during the waiting period.

C. The grace period provided for under Paragraph (B) is as follows:

- 24 hours if the consignment is coming via air.
- 48 hours if the consignment is coming via land, on trucks or by train.

Article 12

A. If the documents are available with no missing items or faults, or if they are made available or corrected within the period specified under Paragraph (c) of Article (11) of these Instructions, the official at the Crossing Port Center shall examine the animals on the transport means. He has the right to conduct lab tests by the detector devices, take animal blood samples, and then dispatch them by safe means to the laboratory where they shall undergo advanced lab examinations.

B. If the result of the external physical examination or lab test by the detectors shows that the animals or some of them are sick or suffering from any banned contagious diseases, the animals shall not be allowed into the kingdom or unloaded on its territories.

C. If the result of the external physical examination, or the lab test by the detectors shows that the animals are healthy and free from any banned epidemics, they shall be transferred to the quarantine identified in the Import License.

1. The competent official at the land crossing port shall be sure that the animals' transport means licensed to cross into Jordan are suitable and have safety devices to protect the shipped animals and safe guard the Jordanian territory from pollution caused by their dung (droppings).

2. The concerned official at the airport crossing port, or at the train arrival station shall confirm that the transport means which would carry the animals - allowed onto the kingdom's territory – to the specified quarantine station have been disinfected prior loading. These vehicles shall be supplied with safety devices to protect the transported animals, and also to safeguard Jordan's lands from pollution caused by the animals' dung.

3. The concerned official at the Crossing Port Center shall provide the driver of the transport means with a document showing details of the type of animals transported on the conveyance, their number, and any other information he may consider necessary. The driver must have these papers along his travel

from the entry port or loading center up to the quarantine station. He should hand the paper over along with other official documents to the official of the specified quarantine station. The official shall check the information against the load.

Article 13

A. The animals detailed below, whether imported or exported, shall be subjected to quarantine except those excluded there from in accordance with Item 3, Paragraph (3) of this Article: Sheep, goats, cows, antelopes (buffaloes), camels, horses, mules, donkeys, pigs, deer, ostriches, circus animals, and big wild life animals.

B. The following animals shall be excluded from the quarantine operation:

1. The below-mentioned animals on condition that they are imported from an unbanned country. They must be accompanied with a veterinary health certificate signed and stamped by the veterinary authorities of the exporting country, and confirming that the animals are disease-free and have also been inoculated and immunized. However, the Director of the Veterinary Department may order their isolation with the importer for the period he would specify. The quarantined animals must be followed-up by an accredited veterinarian doctor.

- Dogs, cats, in-door birds, wildlife birds, decoration fish, reptiles, amphibious animals, bees and pets.

2. Test and experiment animals.

3. Animals directly imported from a country, which has signed with Jordan an agreement on mutual recognition of veterinary quarantine measures. A health certificate accredited by the veterinary authorities in that country affirming that the animals have been subjected to quarantine, and they are disease-free shall accompany these measures

Article 14

The imported animals shall be secluded inside the quarantine identified in the Import License for the period fixed under Article ( ) of these Instructions. The period shall be calculated from the hour at which the animals reach the quarantine station, considering a day is 24 hours.

Article 15

The owner of the animals held at the quarantine shall provide sufficient fodder and drinking water should they be unavailable at the quarantine. He must also provide manpower to take care of the animals and clear their sheds under the supervision and directions of the Quarantine Official.

Article 16

The competent veterinarian doctor shall be responsible for inspecting, testing, examining and medicating the animals during quarantinable time according to the instructions of the Director of the Veterinary Department or his authorized representative.

Article 17

If the result of the inspection, exams, lab tests or autopsy show that any of the animals held in the quarantine is attacked by a banned disease, it shall be killed. This act shall be carried out under supervision of the veterinarian or whom he authorizes, and in the attendance of the animals' owner or his agent. Other animals, which carry the disease even with no apparent symptoms, and those, that have been in contact with the sickly ones, shall also be eliminated at the expense of the importer. The official supervising the act of elimination (killing) or ordinary deaths should prepare a process-verbal on the killing (disposal) case to be signed by the supervisor. The animals' owner or his agent shall be provided with a copy of the verbal process.

Article 18

On completion of the prescribed quarantine time and following confirmation that the quarantined animals are healthy, and non-epidemic, or non-contagiously attacked by a banned disease, the quarantine shall be lifted. The official in charge shall notify, in writing, the party concerned or its agent of this issue as well as of the date & hour of lifting the seclusion. He shall permit that party to take the animals out of the quarantine after affirming that all realizable fees and expenses are paid.

Article 19

If the owner refuses to move the animals from the quarantine station after the expiry of the isolation time, or fails to do so for a period of seven days beyond the quarantine completion date, or refuses to pay fees and other realizable expenses on the animals or any part thereof, the Director of the Veterinary Department shall order their selling or slaughter to sell their meat as he sees appropriate. If the selling price or meat value exceeds the incurred fees or expenses including the charges of butchering or selling, etc., the balance money shall be paid to the owner. But if the selling returns are less than the funds due on the owner, the balance shall be collected under the Law for Collection of Government-owned Dues.

Article 20

The importer shall shoulder any loss that may be caused to him because of the death, injury, killing, or theft of any animal during the loading or unloading operation, or during the transport of the animal to the quarantine and taking it out from there, or during its presence therein due to any accident or ailment caused by natural factors.

Article 21

The droppings of animals at the quarantine shall be eliminated by burning or by any other method at the discretion of the Director of the Veterinary Department. The quarantine shall be disinfected after evacuation of animals according to instructions.

Article 22

No animal, vehicle, or any other things shall be allowed in / out of the quarantine without written permission from the Quarantine Official. If any of the above mentioned is found in the quarantine without advance permission, they shall be destroyed or disposed of at the discretion of the Director of the Veterinary Department or his authorized deputy.

Article 23

The veterinary authorities at the arrival port may refuse entry of coverings, equipment, utensils, cages, boxes, tools, saddles … etc., which were used on the motor vessel for the sake of the imported animals, if it is seen that the same is necessary. The authorities may also permit their unloading if there has been no obstacles, provided such items be disinfected and treated at the importer's expense.

Article 24

If the veterinarian supervising the quarantine decides, for health reasons, to kill any animal whose meat is not allowed to be eaten (according to Islamic Shari'a) its corpse shall, at the vet's discretion, either be incinerated or buried at the expense of the owner.

Article 25

If the concerned official at the quarantine suspects that any animal is sick after completion of its seclusion time, he shall keep it quarantined until its condition is finally diagnosed.

Article 26

A. If there is no enough space in the government quarantines, or there is shortage of technical facilities to seclude the imported animals or those to be exported to a place outside Jordan, the animals may be quarantined at a private quarantine station provided that and advance agreement should be obtained, and that conditions and technical requirements required therefore should be available in the private isolation place.

B. The place licensed to be used as a private quarantine shall not be utilized for any other purpose throughout the period of its accreditation as a private quarantine. In case it is used otherwise, then the decision taken in this respect shall be immediately cancelled.

C. Accreditation of any private quarantine may be cancelled at any time provided that the concerned person should be notified a week prior to enforcement of such decision. The animals held there, which would not have completed the seclusion time, shall be kept quarantined until completion of the specified period.

D. It is not permissible to enter any animal into the private quarantine or to take it out of it with the aim of exporting it outside the kingdom, or transporting it to any other location in the country, or disposing it in any manner without a written permit from the veterinarian in charge, or whoever he may authorize on condition that the provisions of these Instructions should be observed.

E. The veterinary authorities shall supervise the private quarantine, and the seclusion measures shall be implemented thereat as if they were enforced at a governmental quarantine.

F. Entry into the private quarantine is not permitted to unauthorized personal unless they obtain written permission from the Director of the Veterinary Department or whoever he authorizes explaining reasons for entry and the disinfectant steps to be followed.

Article 27

Any party – wishing to export any animals outside the Kingdom while the destination country stipulates that they be held at a veterinary isolation stations prior to export – shall submit their demand in writing on a special form accredited by the Directorate of Agriculture to which the exit port is attached. The request may also be presented to the Directorate of Agriculture where the animal falls within its specialty area. The concerned Directorate shall then name the veterinary quarantine where the animal shall be kept before allowing its transportation.

Article 28

A. The owner of the animal – that will be exported and that has been approved into the quarantine under these Instructions – or his authorized representative shall sign a proclamation certifying the following:

1. That the animal, according to his best information and belief, is free from contagious diseases and has not been exposed to any illness during the three months preceding its transportation to the quarantine.

2. That the animal was transported to the quarantine in a cleaned up and disinfected vehicle as per the instructions of the veterinary authorities.

Article 29

All animals held at the quarantine for export purposes shall be subjected to isolation measures enforced on imported animals if the importing country stipulates placing them in quarantine prior to export.

Article 30

A. The animal under quarantine for purposes of export from the quarantine station after the lapse of the prescribed seclusion time may not be moved except in the below- indicated cases. Otherwise the animal shall be kept there until confirming that it is free from the epidemics specified under item (1) of this Paragraph, and the passing of the disease's incubation period.

1. If the animal had been in a place in Jordan – three months before the export permit was issued – and the place was within not less than a 20-km diameter distance of any location declared as a "spread area" for cow plaque, "foot and mouth" disease, pneumonia, and pleurisy.

2. If the animal is found at a location in the Kingdom where the veterinary authorities have surveyed & examined all animals, and the officials of such authorities testify that the animals in the region are free from diseases listed under item (2) of this Paragraph.

3. If the owner wants to transport the animal immediately after the lapse of quarantine period to the exit border post for export purposes.

Article 31

It is not allowed to transport the animal from the quarantine to the exit border post unless it is confirmed that it had not been struck by cow plague (pestilence), "foot and mouth" disease, pneumonia and pleurisy during the quarantine period, provided that this period should not be less than what is stated in these Instructions.

Article 32

A. After the animal destined for export completes the prescribed quarantine period, and following the confirmation that it is free from the banned diseases, it shall be granted a health certificate, signed by the vet supervising the quarantine, testifying that the animal has been entered into the isolation station as per relevant instructions and secluded over there for the prescribed period under the supervision of the competent authorities. The certificate shall also testify that, during that period, the animal was not hit by any banned disease that no illness symptoms were apparent on it, and was served with the prescribed vaccines.

B. If the importing country does not stipulate isolation of the animal before export thereto, the competent veterinarian shall inspect and check-up the animal, and issue a health certificate per the accredited form.

Article 33

A. The animals allowed to be exported after completion of the quarantine period or following their inspection and issuance of the health certificate may only be transported on secure transport means designed for this purpose. The transport means shall be disinfected before loading.

B Releasing of sufficient straw and fodder needed to feed the animals during shipping from the exit point to entry point may not be performed without an advance permission from the Ministry. This permit shall be obtained from a region, which has not witnessed "foot and mouth" disease cases over the three months preceding the date of issuing the permit.

Article 34

A. The Quarantine Official shall be held directly responsible for the management of the quarantine and its work safety as well as the accurate implementation of the instructions and decisions regulating his task.

B. In each quarantine, a special record shall be opened. The basic information of each consignment from the hour it arrives until it leaves shall be entered in this record. It shall also incorporate all the accidents that may happen, and the measures that may be taken at the time of occurrence. The visits made by officials and competent staff to the quarantine shall also be documented in the record as well as all the instructions, technical and administrative directions that may be issued to the Quarantine Official by them (the visitors).

C. No persons are allowed into the quarantine but only those authorized by the Director of the Veterinary Department or his authorized deputy provided that permission should be obtained from the Quarantine Official, and that the visitors should wear external uniforms and rubber shoes which shall be left at the exit when they leave.

D. All the staff working at the quarantine must put on special uniform / shoes during working hours inside the quarantine. These must be left behind with the concerned official when the staff leaves the site.

Article 35

Upon a special permission from the Director of the Veterinary Department or his authorized deputy, it shall be allowed to treat the quarantined animals by a private animal doctor in response to a demand by the owner, provided he be committed to access Instructions as regards disinfecting, and donning special clothes. He shall inform the official in charge of the quarantine about the cases he dealt with, and what procedures were taken.

Article 36

Disinfectant materials shall be continuously available at the access point of the quarantine in a manner that helps disinfect boots, and cars to get in / out of the quarantine. Any body incoming / outgoing from the isolation station should be committed to carry out the disinfecting operation.

Article 37

Animal dung shall be kept at a special place inside the quarantine and earmarked by the competent official. This place shall be disinfected from time to time, and the dung disposed of upon the discretion of the Director of the Veterinary Department or whomever he may authorize.

Article 38

Each quarantine shall have an incinerator prepared according to established technical standards.

Article 39

The quarantine period shall be as detailed in the following table, but the Director of the Veterinary Department may increase / decrease it as he deems necessary.

Type of animal	Exporting country	District in the Export Country	Importing country

Article 40

Charges of veterinary quarantine, inspection / examination, disinfecting, and provision of drinking water shall be collected as established under the Regulation of Agricultural Services' Fees No. () for the year 2000.

Article 41

A. The animal diseases are classified according to their danger and the rapidity of their spreading as follows:

	List - A
	List – B
	List - C

B. Any new disease can be added to any of these three lists according to the instructions of the International Epidemics Bureau.

Article 42

Any special instructions on veterinary quarantine shall be considered as cancelled with effect from the date of enforcement of these Instructions.

Instruction of Health Precautions for Products of Animal Origin
Issued under Article __ of Agriculture Law Number () for the year 2002.

Article 1

These instructions are called the "Instructions of Health Precautions for Products of Animal Origin". They shall go into effect thirty days after publication in the Official Gazette.

Article 2

Considering the definitions mentioned under Article (2) of Agriculture Law No. () for the year 2000, the following terms and words shall have the meanings apposite each of them unless the context otherwise indicates.

Article 3

The provisions of these instructions shall be enforced on the following animal products:

1. Animal products for human consumption: meats, meat by-products of all forms and types, table eggs, egg products, milk, milk products and honey.

2. Animal products for industrial purposes: - Untanned or unprocessed hides, fir, wool, hair, camel-hair, feathers, hoofs, horns, bone, shells, blood, bowels, entrails, natural fertilizers, and milk by-products for industrial purposes.

3.Animal products specially identified for medical industries, including: animal organs, glands, organic animal tissues, liquids from animal origin used for preparing pharmaceutical products including artificial insemination liquid.

4. Animal products which are used in the fodder industry comprising: meat mixtures / preparatory, lever, bones, blood, feathers, remains of animals, and milk products used to feed animals.

Article 4

A non-automatically renewed import license shall be obtained from the Ministry allowing the import of fresh / frozen meat and any other stuff of animal products provided for under Chapter Two of the Customs Tariff Schedule, as well as the import of frozen animal semen and veterinary medicines.

Article 5

A. Animal products may not be permitted into the Kingdom unless they are accompanied by the original health certificate, which must be signed by the veterinary registered in the country of export. A copy of this document shall not be accepted.
The health certificate, containing fundamental data, shall also include a declaration by the vet illustrating the following:

1. The animal products prepared for human consumption, medical industries or fodder manufacturing are originating from healthy animals. No genetic

amendment was applied to produce the basic sources of the products, or the components incorporated in their structure. They must be free from remnant pesticides and other poisonous pollutants including radiation materials, or their existence shall fall within permissible international standards.

2. Tanned / untanned hides were, to his best knowledge, not taken from animals suffering from carbuncle / anthrax or any other similar disease, or from any animals died of such diseases. The hides must be wet or dry-salted, or chemically treated, or disinfected by chemicals internationally permissible.

3. Wool, hair, or camelhair is clean, parasite-free and was well sheared.

Article 6

Animal products imported into the Kingdom may not be allowed entry or export but only via the land, sea, and air crossing ports specified under Article - of the veterinary quaraotine Instructions " 2003.

Article 7

The Ministry's official at the Crossing Port Center should confirm the existence of the official documents, which must accompany the consignment. He shall scrutinize and check them to ensure they are complete, in order, duly prepared, and issued by the official competent authorities in the exporting country.

A.1. If the official in charge sees that the accompanying documents are incomplete or lacking basic or legally incorrect information, the consignment will not be inspected. The importer or his agent shall be informed accordingly, provided that he should be granted a grace period proportional to the nature of the shipment, but not exceeding 7 days, in order to bring in the missing items and rectify the situation.

A.2. If the importer fails to rectify the situation within the grace period, he will not be allowed clearance of the shipment, and the consignment shall be re-exported within the time limit fixed by the Director of the Veterinary Department, or it shall otherwise be damaged at the expense of the importer.

Article 8

If the required documents are complete with no missing items or legal fault, the concerned official at the Crossing Port Center will externally inspect the consignment to ensure its good health condition.

A. If the official finds the results of the external inspection sound, he shall proceed with the clearance procedures on the shipment in accordance with the following arrangements:

1. If the consignment contains fresh, frozen, or chilled meat, a sample shall be taken for lab testing to confirm that it is free from any epidemic which may cause diseases that may be contacted to humans and animals, or diseases

attacking humans & animals alike. The meat shipment shall then be referred to the slaughterhouse, under a judicial undertaking that the shipment would not be disposed of, but only after the lab report is issued.

2. If the consignment comprises animal products for human consumption, in whatever form with the exception of the products under item (1) of this Paragraph, a sample shall be taken for lab test to confirm that it is free from defects or diseases, which prevent it from consumption. The consignment shall be allowed out of the customs courtyard and delivered to the importer provided that the stuff should be stored at warehouses meeting proper hygienic conditions. The importer shall sign a judicial undertaking not to dispose of such stuff until the issuance of the lab report. If the analysis shows that the sample is safe and sound, customs procedures will be completed. If to the contrary, the consignment will be re-exported within the limited period to be specified by the Director of the Veterinary Department, or it will be destroyed.

3. If the shipment comprises animal products for industrial purposes, to the exclusion of tanned /untanned hides, hair, wool, feathers, the material may be released from the customs courtyard and delivered to the importer against an undertaking not to dispose it of. The shipment must be stored in warehouses meeting hygienic storage conditions, until it is cleared by the competent authority.

4. If the shipment is from untanned hides, it will be cleared off but it must be immediately transferred to the tannery plant where it will be processed unless it needs treatment or disinfecting. In such a case it shall be transferred to a place to be fixed by the Director of the Veterinary Department for proper and due purification and treatment. The importer shall bear the transport costs, purification fees and any other resulting expenses.

5. If the consignment comprises bones, horns, shells, hoofs, hair, wool, camel-hair, or feathers, clearance steps shall be completed, but the material shall be transported to a seclusion station or to any other place to be specified by the Director of the Veterinary Department for treatment and purification in accordance with the normal practice observed.

6. In case the consignment incorporates animal products to be used in the fodder industry, the required measures shall be completed according to Instructions on Fodder No. () for the year 2003, issued under Agriculture Law No. () for the year 2002.

7. If the consignment incorporates animal products for veterinary pharmaceutical industry, relevant procedures shall be completed according to Instructions No. () for the year 2003, issued under Agriculture Law No. () of 2002. But if they are used in human pharmaceutical industry, they shall be handed over to the importer against a judicial undertaking not to dispose it of. The shipment must be stored at a warehouse meeting hygienic conditions until the competent authority license it.

B. If the consignment is proved to be unsound following the external physical

inspection, and have qualities barring it from trading (distribution), no clearance shall be made on it, and the importer should consequently:

- re-export it, or
- transfer it to another usage if possible. This action should be performed under direct supervision of customs and veterinary authorities in a way that guarantees the impossibility of exploiting it for the purpose under which it was originally imported, or
- have it destroyed.

C. Any item of the imported animal products to be destroyed for health reasons, or for any other cause, or if it is decided to have it transferred for other usage - whether the products are placed in the customs courtyards, or referred to be under precautionary monitoring in the importer's storehouses, may only be spoilt under the supervision of a committee comprising members from the Ministry staff at the Crossing Port Center, and a delegate of the Customs Department at the Center. The importer or his agent must also be present at the venue, and a process-verbal on the destruction or referral act must be prepared and signed by the committee members and the importer or his agent. A copy of the verbal process must be handed to the importer.

Article 9

A. Untanned hides or animal limbs or any part thereof may not be taken out of the customs courtyard at the Crossing Port Center if they arrive there unpacked properly, unless the importer re-packs them at his own expense, and the competent official affirms the same.

B. The sacks, containers and materials in which the animal hides, limbs, or any parts thereof were packed and kept must be destroyed unless they can be duly and properly washed up and treated with disinfectants at the importer's expense.

Article 10

A. The veterinary authorities in Jordan and the competent Ministry's official at the Crossing Port Center must apply the quarantine provisions enforceable in the country to which any animal products will be exported from Jordan.

B. The competent Ministry's official or the animal doctor at the Crossing Port Center shall issue a health certificate for the animal products to be exported from the Kingdom according to the accredited form, after having them inspected and examined.

C. If the veterinarian or the competent Ministry's official at the Crossing Port Center sees that there is need for treating or disinfecting the animal hides, limbs, or any other parts thereof to be exported, or if even the quarantine provisions in the importing country stipulate the same, the importer shall, at his own expense, treat and disinfect the materials under the technical directives of the vet and the Ministry's

official concerned.

Article 11

A. The inspection, examination and disinfecting fees shall be collected per Agricultural Services Regulations No. () for the year 2000.

B. The quantity is, for fees collection purposes, calculated on the basis of the net weight of the shipment.

Article 12

Any instructions contradicting the provisions of these Instructions shall be cancelled.

(ix) Draft Import /Export Law

Law No. ( ) for the Year 2002 (IF THIS PASSED

Import and Export Law

(as being discussed at the Ministry of Industry and Trade)

Article 1

This law shall be named (Import and Export Law for the Year 2000) and shall come into force thirty days after its publication in the Official Gazette.

Article 2

The following terms and phrases, wherever mentioned in the provisions of this Law, shall have the meanings designated hereunder, unless otherwise indicated by context:

Minister: Minister of Industry and Trade

Line Authority: Ministry of Industry and Trade, or any ministry, department, corporation or any other official authority designated by the Council of Ministers, having authority in accordance with its special legislation to approve the importation or exportation of a certain good, which is designated by the Minister as one authority in accordance instructions issued therefrom and published in the Official Gazette.

Good: Any substance or natural, or animal, agricultural, or industrial product.

Import License: The permission that would allow importation of goods into the Kingdom.

Export License: The permission that would allow exportation of local and foreign goods out of the Kingdom.

Automatic License: The import or export license granted in all cases upon fulfillment of the legal requirements subject to Article (6) of this Law.

Nonautomatic License: The import or export license granted after fulfillment of the required procedures and terms upon consideration of the Line Authority, subject to Article (6) of this Law.

Article 3

A. Subject to what is stated in Paragraph B of this Article:

1. All goods may be imported without restrictions to the Kingdom in accordance with the following:

-Presenting the import card, issued by the Ministry of Industry and Trade, to the customs authority upon clearance of the goods; or

-Paying a penalty equal to 5% of the stated value of goods.

2. All goods may be exported without restrictions from the Kingdom.

B. The following shall be excluded from the application of paragraph A of this Article:

1.Goods that may only be imported or exported by certain entities.

2.Goods prohibited from importation or exportation.

3.Goods that require an import or export license, and the Line Authority shall issue automatic and non-automatic import and export licenses.

Article 4

The Council of Ministers, upon a recommendation of the Line Authority, shall be entitled to restrict the importation or exportation of any good completely or partially by any ministry, public entity, or private entity, according to the conditions set by the Council of Ministers, and subject to the Kingdom's obligations in international agreements.

Article 5

Subject to the privileges granted to any entity, the Council of Ministers shall be entitled to prohibit the importation or exportation of any good subject to the Kingdom's obligations in international agreements, by a decision issued for this purpose, and published in the Official Gazette, whereby importation or exportation of such good shall not be permitted absent another decision issued therefrom, and upon recommendation of the Line Authority.

Article 6

A. Goods subject to automatic import and export licenses, including goods subject to licensing in accordance with protocols and agreements of which the Kingdom is a party thereto, shall be determined according to instructions issued by the Minister and published in the Official Gazette and upon recommendation of the Line Authority.

B. Non-automatic licenses shall be in respect of the following goods:

1. Goods determined by instructions issued by the Minister and published in the Official Gazette, upon recommendation of the Line Authority, provided that its determination relates to protection of public safety, environment, public health, natural resources, national security, public order and morality.

2. Goods subject to quantitative restrictions in accordance with relevant laws and international agreements.

C. Each Line Authority shall issue instructions required to apply the provisions of Paragraphs (A) and (B) of this Article, and shall be published in the Official Gazette provided it includes the following:

1. The conditions and requirements for obtaining a license.

2. The procedures for applying for a license.

3. The period required for issuing a license, provided this period does not exceed 10 days in the case of automatic import or export licenses, and thirty days in the case of non-automatic import or export licenses, provided the period is sixty days in the case of licenses related to goods subject to quantitative restrictions if all applications are considered simultaneously.

D. Automatic and non-automatic import and export licenses shall be valid for a period of one year, except for licenses related to goods subject to quantitative restrictions which shall be expire upon full utilization of the designated quantity provided it does not exceed one year in all cases.

Article 7

A. Import and export license applications shall not be refused for minor documentation errors in the license application. Import and export licenses shall not be refused for minor variations in value, quantity or weight from the amount designated in the license due to differences occurring during shipment, loading, unloading and other differences occurred in the course of normal commercial practices.

B. The applicant shall be notified in writing with the decision of the Line Authority refusing to grant import and export licenses. This decision may be subject to appeal to the Higher Court of Justice within 60 days from the date of notification.

Article 8

A. Each import or export license shall be considered as a personal document not subject to transfer or waiver to the name of another person except by approval of the Line Authority and after completion of the legal requirements.

B. A waiver or transfer shall not be valid unless recorded with the Line Authority.

Article 9

A. The Line Authority shall be entitled to cancel import or export licenses in any of the following cases:

1.If a decision was taken to prohibit the export or import of the good in question, except in cases where the goods are subject to consignment.

2. If a decision was taken to prohibit the use of the good in question.

3.If exporting or importing the good was not possible due to force *majeure*.

4.If the license holder violates the requirements and conditions of the license.

5. If the license was issued in contrary to the provisions of this Law or the regulations issued accordingly.

B. License fees shall be refunded upon cancellation in accordance with Paragraph (A) of this Article.

C. The cancellation decision may be appealed to the High court of Justice within sixty days from the date of notification.

Article 10

Notwithstanding any other legislation, all Line Authorities shall apply this Law and the Regulations issued in accordance thereto, and any provision to the contrary of the provisions of this Law shall be repealed.

Import and Export Law No. (14) for the Year 1992 shall be repealed.

The relevant states having an international treaty with the Kingdom related to import or export procedures shall be notified, according to the terms of the agreement, with any amendments in this Law or the Regulations or Instructions issued in accordance therewith, within 60 days from the date of publication in the Official Gazette.

Article 11

The Council of Ministers shall issue the regulations required to implement the provisions of this Law and regulate the import and export process, including the following:

1. All what relates to issuance of import and export licenses, and the data in these licenses.

2. Goods and parties exempted from licenses.

3. Parties having the right to import and export.

4. Determining the fees imposed on import and export licenses and import cards.

Article 12

The Prime Minister and Ministers shall be responsible for implementing the provisions of this Law.

(x) Application for an import license

Application for Non-Automatic License to Import Live Animals

Applicant's name ……

Applicant's address (street, P.O. Box, city) ……

Applicant's telephone		Applicant's fax no.	
Breed of animal(s)		Species of animal(s)	
Harmonized System Code	01_ _ _ _ _ _	Place of embarkation	
Number of head		Means of transport	
Country of origin		Declared entry point	
State/region/ district in country of origin		Countries of transit	
Purpose of importing	☐ Breeding stock ☐ Production ☐ Slaughter ☐ Other …….(specify)		
Facility where animals will be kept after entering Jordan and capacity			

Signature of applicant ……

Date of application ……

Do not write below this line.

Date received: ……..

This application is: ☐ Approved ☐ Not approved

If not approved provide explanation:

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☐

Forms to send to applicant upon approval ☐ ☐ ☐	Continuation of the Animal Health Certificate for Exports to Jordan ……..(species)
	Summary of Health Certificate Requirements for Imported Agricultural Products and Inputs
	Summary of Technical Regulations--…….. (species)
	Other (specify)……

Date of action: ……

Authorized Signature ……

Ministry of Agriculture

(official stamp)

Description	H.S. Code	*Arabic description*
Horses, pure-bred breeding animals	01 01 11 00	
Horses, other than pure-bred breeding animals	01 01 19 00	
Asses, mules and hinnies	01 01 20 00	
Live bovine animals, pure-bred breeding animals	01 02 10 00	
Live bovine animals other than pure-bred breeding animals	01 02 90 00	
Live swine, Pure-bred breeding animals	01 03 10 00	
Live swine, other than pure-bred breeding animals, weighing less than 50 kg	01 03 91 00	
Live swine, other than pure-bred breeding animals, weighing 50 kg or more	01 03 92 00	
Live sheep	01 04 10 00	
Live goats	01 04 20 00	
Fowls of the species *Gallus domesticus*, weighing not more than 185 g	01 05 11 00	
Turkeys, weighing not more than 185 g	01 05 12 00	
Other (ducks, geese, guinea fowls), weighing not more than 185 g	01 05 19 00	
Fowls of the species *Gallus domesticus*, weighing not more than 2000 g	01 05 92 00	
Fowls of the species *Gallus domesticus*, weighing more than 2000 g	01 05 93 00	
Other live poultry, weighing more than 185 g	01 05 99 00	
Other live animals	01 06 00 00	

Application for Non-Automatic License to Import Bovine Semen

Applicant's name ……

Applicant's address (street, P.O. Box, city) ……..
……..……
……..

Applicant's telephone		Applicant's fax no.	
Breed of animal(s)		Species of animal(s)	
Harmonized System Code	05 11 10 00	Place of embarkation	
Quantity of semen		Means of transport	
Country of origin		Declared entry point	
State/region/ district in country of origin		Countries of transit	

Artificial insemination collection center (Name, address, telephone no.) ……
……

Facility where semen will be kept after entering Jordan ……
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……
……

Signature of

Date of application ……..……
…….

Do not write below this line.

Date received: ……..

This application is: ☐ Approved ☐ Not approved

If not approved provide explanation:

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Forms to send to applicant upon approval

☐ Continuation of the Animal Semen Certificate for Exports to Jordan—……..(species)

☐ Summary of Health Certificate Requirements for Imported Agricultural Products and Inputs

☐ Summary of Technical Regulations--…….. (species)

Other (specify)……

Date of action: ……
Authorized
Signature ……
Ministry of
Agriculture

(official stamp)

Application for Permit to Import
Fresh, Chilled or Frozen Red Meat or Poultry Meat

Applicant's name ……

Applicant's address (street, P.O. Box, city) ……..
……..……
……..

Applicant's telephone		Applicant's fax no.	
Meat being imported and form (fresh, chilled, frozen, carcass, cuts, etc.)			
Harmonized System Code	_ _ _ _ _ _ _ _	Place of embarkation	
Quantity of meat		Means of transport	
Country of origin		Declared entry point	
State/region/ district in country of origin		Countries of transit	
Facility where meat will be kept after entering Jordan and capacity	…… …… …… ……		

Signature of

Date of application ……..……
…….

Do not write below this line.

Date received: ……..

This application is: ☐ Approved ☐ Not approved

If not approved provide explanation:

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Forms to send to applicant upon approval
☐ Continuation of the Meat Certificate for Exports to Jordan—……..(product)
☐
☐
☐

Summary of Health Certificate Requirements for Imported Agricultural Products and Inputs

Summary of Technical Regulations--…….. (product)

Other (specify)……

Date of action: ……
Authorized
Signature ……..
Ministry of
Agriculture

(official stamp)

Application for Non-Automatic License to Import Veterinary Medicine

Applicant's name ……

Applicant's address (street, P.O. Box, city) ……..
……..……
……
……..

Applicant's telephone		Applicant's fax no.	
Name of medicine			
Harmonized System Code	05 11_ _ _ _	Place of embarkation	
Quantity of medicine		Means of transport	
Country of origin		Declared entry point	
State/region/ district in country of origin		Countries of transit	
Veterinary medicine supplier (Name, address, country, telephone no.)		…… ……	
Facility where medicine will be kept after entering Jordan		…… …… …… ……	

Signature of

Date of application ……..……
…….

Do not write below this line

Date received: ……..

This application is: ☐ Approved ☐ Not approved

If not approved provide explanation:

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…..……
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……..……
……..

Forms to send to applicant upon approval

☐ Continuation of the Animal Medicine Certificate for Exports to Jordan

☐ Summary of Health Certificate Requirements for Imported Agricultural Products and Inputs

☐ Summary of Technical Regulations--…….. (product)

Other (specify)……

Date of action: ……
Authorized Signature ……
Ministry of Agriculture

(official stamp)

Application for Non-Automatic License to Import Fertilizer

Applicant's name ……
……
Applicant's address (street, P.O. Box, city) ……..
……..……
……
……..

Applicant's telephone		Applicant's fax no.	
Name of fertilizer and active ingredient(s)			
Harmonized System Code	31 _ _ _ _ _ _	Place of embarkation	
Quantity of product		Means of transport	
Country of origin		Declared entry point	
State/region/ district in country of origin		Countries of transit	
Fertilizer supplier (Name, address, country, telephone no.)	…… ……		
Facility where product will be kept after entering Jordan	…… …… …… ……		

Signature of ……..……
Date of application ……..……
…….

Do not write below this line

Date received: ……..
This application is: ☐ Approved ☐ Not approved

If not approved provide explanation:
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…..……

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Forms to send to applicant upon approval	☐ Continuation of the Animal Medicine Certificate for Exports to Jordan ☐ Summary of Health Certificate Requirements for Imported Agricultural Products and Inputs ☐ Summary of Technical Regulations--…….. (product) Other (specify)……

Date of action: ……
Authorized Signature ……
Ministry of Agriculture

(official stamp)

Application for Non-Automatic License to Import Pesticides and Disinfectants

Applicant's name ……
……
Applicant's address (street, P.O. Box, city) ……..
……..……
……
……..

Applicant's telephone		Applicant's fax no.	
Name of product and active ingredient(s)			
Harmonized System Code	38 08 _ _ _ _	Place of embarkation	
Quantity of product		Means of transport	
Country of origin		Declared entry point	
State/region/ district in country of origin		Countries of transit	
Pesticide or disinfectant supplier (Name, address, country, telephone no.)	……. …….		

Facility where product will be kept after entering Jordan ……
……
……
……

Signature of

Date of application ……..……
…….

Do not write below this line.

Date received: ……..

This application is: ☐ Approved ☐ Not approved

If not approved provide explanation:

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Forms to send to applicant upon approval

☐ Continuation of the Pesticide Certificate for Exports to Jordan

☐ Summary of Health Certificate Requirements for Imported Agricultural Products and Inputs

☐ Summary of Technical Regulations--…….. (product)

Other (specify)……

Date of action: ……

Authorized Signature ……

Ministry of Agriculture

(official stamp)

Application for Permit to Import Seeds and Fruits for Sowing

Applicant's name ……

Applicant's address (street, P.O. Box, city) ……..
……..……
……..
……..

Applicant's telephone		Applicant's fax no.	
Product being imported and form (seed, seedling)			
Botanical name of product			
Harmonized System Code	12 09 _ _ _ _	Place of embarkation	
Quantity of product		Means of transport	
Country of origin		Declared entry point	
State/region/ district in country of origin		Countries of transit	
Facility where product will be kept after entering Jordan	……. ……. ……. …….		

Signature of

Date of application ……..……
…….

Do not write below this line.

Date received: ……..

This application is: ☐ Approved ☐ Not approved

If not approved provide explanation:

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Forms to send to applicant upon approval

☐ Continuation of the Seed/Seedling Certificate for Exports to Jordan—……..(product)

☐ Summary of Health Certificate Requirements for Imported Agricultural Products and Inputs

Summary of Technical Regulations--…….. (product)

Other (specify)……

Date of action: ……
Authorized
Signature ……..
Ministry of
Agriculture

(official stamp)

(xi) Automatic License to import pesticides

HASHEMITE KINGDOM OF JORDAN	?????? ????????
	???? ?? ?
Ministry of Agriculture	???? ???????
Amman	????

Application For Non – Automatic License to Import Pesticides

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????? ???? ?????Address Applicant's				**?? ? ???? ????? Applicant's name**	
P. o . box	Fax No	Tel. No	???? ? ?City		
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	? ? ?? ? ? Date / /	? ???? No			
??? ??? ??? ??? Manufacturing Company			**??? ????? ? Country of origin**		
			State ???????	Country ??? ? ?	
??????? Package		**?????? Unit**	**?????? Quantity**		
???? Number	???? Type		? ?? ? Net	? ?? ? Gross	
??????? Address				**?? ? ????? Name of supplier**	
P. o . box	Fax	Tel . No	???? ? ?City	Country	
???? ?????? Entry point	**????? ??? ?? Means of transport**			**????? ? Embarkation**	
	?? Air ??	Sea ??	Land		
	Signature of applicant ????? ???? ?????	/ /		**Date of application ? ??? ? ? ? ??? ?????**	

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Date ??? ??? ?	**Transfer to** ??? ????? ???	**Harmonized System Code** *	**Registration No** ??? ?? ??? ?????	**Date received** ? ??? ? ?? ? ??? ?????
/ /				/ /

????? ???? ? ? ? ? ** ☐ **application is Approved * ***

????? ??? ???? ? ? ? ? ???? ? ?? ??? ??? ? ☐ **application is Not Approved for ……**

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3-

**** See next page***	***** Forms to be send to applicant upon approval***

1-Continuation Pesticide Certificate for Exports to Jordan ☐

2-Summary of Health Certificate Requirements for Imported Agricultural Products and input ☐

3-Summary of Technical Regulations ☐

Official stamp ?????? ???? ??	**License No** ??? ????? ?	**Date of action** ? ??? ? ??? ???	**Valid until** ? ??? ? ???????	**Authorized Signature**
	0000000	/ /	/ /	

When signed by the Ministry representative, this is a license to import but is subject to any import prohibitions in place when the above product arrives at the entry point. Under no circumstances shall the Ministry of agriculture be financially liable for any costs associated with current import prohibitions due to the health status of Jordan or any other country

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AMMAN Tel . No Fax No P. o . box ???

(xii) Automatic License to import veterinary medicines.

HASHEMITE KINGDOM OF JORDAN

Ministry of Agriculture
Amman

??????? ????????
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Application For Non – Automatic License to Import Veterinary Medicine
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P. o . box	Fax No.	Tel . No.	?????City		

?????? ?????? ??????	**?????** Registration of product			**? ? ?????? Name of product**
	?????? Date / /	**?????**	No	

??? ??? ??? ??? Manufacturing Company	**??? ????? ? Country of origin**	
	State ???????	Country ??? ? ?

Package ??????		**Unit ??????**	**?????? Quantity**	
????? Number	????? Type		? ? ? Net	? ? ? Gross

??????? Address				**? ? Name of supplier ?????**
P. o . box	Fax	Tel . No	????? ?City	Country

???? ?????? Entry point	**????? ??? ?? Means of transport**		**???? ?????? Embarkation**
	?? Air	? ? Sea	? ? L

	Signature of applicant ????? ???? ?????	/ / **Date of application ? ??? ? ? ??? ?????**

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Date ??? ??? ?	**Transfer to** ??? ????? ???	**Harmonized System Code** *	**Registration No** ??? ?? ??? ?????	**Date received** ? ??? ? ?? ? ?? ?????
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1 -				
2 -				
3 -				

**** See next page***	**** Forms to be send to applicant upon approval**

1-Continuation of the International Health Certificate for Exports to Jordan ☐

2-Summary of Health Certificate Requirements for Imported Agricultural Produ☐

3-Summary of Technical Regulati☐

Official stamp ?????? ???? ??	**License No** ??? ????? ?	**Date of action** ? ??? ? ??? ???	**Valid until** ? ??? ? ????????	**Authorized Signature**
	0000000	/ /	/ /	

When signed by the Ministry representative, this is a license to import but is subject to any import prohibitions in place when the above product arrives at the entry point. Under no circumstances shall the Ministry of agriculture be financially liable for any costs associated with current import prohibitions due to the health status of Jordan or any other country

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AMMAN Tel . No Fax No P.o . box ????

ANNEX [D]

Committee on Agriculture, Special Session
Informal meeting, 18-20 November 2002

19 November 2002

Specific Input by Jordan: Position in the Current round of WTO Negotiations
(Market Access, Export Competition and Domestic Support)

I. MARKET ACCES

TARIFFS

Reduction method/target for further commitments:

. Dividing the tariff reduction into two stages:

a. Fist stage: to reduce all tariffs that are greater than a specific level (e.g. 30 per cent) to that level.

b. Second stage: to reduce the resulting tariff by unified harmonizing formula. Swiss formula with coefficient a=25 can be applied in both stages.

. All non-*ad valorem* duties should be transformed to *ad valorem* duties.

Implementation period:

Each stage should be fore a period of five years for developed countries and longer period for developing countries.

S & DT:

Developing countries should be able to exempt particular sensitive products, which have socio-economic impact from any further reductions.

Non-Trade Concerns:

Newly acceded countries should be given more flexibility in this round of negotiations to address their non-trade concerns, including the possibility of exemption from further tariff reductions, especially for key sensitive products which contribute to the sustainability of the communities in the remote areas, protection of the environment, maintenance of the small sized farms in the rural areas as well as food security.

Special Agricultural safeguard:

Extending the right to use the Special Agricultural Safeguard to newly acceded Members and developing country Members, The new safeguard proposal of Japan is a sound base for implementation.

Tariff Quota:

i. Allocations should be on MFN basis, according to Article XIII of the GATT 94.

ii. Uruguay Round country-specific allocations should be reduced to zero in equal installments, with the possibility of substituting them with quotas that should be available to all WTO Members. A longer implementation period to phase out these allocations should be given to developing countries.

iii. Traded Products under quotas should not be of subsidized products.

Tariff Quota Administration:

Tariff quota administration should be on the basis of first come first served provided that the specific percentage be allocated NFIDCs.

Importing State Trading Enterprises:

Operation of ISTEs for food security reasons in NFIDCs shall be maintained and their activities should be notified.

ii. EXPORT COMPETITION

Export subsidy:

All Export Subsidies shall be returned to zero.

Meanwhile, developing countries should be allowed a special mechanism to add specific tariffs equivalent to the value of export subsidies for all imported agricultural products until export subsidy is eliminated.

Food aid:

Jordan proposes that food aid should be on grant basis only. NFIDCs shall possess the access to food aid and financial funds during crisis using agreed upon mechanisms whether those mentioned by Marrakech declaration or any suitable and practical mechanism that do not adversely affect neither donors nor recipient Members.

Exporting State Trading Enterprises:

No special privileges shall be granted to Export State Trading Enterprises. State trading enterprises activities should be notified.

Export Restriction and Taxes:

Export restriction on agricultural products shall be prohibited.

Export Credits, Credit Guarantees and \insurance programme:

Jordan, like many developing countries and NFIDCs, rely much on export credits provided by certain exporters to fulfill its needs in importing staple foodstuff, therefore maintaining the export credit provisions should be considered.

iii. DOMESTIC SUPPORT

1. Jordan proposes dividing the domestic support into two categories: distorting and non-distorting support.

ii. Measures that have no, or minimal, trade distorting or effects on production shall be exempted from reduction commitments.

iii All measures under the Blue Box that have distortive effect on production and prices shall be transferred to Amber Box, and should be substantially reduced leading to their elimination over a period of time to be determined.

iv. *De mimimis* percentage shall be maintained for developing countries and AMS calculations should be calculated on disaggregating basis.

v. Support measures tat are essential to development and food security objectives as well as the measures for development of targeted programs that aims at increase investment and improve infrastructure, enhance domestic marketing systems, help farmers manage risks and increase productivity of subsistence farmers, shall be exempted from reduction commitments.

vi. Percentage of rural population in a specific country should be considered when deciding the measures for development of rural areas.

ANNEX [E]

AGRICULTURE AND THE NEXT ROUND OF WTO NEGOTIATIONS*

Kym Anderson, Erwidodo, Tubagus Feridhanusetyawan and Anna Strutt**
Revised October 1999

* Revision of a paper prepared for the PECC Trade Policy Forum/World Bank Conference on East Asia and Options for the WTO 2000 Negotiations, Manila, 19-20 July 1999. Thanks are due to PECC and the World Bank for financial support, and to participants at this and earlier workshops on the topic

**The authors are from, respectively, the School of Economics and Centre for International Economic

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Abstract

To what extent should the new round of WTO negotiations on agriculture and services, expected to be launched in late 1999, simply focus on traditional market access issues in those two highly protected sectors rather than also include market-opening in other sectors and negotiations on so-called “new trade agenda” items? We argue in this paper that while agricultural market access negotiations should be given high priority, the probability of the next WTO round delivering sizeable farm protection cuts will be significantly greater if other goods markets are also liberalized and at least some of the new issues are included. This is not only because the inclusion of other sectors and issues would ensure non-agricultural groups take part in the round to counter-balance forces favouring agricultural protection. We also argue that rule-making efforts to accommodate the new issues should be de-linked from the agricultural market access negotiations, notwithstanding the temptation simply to slot those affecting agriculture into the three negotiating modes used in the Uruguay Round (market access, export subsidies, and domestic support).

Keywords: WTO, multilateral trade negotiations, agricultural policy reform, new trade issues

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AGRICULTURE AND THE NEXT ROUND OF WTO NEGOTIATIONS

There is a mixture of views within East Asia about agricultural trade reform and hence about its inclusion in the Uruguay Round agreements. On the one hand, governments in the wealthier densely populated countries are under pressure to continue to protect their farmers from import competition and to be seen to be providing an adequate degree of food security. In the countries with a stronger comparative advantage in agricultural products, on the other hand, governments are keen to secure more access to markets for their farmers' exports (Sicular 1989; Anderson 1994).

This difference of views within East Asia surfaces periodically in APEC as well as WTO fora. Since it is mirrored in other regions of the world too, agriculture is guaranteed to be a controversial part of the next round of multilateral trade negotiations, just as it was in the previous round.

Given the high degree of distortion in world food markets that existed in the 1980s, every impartial observer agrees that one of the great achievements of the Uruguay Round (UR) was to start to bring agricultural policies under GATT discipline, and to agree to return to the negotiating table by the turn of the century.2 Following the signing of the UR accord in 1994, non-tariff barriers to agricultural imports have been tariffied and bound and the tariff bindings are scheduled for phased reductions. As well, farm production and export subsidies also are being reduced, mostly between 1995 and 2000 (with developing countries having an extra four or more years). That UR Agreement on Agriculture, together with the SPS Agreement (to limit the use of quarantine import restrictions to cases that can be justified scientifically as a risk to human, animal or plant health) and the Dispute Settlement Agreement (which has greatly improved the process of resolving trade conflicts), hopefully means that agricultural trade will be less chaotic in future than prior to the formation in 1995 of the new World Trade Organization (WTO). Much remains to be done, however, before agricultural trade is as fully disciplined or as liberal as world trade in manufactures.

This paper has four main parts. It first explores empirically the scope for further gains from liberalizing agricultural markets in OECD countries, both absolutely and relative to the welfare gains from cutting those countries' barriers to imports of textiles and other manufactures. Section 2 explores what is likely to be included in the next agricultural negotiations. The paper then asks if the likelihood of the next WTO round delivering sizeable agricultural protection cuts and benefiting the world's poor (the vast majority of who are developing country farmers) would be significantly greater if negotiations include protection cuts for other sectors and at least some of the new issues on the WTO's agenda. Section 4 examines whether rule-making efforts to accommodate new issues should be de-linked from the agricultural negotiations on border measures, rather than simply included under the three headings used in the Uruguay Round Agreement on Agriculture (import market access, export subsidies, and domestic support). The latter

approach may be more expedient, but it prolongs the day when agriculture is fully integrated with other sectors in the WTO. In the final section of the paper we list the next steps needed, as we see it, to maximize the chances through WTO disciplines of keeping the agricultural reform process going.

1. The potential gains from further agricultural policy reform

The post-1950s period saw substantial growth in agricultural protection and insulation in the advanced industrial economies and its subsequent spread to newly industrializing economies (Johnson 1973; Anderson and Hayami 1986; Lindert 1991; Tyers and Anderson 1992). That tendency accelerated in the 1980s to the point where some protectionist countries went beyond self-sufficiency to generate surpluses that could be disposed of only with the help of export subsidies.

While this led to serious budgetary pressures and increasing domestic opposition to the cost of agricultural support policies, protection growth none the less continued. Traditional agricultural exporting countries thus insisted that the Uruguay Round of multilateral trade negotiations must focus on reversing this agricultural protection trend. The Round's Agreement on Agriculture that resulted from that effort has altered the climate of farm policy making, to the point where reforms in OECD countries—e.g., attempts to shift from price and trade measures to more direct forms of farm income support—have laid the foundations for reducing international price-depressing assistance to farmers.

The Uruguay Round is scheduled to be fully implemented in all sectors and regions by 2005. At that time, what will be the potential for further gains from reforming agricultural markets of OECD countries compared with the gains from protection cuts in other sectors? That question has been addressed in a recent paper that make use of the global economy-wide model known as GTAP. Anderson, Hoekman and Strutt (1999) use Version 3 of GTAP to project the world economy to 2005 following full implementation of the Uruguay Round. Their estimates of the extent of distortions to world trade that will remain in 2005 is given in Table 1, assuming China and Taiwan have joined the WTO by then. According to those estimates, the agriculture and processed food sector will still be a major anomaly. Globally, it has twice the import tariff average of textiles and clothing and nearly four times that for other manufactures. At the same time, significant distortions to farm production and exports will still be in place if no further policy reforms occur. The pattern of distortions will still differ between regions, with the numbers in parentheses in Table 1 showing

OECD countries subsidizing, and developing countries taxing, farm production and exports.3 Within East Asia, the richer Northeast Asian economies are more highly protective of their farmers than are the Southeast Asian economies, especially relative to manufacturing protection (except for Hong Kong and Singapore, which have virtually no distortions).

What is the global economic significance of these projected distortions in the different sectors? That depends not only on the size of those ad valorem price wedges but also on the value society places on the production and consumption distortions induced by them. Those quantity distortions depend largely on the value of production of each sector and the importance of its products in consumption. Table 2 provides an indication of the relative importance of the various sectors in regional and world production, consumption and trade.

Consider first the effects of removing distortions to OECD country markets for (1) agriculture and processed food, (2) textiles and clothing, (3) other manufacturing, and (4) all goods combined, and then for (5) all developing economies' goods markets, and finally for (6) all OECD and developing economies' goods markets together.4

The welfare consequences of these alternative comparative static scenarios are summarized in Table 3. If both OECD and developing countries were to liberalize all their goods markets in 2005 post-UR, these results suggest global welfare would be greater by US$260 billion per year.5

Almost one-third (32 per cent) of the estimated global gains from goods trade liberalization are estimated to come from agricultural reform in OECD countries – even though farmers in those countries contribute only 4 per cent of global GDP and less than one-tenth of world trade (see Table2).

Textiles and clothing reforms appear to pale by comparison with farm reform: their welfare contribution is only one-eleventh that of agriculture’s. The reasons for this big difference are several.

One is that distortions to prices for agriculture are more than twice those for textiles and clothing, according to Table 1. Another is that the latter products contribute only 1.5 per cent to the value of world production and 5.5 per cent to the value of world trade, barely half the shares for farm products (Table 2). But two key assumptions made by the modellers also contribute to this result. One is that it is assumed China and Taiwan join the WTO before 2005 and enjoy the same accelerated access to OECD markets under the UR Agreement on Textiles and (ATC) as other developing countries that already are WTO members. The other crucial assumption is that OECD countries fully implement the ATC. The latter is far from certain to happen though, particularly if China were to join the WTO soon and be given more access to textile markets in the next five years. Dropping either of those assumptions reduces very substantially the estimated gains from Uruguay Round implementation (Anderson et al. 1997b), and therefore would raise the potential gains from textile and clothing reform in the next WTO round. Even so, agricultural protection would remain far more costly to the world economy than barriers to textiles and clothing trade – and more costly even than protection to other manufactures, despite the latter having much bigger shares in the value of world production and trade than farm and food products.

The WTO membership was right, therefore, to insist that OECD agricultural reform must continue into the new century without a pause. East Asian and other developing countries have a major stake in that process continuing: according to the above GTAP results, the farm policies of OECD countries are almost as harmful to developing economies as their own trade-distortionary policies. Certainly OECD textiles and clothing policies harm them greatly, but less than half as much as OECD farm policies (middle row of Table 3). Barriers to OECD imports of 'Other Manufactures', by contrast, actually help developing economies. The reason is that those trade restrictions lower international prices of those products, thereby improving the terms of trade of developing countries. Welfare decomposition of the GTAP results shows that three-quarters of the loss to developing economies from OECD countries removing restrictions on their imports of 'Other Manufactures' is because of the raised international price of these products. Furthermore, Anderson, Hoekman and Strutt (1999) find that each of the major developing country regions benefits in terms of real income gains from OECD agricultural policy reform. And even for the OECD economies themselves, despite the fact that agriculture and food represent only about 5 per cent of their GDP, abolishing their remaining agricultural protection in 2005 would contribute one-quarter of their welfare gains from liberalizing all goods trade globally – and almost two-fifths of the gains from liberalizing trade in all goods in the OECD alone.6 Clearly it is even more in the economic interests of the OECD countries than the developing countries that agricultural protection policies are reformed.

2. What to include in the agricultural negotiations of the next WTO round

Given the enormous potential for gains from farm trade liberalization, there is great pressure from farm-exporting countries to ensure further substantial agricultural reforms occur in the next few years. Japan and Korea, however, remain reluctant to embrace further reform. There is also some reform reluctance on the part of the East Asian countries whose economies were worst hit by the financial crisis in the past two years. The European Union, too, is finding it difficult to get a consensus for more than modest reform of its Common Agricultural Policy under its Agenda 2000
(on which it's WTO negotiating position will be based -- see Tangermann 1999). Yet the Uruguay Round Agreement on Agriculture requires that members return to the negotiating table by the end of1999. How, then, should the next round of agricultural negotiations proceed? The fact that (often discriminatory) farm export subsidies are still being tolerated continues to distinguish agricultural from industrial goods in the GATT, a distinction that stems from the 1950s when the United States insisted on a waiver for agriculture of the prohibition of export subsidies. Moreover, even by the turn of the century farm export subsidies need be only about one fifth lower than they were in the late 1980s to comply with the agreement. True, the budgetary expenditure on export subsidies is to be lowered by 36 per cent from the base period, but for some commodities it may be only the agreed cut in the *volume* of subsidized exports (21 per cent for industrial countries, 14 per cent for developing countries) that bites because international food prices are now higher than in the base period, so exportable surpluses can be disposed of with lower subsidy outlays.

The extent of reductions in bound tariffs by the end of the decade will be even more modest than for export subsidies: the *unweighted* average tariff cut must be 36 per cent (24 per cent for developing countries), but it could be less than one sixth as a *weighted* average, since each tariff item need be reduced by only 15 per cent of the claimed 1986-88 tariff equivalents (10 per cent for developing countries).

Moreover, the claimed tariff equivalents for the base period 1986-88, and hence the initial tariff bindings, are in many cases far higher than the actual tariff equivalents of the time. The European Union, for example, has set them on average at about 60 per cent above the actual tariff equivalents of the CAP in recent years, while the United States has set theirs about 45 per cent above recent rates – and developing countries are even more involved in the practice (Ingco 1995, 1996). 'Dirty' tariffication has two consequences. One is that actual tariffs may provide no less protection by the turn of the century than did the non-tariff import barriers of the late 1980s/early 1990s. The other consequence of binding tariffs at such a high level is that it allows countries to set the actual tariff below that but to vary it so as to stabilize the domestic market in much the same way as the EU has done in the past with its system of variable import levies and export subsidies – and has continued to do since 1995 (Tangermann 1999). This means there has been little if any of the reduction in fluctuations in international food markets this decade that tariffication was expected to deliver.

It is true that some countries have agreed also to provide a minimum market access opportunity, such that the share of imports in domestic consumption for products subject to import restrictions rises to at least 5 per cent by the year 2000 under a tariff quota (less in the case of developing countries). But that access is subject to special safeguard provisions, so it only offers potential rather than actual access (another form of contingent protection). As well, market access rules formally introduce scope for discriminating in the allocation of import quotas between countries, where within-quota imports attract a much lower tariff than above-quota imports. Perhaps even more importantly, the administration of such quotas tends to legitimize a role for state trading agencies, such as Bulog in Indonesia. When such agencies have selling rights on the domestic market in addition to a monopoly on imports of farm products, they can charge excessive mark-ups and thereby distort domestic prices easily and relatively covertly -- just as such agencies can hide export subsidies if they are given a single-desk selling monopoly. There are thus elements of quantitative management of both export and import trade in farm products now legitimized under the WTO, including scope for discriminatory distortions to trade volumes as well as prices.

The third main component of the Uruguay Round agriculture agreement is that the aggregate level of domestic support (AMS) for industrial-country farmers is to be reduced to four-fifths of its 1986-88 level by the turn of the century. That too will require only modest reform in most industrial countries because much of the decline in the AMS had already occurred by the mid-1990s. This has been possible because there are many forms of support that need not be included in the calculation of AMS, the most important being direct payments under production-limiting programs of the sort adopted by the US and EU. A risk that needs to be curtailed is that the use of such "blue box" instruments, as

with exempt "green box" instruments such as environmental provisions, may spread to other countries and other commodities as farm income support via trade and direct domestic price support measures become WTO-constrained.
Given the limited progress over the past five years in making agriculture more market orientated, the first priority for the next WTO agricultural negotiations must be to further that process. Until a year or so ago it was expected that that would not be as difficult to agree to now as it was when the Uruguay Round was being launched, given unilateral farm policy reforms in the United States and -- at least to some extent -- in the EU and Japan during the mid-1990s (IATRC

In recent months, though, the East Asian financial crisis has dampened that region's enthusiasm for further reform. Nothing less than a ban on farm ***export subsidies*** is needed to bring agriculture into line with non-farm products under the GATT. With respect to ***domestic subsidies,*** an early decision needs to be taken as to whether to strengthen or abandon the attempt to constrain domestic policies under the WTO. Even though a plausible case can be made for the latter (Snape 1987), the Cairns

Group may well decide to pursue the former. The 'blue box' items, containing the US and EU direct payments to farmers who restrict their output or at least some inputs, were granted exemption through to 2003 from challenge under the Blair House agreement as a way of moving the Uruguay Round talks forward. But with the policies of the US and EU gradually being reformed for internal reasons in recent years, and in particular with the further de-coupling of farm income support measures from production as with America's FAIR Act of 1996, it may be possible to **remove the 'blue box'** in the next round of talks. Then efforts to **tighten the 'green box' criteria** could be made, so as to reduce the loopholes they provide for continuing output-increasing subsidies, and to further reduce the Aggregate Measure of Support. One of the possible benefits of getting countries to commit to reduce further their AMS is that it will encourage them to make more of their policies conform to the 'green box' criteria, the rewards for which are exemption from the AMS and avoidance of challenge (IATRC 1997, Ch. 11). That in turn makes it all the more important that the 'green box' criteria are tightened such that policy instruments so exempted are not in practice encouraging further production.

The third and perhaps most important area requiring attention has to do with ***import market access***. Tariffication has made restrictions to imports much more transparent, but the degree of'water' currently in those tariffs exaggerates the barriers and makes most bindings ineffective. The combination of dirty tariffication by developed economies and the adoption of very high ceiling bindings by developing economies allows countries still to vary their protection as they wish in response to changes in domestic or international food markets. Getting those bound tariffs down from 50-250+ per cent to the 0-15 per cent range of tariff rates for manufactures is the challenge ahead. If the steady rates of reduction of the past are used, it will be several decades before that gap is closed.

At least three options for reducing tariffs on farm products present themselves. One is a large across-the-board tariff cut. Even if as much as a 50 per cent cut by, say, 2005 is accepted, however, that would still leave some very high tariffs. A second option is the

"Swiss formula" used for manufactures in the Toyko Round, whereby the rate of reduction for each item is higher the greater the item's tariff level. This has the additional economic advantage of reducing the dispersion in rates that was introduced or exacerbated during the Uruguay Round. And a third option is the one used successfully in the information technology negotiations, namely, the "zero-for-zero" approach whereby, for selected products, tariffs are eliminated altogether. In contrast to the second option, this third option would increase the dispersion of tariffs across products, increasing the risk that resources will be wastefully diverted from low-cost to higher-cost activities.

While that might appeal as a way of allowing attention to then focus on the politically difficult items such as dairy and sugar, the manufacturing sector experience with long-delayed reductions in protection of textiles and cars makes it difficult to view this option optimistically as a quick solution.

The above tariff reductions refer to out-of-quota imports. There is also a pressing need to focus on in-quota imports, that is, those that meet the minimum access requirements in the UR Agreement on Agriculture (generally 5 per cent of domestic sales by 2000 for developed economies). Agricultural-exporting countries are understandably reluctant to suggest the ***tariff-rate quota (TRQ)*** be removed, because the TRQ provides at least some market access at low or zero tariffs8. Nor would allowing TRQs to be auctioned be seen by all as a solution, because that would be like imposing the out-of-quota tariff on quota-restricted trade that the TRQ was designed to avoid.

Perhaps the best alternative to banning TRQs is to expand them, so as to simultaneously reduce their importance, increase competition, and lessen the impact of high above-quota tariffs. One can imagine an outcome that is either optimistic or pessimistic from a reformer's viewpoint. On the one hand, the optimists would say: if the TRQs were to be increased by, say, the equivalent of one per cent of domestic consumption per year, it would not be very long in most cases before the quota became non-binding. Expanding the TRQ could thereby be potentially much more liberalizing in the medium term than reducing the very high out-of-quota tariffs. Such an approach may require binding within-quota tariffs at a reasonable level (such as that for manufactures), and perhaps allowing countries not to have to reduce those bound within-quota tariffs before the quota becomes

Negotiators familiar with the tortuous efforts to reform the quota arrangements for textiles and clothing trade, on the other hand, see the agricultural TRQs as yet another MFA: a multilateral food arrangement . Since the first inception of textile quotas was around 1960, it looks like it will take fifty years or so before they are finally abolished. If that is the expected lifetime of agricultural TRQs, a strong case could be made by the Cairns Group and others for the total elimination of agricultural TRQs (along with export subsidies and credits) and a radical reduction in bound (out-of quota) tariffs. The quid pro quo could be to put less emphasis on trying to discipline farm domestic supports: the almost infinite scope for re-instrumentation makes that very difficult anyway and, as

Snape (1987) has pointed out, constraints on border measures would ensure the cost of domestic supports was exposed via the budget and thereby subjected to regular domestic political scrutiny.

The above agenda for those seeking more liberal agricultural markets will be resisted by those seeking a continuation of special favours for protected agricultural sectors. The latter are forming coalitions with other groups to find reasons/excuses for not lowering trade barriers and/or to lobby for interventions abroad that would raise their competitors' costs. The key issues being raised by these groups that are likely to be more prominent in the next WTO negotiations than in the Uruguay Round, are discussed below. In assessing the implications of these priorities for farm and trade policies, the following should be kept in mind: that where there are several policy objectives, typically an equal number of policy instruments is required to deal efficiently with them; that the most efficient policy instrument for achieving a particular objective will be that which addresses the concern most directly; that trade measures in particular are rarely the most efficient instruments for addressing non-trade concerns; and that trade reforms will be welfare-improving so long as optimal domestic interventions are in place to deal with those non-trade concerns. The claim is often made that a high level of food self-sufficiency is necessary before a nation feels food-secure. This is inconsistent with the usual definition of food security though, which is that everyone always has access to the minimum supply of basic food necessary for survival. Lower rather than higher consumer prices for food would by that definition boost the number of food secure people, suggesting *lower* import barriers and export subsidies should be called for.

However, becoming more dependent on food imports does raise questions about the preparedness of exporters to always supply foreign markets. For that reason, food importers such as Japan are calling for stronger disciplines on the exceptions to GATT Article XI.1 which prohibits export restrictions other than export taxes. For example, GATT Article XI.2(a) permits temporary quantitative export restrictions to relieve critical food shortages in an exporting country. True, the URAA's Article 12 added some discipline to that provision, requiring that due consideration be given to the effects of such a restriction on WTO members who are food importers, that such affected members be consulted, and that the WTO be notified of the nature and duration of the restriction. Even more discipline could be called for in the next WTO round. For example, if it were shown that in the past longer-term customers were being served first and charged less in years of shortfall, agricultural-exporting countries could be asked to cease that practice and instead provide non-discriminatory access to their supplies of basic foodstuffs at all times.

In addition to concerns about food security, there are also concerns about food safety. The demand for higher quality, safer food rises with per capita incomes. However, perceptions about the safety of different foods and food production and processing methods, and conformity assessment procedures, differ greatly -- even among countries with similar income levels. These differences can be exaggerated when groups with an economic interest in trade restrictions join forces with extremist lobby groups pushing for excessive food safety measures. The rapid rise in media hype over genetically modified

products (GMPs) is a clear case in point: it has fueled consumer concerns in Western Europe to such an extent that this issue may well be on the agenda for the next agricultural negotiations in some form. Developing countries' farmers are concerned for different reasons: because intellectual property protection in their country is so poor that producers of GM seeds may not sell the new varieties to them, causing their agricultural comparative advantage to diminish; and because some high-income countries may erect barriers to prevent GMPs originating in developing countries from penetrating their markets. For the sake of farmers and consumers everywhere, and to reduce uncertainty for R&D firms seeking to invest further in GMPs, it is imperative that rules and standards governing trade in GMPs be clarified.

3. Why agriculture needs other sectors and "new trade agenda" issues in the next round

The probability of the next WTO round delivering significant agricultural reforms and thereby benefiting the world's poor (the vast majority of whom are developing country farmers) may well be greater if negotiators include protection cuts for other sectors and perhaps some of the new issues on the WTO's agenda. (Services are already scheduled to be on the agenda for the next Round.)

Textile reform should be included, not least to reduce the likelihood that OECD countries renege on current obligations under the Uruguay Round's Agreement on Textiles and Clothing (ATC). The above simulation results suggest that further textile reform would give a major welfare boost to developing economies. It would boost the manufacturing exports of the most densely populated of Asia's developing countries. But since they in turn would then import more farm products, reductions in textile barriers indirectly also boosts the farm sectors of other countries.

The US and EU no doubt will argue that because the ATC runs to the end of 2004, and the proposal is that the next round be completed in three years, there is no need to re-consider textiles barriers in this next round. And those East Asian economies with sizeable quotas at present may be happy to hang on to them for a little while longer. In return for reducing barriers to agricultural (and hopefully textile) markets in rich countries, developing countries would be leant on to liberalize their manufacturing and services markets and their government procurement procedures. The welfare gains to developing country agriculture (and the overall economy) from such non-farm policy reform could well be as large those countries' gain from farm policy reform by OECD countries. This is because of the direct impact those reforms would have on developing countries' farm input costs and the cost of services required to market their farm outputs, as well as the standard indirect general equilibrium effects on the cost of mobile labour and capital of reducing assistance to highly protected non-farm sectors.

As for new trade agenda issues, their inclusion in the next round is considered by some (including East Asian developing country) negotiators as undesirable because it would distract their attention from the current agenda items. On the other hand, however, their inclusion would have the advantage that more non-agricultural groups would take part in

the round which could counterbalance forces favouring agricultural (and other sectoral) protection. As well, better rules on some of those new issues would reduce the risk of farm trade measures being replaced or made ineffective by domestic agricultural measures and technical barriers to trade that may be almost as trade distorting – a risk that has grown considerably in the past year or so (Anderson 1998b; Roberts, Josling and Orden 1999).

The decline in traditional trade barriers will cause attention to focus increasingly on the trade-impeding effects of domestic regulatory regimes. This is what has given rise to the so-called "new trade agenda." It revolves around policies such as the setting and enforcing of product standards, state-trading, subsidy regimes, export controls, competition law, and government procurement practices. Such policies can effectively distort competition, even if applied on a nondiscriminatory basis.

Virtually all these new issues have relevance to the agricultural liberalization agenda. The Uruguay Round negotiations on agriculture focused only on some of them, notably production subsidies and product standards. In the Uruguay Round progress was made in designing rules for the application of sanitary and Phytosanitary standards (SPS), and disciplining the ability of governments to grant agricultural production subsidies. However, disciplines are either weak, country-specific or nonexistent in many other areas, including the extra-territorial application of production process standards and competition-related policy and regulation. The latter include the nexus of state-trading, export taxes and cartels, and intellectual property (broadly defined to include indications of geographic origin, traditional expressions, breeder's rights and seed varieties).

While attempts to discipline and regulate the use of domestic subsidies under GATT auspices have been pursued for decades with little success, somewhat greater progress was made in the Uruguay Round with sanitary and Phytosanitary (SPS) standards. The SPS Agreement seeks to ensure that any SPS measures are imposed only to the extent necessary to ensure adequate food safety and animal and plant health on the basis of scientific information, and are the least trade restrictive measures available to achieve the risk reduction desired. Although there is substantial "wiggle room" in the wording of disciplines, consultations between WTO members are leading to conflict resolution in numerous cases. The dispute settlement evidence to date shows that exporting countries can succeed in obtaining rulings against the most egregious cases of protectionist abuse of standards (Roberts 1998). A problem that confronts developing countries in this area, however, is that they may find it difficult to satisfy partner countries that their domestic institutions can be trusted to enforce the required standards. Alternatively, such institutions may not be able to perform testing and certification functions effectively without imposing significant burdens on trade.

The focus of GATT/WTO negotiations has always been on increasing the contestability of markets by reducing/eliminating discrimination against foreign products and producers. One way to apply this rule of thumb to the new trade agenda is to seek to extend the reach of the nondiscrimination principle to issues such as subsidies, competition legislation, foreign investment regimes, and government procurement

practices. In all these areas governments are currently free to pursue discriminatory policies, and often do.

Liberalizing foreign investment and extending the national treatment principle to foreign suppliers of goods and services would have a significant impact in terms of "leveling the playing field". An open investment regime in general, complemented by a commitment to apply national treatment to the supply of service sectors in the GATS context would go a long way in making markets more contestable. Investment liberalization is already on the agenda of the GATS for service sectors, as nations can make specific commitments on market access and national treatment for foreign providers who seek to establish a "commercial presence", that is, to engage in foreign direct investment (FDI). This approach could be extended to investment more generally, including in agriculture where restrictions are often very severe (e.g., in Indonesia).

4. Why "new trade agenda" issues for agriculture should be treated generically

Should rule-making efforts to accommodate the new issues be de-linked from the agricultural negotiations on border measures? A suggestion by Josling (1998) is to incorporate all the new issues as they apply to agriculture under the three headings used in the Uruguay Round Agreement on Agriculture, viz. import market access, export subsidies, and domestic support. While such an approach may be necessary if the next round is confined to just agriculture and services, or may be more expedient and thereby preferred if a conclusion is desired within three years, it simply prolongs the day when agriculture is fully integrated with other sectors in the WTO. While that separation remains, WTO rules are less clear, and exceptional (i.e., less-liberalizing) treatment is encouraged. Thus a more generic approach to the new issues should be entertained. Conceptually, the matter is relatively clear-cut: what is required is a determination as to whether domestic policies that have detrimental effects on foreign suppliers can be justified on public interest grounds. More specifically, it can be asked whether a more-efficient, less trade-distorting policy instrument can be identified to achieve a particular objective. If so, the presumption would be that the measure can be contested. Of course, making this basic economic principle operational in the international context is not straightforward, not least because in practice measures may be pursued because a nation has the power to influence the terms of trade in its favour, and because there will always be differences in opinion as to whether alternative instruments are feasible or not.

Snape (1987) has argued that, with respect to subsidies, governments should be left free to pursue whatever domestic policies they wish -- an argument that can be extended to regulatory policy more generally. A rationale for this argument is that in practice it is impossible to determine when subsidies are economically "legitimate" in the sense of offsetting market failures or being the least-cost instrument to pursue certain non-economic objectives, and that governments and interest groups will always be able to identify instruments that are not subject to multilateral disciplines to pursue their aims. The result of pursuing multilateral disciplines is then a never-ending process with uncertain benefits.

This argument is unlikely to be acceptable to policymakers, however. If negotiations on domestic policies are to be pursued, though, a strong case can be made that specific rules just for agriculture are not necessary. Consider four sets of examples.

Domestic subsidies

Agreements on subsidies (and countervailing duties) should apply to all sectors of economic activity equally. The WTO Subsidies Agreement is supposed to be reviewed in 1999. Currently, that agreement takes a similar approach to the Agriculture Agreement and defines a set of general non-actionable subsidies. These include support for research, aid for disadvantaged regions, and assistance to firms adapting plants to new environmental measures. Disciplines in the area of services are yet to be developed and are likely to figure on the agenda of the prospective negotiations on services. Given a general desire by WTO members to define clearer rules on subsidy practices, efforts should be made to merge the agricultural disciplines with those applying to other merchandise and to be developed for services, so that a common set of rules and principles emerge.

Competition policies, including state trading

Similar arguments apply to competition policies. For example, many countries have government-sanctioned single-desk selling agencies/export monopolies for agricultural commodities, and the activities of such entities have become a concern to the international community. State trading was considered a relatively minor aspect of policy among the original signatories of the GATT, and is not subject to serious constraints under GATT law. Partly this reflects the fact that it was most prevalent in agriculture; a sector that remained largely outside the purview of multilateral discipline until the Uruguay Round. However, with the re-introduction of agriculture in the WTO, the adoption of multilateral disciplines for services (GATS), and the prospective accession to the WTO of many economies in transition, state trading has become a higher-profile issue that is part of the much bigger complex of policy questions to do with the conditions of competition in markets.

The issue of STEs is a subset of the more general problem of dealing with the possible anticompetitive effects of entities with dominant positions or exclusive rights and privileges. In the recent WTO agreement on basic telecommunications, a set of pro-competitive regulatory principles were adopted by countries that require the establishment of independent regulatory authorities to monitor the behaviour of dominant telecom suppliers and ensure interconnection on the basis of cost. Efforts to extend the reach of such principles more broadly to both STEs and other firms with exclusive rights should be pursued, with common rules applying to all such entities whatever the sector of activity in which they are engaged.

Technical standards, including SPS measures

Many countries use very blunt quarantine instruments such as import bans that excessively restrict imports well beyond what is necessary for protecting the health of their plants and animals (and citizens in the case of food safety concerns). For example, there are outright bans on imports of many products, including from agricultural-exporting countries seeking to preserve a disease-free image. The levels of protection involved are in some cases equivalent to tariffs of more than 100 percent. Without some form of notification requirement on WTO members that forces them to disclose the degree to which trade is restricted by such measures, reform in this area is likely to be confined to the very small proportion of those cases that are brought before the WTO's dispute settlement body. The expense of such legal proceedings and the time involved in concluding each case ensures the pace of reform by that means alone would be glacial. Perceptions about the safety of different foods and food production and processing methods, and conformity assessment procedures, differ greatly even among countries with similar income levels. The WTO Dispute Settlement case between the US and EU on beef hormones showed that differences of opinion on standards are difficult to resolve even with the best scientific advice. Other examples are irradiated food, cheese made from unpastorized milk, and genetically modified organisms (Mahe and Ortalo-Magne 1998, Henson 1998). Increasingly over time such issues will arise under the Uruguay Round's SPS and Technical Barriers to Trade agreements. Butthey will also arise in other, non-agriculture-related contexts. As with state-trading, subsidies, and competition and industrial policies more generally, here again there is a strong case for developing common disciplines for all types of products, whether agricultural or not. There is nothing special about food as compared to, say, regulation of dangerous chemicals or heavy metals which may enter into the production and disposal of manufactured goods.

Environmental standards

Attempts to "export" environmental or social standards have become particularly controversial in recent years. Agriculture's contribution to the natural environment is most probably negative in a net sense. Some claim that it is adding to biodiversity and the landscape by preserving, for example, hedgerows in Europe, but that could be done simply by paying some landowners not to destroy their hedgerows. Others in rich countries claim that farmers need to be compensated for adopting less-environmentally damaging farming practices. This pay-the-polluter idea is the opposite of the OECD-sponsored polluter-pays principle, whereby farmers would be taxed according to the extent of the damage their practices cause.

Of major importance to developing country exporters of farm products is the erection of trade barriers against foreign products because of the way they are produced. Mexico won its case at the GATT against the US ban on imports of tuna that were deemed to be caught in nets unfriendly to dolphin, and the shrimp/turtle case had a similar outcome, but both cases have made the GATT/WTO very unpopular with environmental groups. Developing countries will need to continue to argue against import restrictions being allowed on products produced by methods not liked by importing countries – otherwise there would be no end of restrictions being imposed on such grounds (Anderson 1998a). As with all the other issues discussed in this section, there is no need or rationale for

agriculture-specific approaches. The issues are generic; rule-making (and opposition to certain types of rules) should also be general in nature.

5. Final Remarks

Traditional agricultural market access liberalization should continue to be the key priority issue for developing countries. From an agricultural perspective, attention should focus also on reducing protection granted to manufacturing and services industries in developing countries themselves, as protection in those sectors bestows a significant anti-agricultural bias in many low and medium-income economies, making it more difficult for them to benefit from the agricultural trade reform of OECD countries. Those reforms can be done unilaterally, but the WTO offers an opportunity to obtain a quid pro quo, and can be a useful instrument through which to lock in such reforms. As far as the multilateral agricultural agenda is concerned, the focus should be on further reducing agricultural protection in industrialized countries so as to give developing country farmers better access to export markets.

The next stage of agricultural reform will, however, be conducted in an environment in which globalization forces (including ever-faster international transfers of information, ideas, capital, skills and new technologies) will be having ever-stronger impacts on markets but simultaneously may trigger sporadic policy backlashes. Examples of the former forces affecting agriculture include the new genetically engineered crop seeds that are part of the biotechnology revolution in the seed and pesticide industries. Both industries are also experiencing surges in economies of scale which, together with the liberalization of the world's financial markets over the past 15 or so years, is encouraging rapid expansion of foreign direct investment by large multinational corporations. The WTO is a contributor to that expansion (e.g., in providing more secure property rights for seeds through the TRIPs agreement). The privately optimal international location of production may well change in non-trivial ways as a result, bringing forth new forces for adjustment. The current East Asian financial crisis reminds us that in stressful circumstances governments may be tempted either to embrace the forces of change and facilitate efficient and rapid adjustment to the new market-driven circumstances, or to try to resist change by turning their back on reform and intervening in those markets.

Given that attempts to reduce, let alone eliminate, traditional measures of farm protection will confront significant resistance in numerous countries, the mercantilist logic of trade negotiations requires that the agenda of the next set of multilateral negotiations should include "new trade agenda" items. High-income countries are demanders on services, investment and competition policies, creating the potential for beneficial issue linkages and tradeoffs. Many of the new regulatory issues are not sector-specific. Any new disciplines and agreements should therefore apply across-the board.

However, care should be taken not to pursue the benefits of international agreements on too many new trade issues. From an economic development perspective the main gains to poorer countries will come from market access liberalization: reducing agricultural and textile protection in

OECD countries at least to the levels applied to other manufactures, and reducing the anti-agriculture bias in developing countries induced by their own protectionist and regulatory policies in manufacturing and services. Limited analytical and negotiating resources in developing countries make a number of them hesitant about a new round with lots of new issues, to say the least. But developing countries may need to agree to discuss at least some of the new trade issues if they want to ensure agricultural market access remains high on the next WTO round's agenda.

There are clearly many challenges as well as opportunities ahead. For East Asia's developing economies interested in seeing agricultural market reforms continue into the next century, their key priorities for the rest of this decade can be summarized as follows:

? Secure a consensus to launch a new round of multilateral trade negotiations at the turn of the century that is comprehensive enough to allow cross-sectoral and cross-issue tradeoffs,
? Ensure all the main forms of distortions to agricultural markets are high on the negotiating agenda, to minimize the possibility that reforms in one area are offset by policy re-instrumentation to trade-distortive support measures not yet disallowed,
? Facilitate the accession of new members to the WTO, particularly those aspirants that are significant in world agricultural markets such as China, Russia, Ukraine and Vietnam,
? Keep explaining why trade reforms are desirable and why they need not be a threat to food security, to food safety, or to the environment, especially if appropriate first-best policy instruments are used to address the latter concerns, and
? Explore the prospects for more coalition-building among WTO members and for reducing animosity between members where that is based on incomplete or incorrect information.

Agricultural-exporting countries also have a clear, if indirect, interest in ensuring the continuation and spread of rapid industrialization in densely populated Asia and elsewhere, for that will expand those developing countries' net imports of farm products. That industrialization in turn depends heavily on advanced economies honouring and then extending their commitments to liberalize markets for labour-intensive manufactures, especially textiles and clothing. Scope may exist for agricultural exporters and textile exporters to work collectively to ensure the continuation of reform to textile and clothing trade.

The economically superior option, of facilitating adjustment by farmers to market forces, will yield far greater dividends -- and yet will not lead to the feared disappearance of their agricultural sectors.

Indeed it is likely to lead to specialization in production that may even see some new niche firms/industries emerge with high value added differentiated farm products that are internationally very competitive.

References

Anderson, K. (1994), "Food Price Policy in Asia", *Asian-Pacific Economic Literature* 8(2): 15- 30, November.

Anderson, K. (1995), "Lobbying Incentives and the Pattern of Protection in Rich and Poor Countries," *Economic Development and Cultural Change* 43(2): 401-23, January.

Anderson, K. (1998a), 'Environmental and Labour Standards: What Role for the WTO?', Ch. 8 in *The WTO as an International Organization*, edited by A.O. Krueger, Chicago and
London: University of Chicago Press.

Anderson, K. (1998b), 'Domestic Agricultural Policy Objectives and Trade Liberalization: Synergies and Trade-offs', COM/AGR/CA/TD/WS(98)101, in Proceedings of the OECD Workshop on Emerging Trade Issues in Agriculture (Paris, 25-26 October 1998), published on the OECD's website at www.oecd.org/agr/trade/.

Anderson, K., B. Dimaranan, T. Hertel and W. Martin (1997a), 'Asia-Pacific Food Markets and Trade in 2005: A Global, Economy-Wide Perspective', *Australian Journal of Agricultural and Resource Economics* 41(1): 19-44, March.

Anderson, K., B. Dimaranan, T. Hertel and W. Martin (1997b), 'Economic Growth and Policy Reforms in the APEC Region: Trade and Welfare Implications by 2005', *Asia-Pacific Economic Review* 3(1): 1-18, April 1997.

Anderson, K. and Y. Hayami (1986), *The Political Economy of Agricultural Protection*, Boston, London and Sydney: Allen and Unwin.

Anderson, K., B. Hoekman and A. Strutt (1999), 'Agriculture and the WTO: Next Steps', paper presented at the Second Annual Conference on Global Economic Analysis, Valby, Denmark, 20-22 June.

Anderson, K. and A. Strutt (1999), "Impact of East Asia's Growth Interruption and Policy Responses: The Case of Indonesia", *Asian Economic Journal* 13(3), September

Henson, S. (1998), 'Regulating the Trade Effects of National Food Safety Standards', COM/AGR/CA/TD/TC/WS(98)123, in Proceedings of the OECD Workshop on Emerging Trade Issues in Agriculture, Paris, 25-26 October, http://www.oecd.org/agr/trade/.

Hertel, T.W., and W. Martin (1999), 'Developing Country Interests in Liberalizing Manufactures Trade', paper presented at the CEPR workshop on New Issues in the World Trading System, London, 19-20 February.

Hoekman B. and P. Low (1998), "State Trading and Access to Markets: Alternative Approaches to Rule Making for Entities with Exclusive Rights," in P. Mavroidis and T.

Cottier (eds.), *State Trading in the Twenty-first Century*, Ann Arbor: University of Michigan Press.

IATRC (1997), *Implementation of the Uruguay Round Agreement on Agriculture and Issues for the Next Round of Agricultural Negotiations*, Commissioned Paper No. 12 on Bringing Agriculture into the GATT, Department of Agricultural and Applied Economics, University of Minnesota, St. Paul MN, October.

Ingco, M.D. (1995), 'Agricultural Trade Liberalization in the Uruguay Round: One Step Forward, One Step Back?' supplementary paper prepared for a World Bank Conference on *The Uruguay Round and the Developing Countries*, Washington, D.C., 26-27 January.

Ingco, M.D. (1996), 'The Uruguay Round and the Least-Developed Low-Income Food-Deficit Countries', paper presented to the Inter-Agency Meeting of the World Food Situation and Net Food-Importing Countries, the World Bank, Washington, D.C., 18-19 December.

Ingco, M.D. and F. Ng (1998), "Distortionary Effects of State Trading in Agriculture: Issues for the Next Round of Multilateral Trade Negotiations," Policy Research Working Paper 1915, World Bank, Washington, D.C.

James, S. and K. Anderson (1998), 'On the Need for More Economic Assessment of Quarantine Policies', *Australian Journal of Agricultural and Resource Economics* 41(4): 525-44, December.

Jensen, H.G., S.E. Fransen and C.F. Bach (1998), 'Agricultural and Economy-Wide Effects of European Enlargement: Modelling the Common Agricultural Policy', mimeo, University of Copenhagen, November.

Johnson, D. G. (1973), *World Agriculture in Disarray*, New York: St. Martin's Press.

Josling, T. (1998), 'The Uruguay Round Agreement on Agriculture: A Forward Looking Assessment', COM/AGR/CA/TD/WS(98)100, in Proceedings of the OECD Workshop on Emerging Trade Issues in Agriculture, Paris, 25-26 October, http://www.oecd.org/agr/trade/.

Josling, T., S. Tangermann and T.K. Warley (1996), *Agriculture in the GATT*, London: Macmillan and New York: St. Martin's Press.

Lindert, P.H. (1991), 'Historical Patterns of Agricultural Policy', in *Agriculture and the State:Growth, Employment and Poverty*, edited by C.P. Timmer, Ithaca: Cornell UniversityPress.

Mahe, L.P. and F. Ortalo-Magne (1998), 'International Co-operation in the Regulation of Food Quality and Safety Attributes', COM/AGR/CA/TD/TC/WS(98)102, in Proceedings

of the OECD Workshop on Emerging Trade Issues in Agriculture, Paris, 25-26 October, published on the internet at http://www.oecd.org/agr/trade/.

Roberts, D. (1998), 'Implementation of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures: The First Two Years', Working Paper #98-4, Department of Applied Economics, University of Minnesota, May.

Roberts, D, T. Josling and D. Orden (1999), 'A Framework for Analysing Technical Trade Barriers in Agricultural Markets', Technical Bulletin No. 1876, Washington, D.C.: US Department of Agriculture, March.

Roberts, D. and K. DeRemer (1997), 'Overview of Foreign Technical Barriers to U.S. Agricultural Exports', ERS Staff Paper No. 9705, Washington, D.C.: U.S. Department of Agriculture, March.

Sicular, T. (ed.) (1989), *Food Price Policies in Asia*, Ithaca: Cornell University Press.

Skully, D. (1999), 'The Economics of TRQ Administration', IATRC Working Paper #99-6, St Paul: University of Minnesota, May.

Snape, R.H. (1987), 'The Importance of Frontier Barriers', Ch. 15 in *Protection and Competition in International Trade: Essays in Honour of W. M. Corden*, edited by H. Kierzkowski,Oxford: Basil Blackwell.

Tangermann, S. (1994), 'An Assessment of the Uruguay Round Agreement on Agriculture', paper prepared for the OECD's Agriculture Directorate, Paris.

Tangermann, S. (1999), 'The European Union Perspective on Agricultural Trade Liberalization in the WTO', paper presented at the University of Guelph, February.

Tracy, M. (1997) (ed.), *Agricultural Policy in the European Union and Other Market Economies*, Brussels: Agricultural Policy Studies in association with AGRA FOCUS.

Tyers, R. and K. Anderson (1992), *Disarray in World Food Markets: A Quantitative Assessment*, Cambridge and New York: Cambridge University Press.

ANNEX [F]

PROGRAM FOR MOA & MIT STAFF (10-12 DECEMBER 2002)

AMIR Offices / Conference Room

DAY 1 (December 10th)

9.00AM

Morning Session

- An Introduction to Legal Language
- TRIPPS & the Agriculture Round
- An Introduction to PVP and other TRIPPS instruments
- UPOV as a WTO / TRIPP'S tool

Coffee Break

- The Jordanian PVP & Agriculture Laws
- Status /Context and IPR provisions
- Interface with other Legal Instruments.
- Question & Answer Session

Lunch

Afternoon Session

- Exercise 1: A group negotiation activity including review of agreements and documents. Arguing a position and knowing when not to agree

Finish (5.00pm)

DAY 2 (11th December 2002)
9.00am start
Morning Session

- IPR's/ TRIPPS/ WTO Examples Session
- Preparing a Strategy / Negotiation plan

Coffee Break

- Contract Language Issues
- Identifying Needs vs. Wants

- Compelling interests

Lunch

Afternoon Session

- Exercise 2: Another role-play negotiation exercise. Focused on an agricultural issue of importance to Jordan. Each participant will assume a role in negotiating a specific contract agreement. There are International implications as a part of this agreement.

Finish (5.00pm)

DAY 3 (12th December 2002)

9.00am start
Morning Session

- Legal language, truth or dare?
- Legal Language, wriggle room!
- Legal Language, how to get to yes!

Coffee Break

- Question & Answer Session
- Drafting Heads of Agreement
- Finding the mines!

Lunch

Afternoon Session

- Exercise 3: Drafting Heads of Agreement and Strategy Memoranda. A scenario will be outlined. Participants will then identify needs and wants and prepare a draft agreement that reflects these positions.

Closure of the Workshop

ANNEX G

Definitions Regulations

7 CFR - CHAPTER I - PART 205

DEFINITIONS

§ 205.2 Terms defined.

Accreditation. A determination made by the Secretary that authorizes a private, foreign, or State entity to conduct certification activities as a certifying agent under this part.

Act. The Organic Foods Production Act of 1990, as amended (7 U.S.C. 6501 et seq.).

Action level. The limit at or above which the Food and Drug Administration will take legal action against a product to remove it from the market. Action levels are based on unavoidability of the poisonous or deleterious substances and do not represent permissible levels of contamination where it is avoidable.

Administrator. The Administrator for the Agricultural Marketing Service, United States Departure of Agriculture, or the representative to whom authority has been delegated to act in the stead of the Administrator.

Agricultural inputs. All substances or materials used in the production or handling of organic agricultural products.

Agricultural product. Any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock, that is marketed in the United States for human or livestock consumption.

Agricultural Marketing Service (AMS). The Agricultural Marketing Service of the United States Department of Agriculture.

Allowed synthetic. A substance that is included on the National List of synthetic substances allowed for use in organic production or handling.

Animal drug. Any drug as defined in section 201 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 321) that is intended for use in livestock, including any drug intended for use in livestock feed but not including such livestock feed.

Annual seedling. A plant grown from seed that will complete its life cycle or produce a harvestable yield within the same crop year or season in which it was planted.

Area of operation. The types of operations: crops, livestock, wild-crop harvesting or handling, or any combination thereof that a certifying agent may be accredited to certify under this part.

Audit trail. Documentation that is sufficient to determine the source, transfer of ownership, and transportation of any agricultural product labeled as "100 percent organic," the organic ingredients of any agricultural product labeled as "organic" or "made with organic (specified ingredients)" or the organic ingredients of any agricultural product containing less than 70 percent organic ingredients identified as organic in an ingredients statement.

Biodegradable. Subject to biological decomposition into simpler biochemical or chemical components.

Biologics. All viruses, serums, toxins, and analogous products of natural or synthetic origin, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms, and the antigenic or immunizing components of microorganisms intended for use in the diagnosis, treatment, or prevention of diseases of animals.

Breeder stock. Female livestock whose offspring may be incorporated into an organic operation at the time of their birth.

Buffer zone. An area located between a certified production operation or portion of a production operation and an adjacent land area that is not maintained under organic management. A buffer zone must be sufficient in size or other features (e.g., windbreaks or a diversion ditch) to prevent the possibility of unintended contact by prohibited substances applied to adjacent land areas with an area that is part of a certified operation.

Bulk. The presentation to consumers at retail sale of an agricultural product in unpackaged, loose form, enabling the consumer to determine the individual pieces, amount, or volume of the product purchased.

Certification or certified. A determination made by a certifying agent that a production or handling operation is in compliance with the Act and the regulations in this part, which is documented by a certificate of organic operation.

Certified operation. A crop or livestock production, wild-crop harvesting or handling operation, or portion of such operation that is certified by an accredited certifying agent as utilizing a system of organic production or handling as described by the Act and the regulations in this part.

Certifying agent. Any entity accredited by the Secretary as a certifying agent for the purpose of certifying a production or handling operation as a certified production or handling operation.

Certifying agent's operation. All sites, facilities, personnel, and records used by a certifying agent to conduct certification activities under the Act and the regulations in this part.

Claims. Oral, written, implied, or symbolic representations, statements, or advertising or other forms of communication presented to the public or buyers of agricultural products that relate to the organic certification process or the term, "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))," or, in the case of agricultural products containing less than 70 percent organic ingredients, the term, "organic," on the ingredients panel.

Commercially available. The ability to obtain a production input in an appropriate form, quality, or quantity to fulfill an essential function in a system of organic production or handling, as determined by the certifying agent in the course of reviewing the organic plan.

Commingling. Physical contact between unpackaged organically produced and non-organically produced agricultural products during production, processing, transportation, storage or handling, other than during the manufacture of a multi-ingredient product containing both types of ingredients.

Compost. The product of a managed process through which microorganisms break down plant and animal materials into more available forms suitable for application to the soil. Compost must be produced through a process that combines plant and animal materials with an initial C:N ratio of between 25:1 and 40:1. Producers using an in-vessel or static aerated pile system must maintain the composting materials at a temperature between 131 °F and 170 °F for 3 days. Producers using a windrow system must maintain the composting materials at a temperature between 131 °F and 170 °F for 15 days, during which time, the materials must be turned a minimum of five times.

Control. Any method that reduces or limits damage by populations of pests, weeds, or diseases to levels that do not significantly reduce productivity.

Crop. A plant or part of a plant intended to be marketed as an agricultural product or fed to livestock.

Crop residues. The plant parts remaining in a field after the harvest of a crop, which include stalks, stems, leaves, roots, and weeds.

Crop rotation. The practice of alternating the annual crops grown on a specific field in a planned pattern or sequence in successive crop years so that crops of the same species or family are not grown repeatedly without interruption on the same field. Perennial cropping systems employ means such as alley cropping, intercropping, and hedgerows to introduce biological diversity in lieu of crop rotation.

Crop year. That normal growing season for a crop as determined by the Secretary.

Cultivation. Digging up or cutting the soil to prepare a seed bed; control weeds; aerate the soil; or work organic matter, crop residues, or fertilizers into the soil.

Cultural methods. Methods used to enhance crop health and prevent weed, pest, or disease problems without the use of substances; examples include the selection of appropriate varieties and planting sites; proper timing and density of plantings; irrigation;

and extending a growing season by manipulating the microclimate with green houses, cold frames, or wind breaks.

Detectable residue. The amount or presence of chemical residue or sample component that can be reliably observed or found in the sample matrix by current approved analytical methodology.

Disease vectors. Plants or animals that harbor or transmit disease organisms or pathogens that may attack crops or livestock.

Drift. The physical movement of prohibited substances from the intended target site onto an organic operation or portion thereof.

Emergency pest or disease treatment program. A mandatory program authorized by a Federal, State, or local agency for the purpose of controlling or eradicating a pest or disease.

Employee. Any person providing paid or volunteer services for a certifying agent.

Excluded methods. A variety of methods used to genetically modify organisms or influence their growth and development by means that are not possible under natural conditions or processes and are not considered compatible with organic production. Such methods include cell fusion, micro-encapsulation and macro-encapsulation, and recombinant DNA technology (including gene deletion, gene doubling, introducing a foreign gene, and changing the positions of genes when achieved by recombinant DNA technology). Such methods do not include the use of traditional breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture.

Feed. Edible materials that are consumed by livestock for their nutritional value. Feed may be concentrates (grains) or roughages (hay, silage, fodder). The term, "feed," encompasses all agricultural commodities, including pasture ingested by livestock for nutritional purposes.

Feed additive. A substance added to feed in micro quantities to fulfill a specific nutritional need; i.e., essential nutrients in the form of amino acids, vitamins, and minerals.

Feed supplement. A combination of feed nutrients added to livestock feed to improve the nutrient balance or performance of the total ration and intended to be:

(1) Diluted with other feeds when fed to livestock;

(2) Offered free choice with other parts of the ration if separately available; or

(3) Further diluted and mixed to produce a complete feed.

Fertilizer. A single or blended substance containing one or more recognized plant nutrient(s) which is used primarily for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth.

Field. An area of land identified as a discrete unit within a production operation.

Forage. Vegetative material in a fresh, dried, or ensiled state (pasture, hay, or silage), which is fed to livestock.

Governmental entity. Any domestic government, tribal government, or foreign governmental subdivision providing certification services.

Handle. To sell, process, or package agricultural products, except such term shall not include the sale, transportation, or delivery of crops or livestock by the producer thereof to a handler.

Handler. Any person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production, except such term shall not include final retailers of agricultural products that do not process agricultural products.

Handling operation. Any operation or portion of an operation (except final retailers of agricultural products that do not process agricultural products) that receives or otherwise acquires agricultural products and processes, packages, or stores such products.

Immediate family. The spouse, minor children, or blood relatives who reside in the immediate household of a certifying agent or an employee, inspector, contractor, or other personnel of the certifying agent. For the purpose of this part, the interest of a spouse, minor child, or blood relative who is a resident of the immediate household of a certifying agent or an employee, inspector, contractor, or other personnel of the certifying agent shall be considered to be an interest of the certifying agent or an employee, inspector, contractor, or other personnel of the certifying agent.

Inert ingredient. Any substance (or group of substances with similar chemical structures if designated by the Environmental Protection Agency) other than an active ingredient that is intentionally included in any pesticide product (40 CFR 152.3(m)).

Information panel. That part of the label of a packaged product that is immediately contiguous to and to the right of the principal display panel as observed by an individual facing the principal display panel, unless another section of the label is designated as the information panel because of package size or other package attributes (e.g., irregular shape with one usable surface).

Ingredient. Any substance used in the preparation of an agricultural product that is still present in the final commercial product as consumed.

Ingredients statement. The list of ingredients contained in a product shown in their common and usual names in the descending order of predominance.

Inspection. The act of examining and evaluating the production or handling operation of an applicant for certification or certified operation to determine compliance with the Act and the regulations in this part.

Inspector. Any person retained or used by a certifying agent to conduct inspections of certification applicants or certified production or handling operations.

Label. A display of written, printed, or graphic material on the immediate container of an agricultural product or any such material affixed to any agricultural product or affixed to a bulk container containing an agricultural product, except for package liners or a display of written, printed, or graphic material which contains only information about the weight of the product.

Labeling. All written, printed, or graphic material accompanying an agricultural product at any time or written, printed, or graphic material about the agricultural product displayed at retail stores about the product.

Livestock. Any cattle, sheep, goat, swine, poultry, or equine animals used for food or in the production of food, fiber, feed, or other agricultural-based consumer products; wild or domesticated game; or other non plant life, except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products.

Lot. Any number of containers which contain an agricultural product of the same kind located in the same conveyance, warehouse, or packing house and which are available for inspection at the same time.

Manure. Feces, urine, other excrement, and bedding produced by livestock that has not been composted.

Market information. Any written, printed, audiovisual, or graphic information, including advertising, pamphlets, flyers, catalogues, posters, and signs, distributed, broadcast, or made available outside of retail outlets that are used to assist in the sale or promotion of a product.

Mulch. Any non-synthetic material, such as wood chips, leaves, or straw, or any synthetic material included on the National List for such use, such as newspaper or plastic that serves to suppress weed growth, moderate soil temperature, or conserve soil moisture.

Narrow range oils. Petroleum derivatives, predominately of paraffin and napthenic fractions with 50 percent boiling point (10 mm Hg) between 415 °F and 440 °F.

National List. A list of allowed and prohibited substances as provided for in the Act.

National Organic Program (NOP). The program authorized by the Act for the purpose of implementing its provisions.

National Organic Standards Board (NOSB). A board established by the Secretary under 7 U.S.C. 6518 to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of the National Organic Program.

Natural resources of the operation. The physical, hydrological, and biological features of a production operation, including soil, water, wetlands, woodlands, and wildlife.

Nonagricultural substance. A substance that is not a product of agriculture, such as a mineral or a bacterial culture, which is used as an ingredient in an agricultural product. For the purposes of this part, a nonagricultural ingredient also includes any substance, such as gums, citric acid, or pectin, that is extracted from, isolated from, or a fraction of an agricultural product so that the identity of the agricultural product is unrecognizable in the extract, isolate, or fraction.

Non-synthetic (natural). A substance that is derived from mineral, plant, or animal matter and does not undergo a synthetic process as defined in section 6502(21) of the Act (7 U.S.C. 6502(21)). For the purposes of this part, non-synthetic is used as a synonym for natural as the term is used in the Act.

Non-retail container. Any container used for shipping or storage of an agricultural product that is not used in the retail display or sale of the product.

Nontoxic. Not known to cause any adverse physiological effects in animals, plants, humans, or the environment.

Organic. A labeling term that refers to an agricultural product produced in accordance with the Act and the regulations in this part.

Organic matter. The remains, residues, or waste products of any organism.

Organic production. A production system that is managed in accordance with the Act and regulations in this part to respond to site-specific conditions by integrating cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance, and conserve biodiversity.

Organic system plan. A plan of management of an organic production or handling operation that has been agreed to by the producer or handler and the certifying agent and that includes written plans concerning all aspects of agricultural production or handling described in the Act and the regulations in subpart C of this part.

Pasture. Land used for livestock grazing that is managed to provide feed value and maintain or improve soil, water, and vegetative resources.

Peer review panel. A panel of individuals who have expertise in organic production and handling methods and certification procedures and who are appointed by the Administrator to assist in evaluating applicants for accreditation as certifying agents.

Person. An individual, partnership, corporation, association, cooperative, or other entity.

Pesticide. Any substance which alone, in chemical combination, or in any formulation with one or more substances is defined as a pesticide in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(u) *et seq*).

Petition. A request to amend the National List that is submitted by any person in accordance with this part.

Planting stock. Any plant or plant tissue other than annual seedlings but including rhizomes, shoots, leaf or stem cuttings, roots, or tubers, used in plant production or propagation.

Practice standard. The guidelines and requirements through which a production or handling operation implements a required component of its production or handling organic system plan. A practice standard includes a series of allowed and prohibited actions, materials, and conditions to establish a minimum level performance for planning, conducting, and maintaining a function, such as livestock health care or facility pest management, essential to an organic operation.

Principal display panel. That part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for sale.

Private entity. Any domestic or foreign nongovernmental for-profit or not-for-profit organization providing certification services.

Processing. Cooking, baking, curing, heating, drying, mixing, grinding, churning, separating, extracting, slaughtering, cutting, fermenting, distilling, eviscerating, preserving, dehydrating, freezing, chilling, or otherwise manufacturing and includes the packaging, canning, jarring, or otherwise enclosing food in a container.

Processing aid. (1) Substance that is added to a food during the processing of such food but is removed in some manner from the food before it is packaged in its finished form;

(2) a substance that is added to a food during processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; and

(3) a substance that is added to a food for its technical or functional effect in the processing but is present in the finished food at insignificant levels and does not have any technical or functional effect in that food.

Producer. A person who engages in the business of growing or producing food, fiber, feed, and other agricultural-based consumer products.

Production lot number/identifier. Identification of a product based on the production sequence of the product showing the date, time, and place of production used for quality control purposes.

Prohibited substance. A substance the use of which in any aspect of organic production or handling is prohibited or not provided for in the Act or the regulations of this part.

Records. Any information in written, visual, or electronic form that documents the activities undertaken by a producer, handler, or certifying agent to comply with the Act and regulations in this part.

Residue testing. An official or validated analytical procedure that detects, identifies, and measures the presence of chemical substances, their metabolites, or degradations products in or on raw or processed agricultural products.

Responsibly connected. Any person who is a partner, officer, director, holder, manager, or owner of 10 percent or more of the voting stock of an applicant or a recipient of certification or accreditation.

Retail food establishment. A restaurant; delicatessen; bakery; grocery store; or any retail outlet with an in-store restaurant, delicatessen, bakery, salad bar, or other eat-in or carry-out service of processed or prepared raw and ready-to-eat-food.

Routine use of parasiticide. The regular, planned, or periodic use of parasiticides.

Secretary. The Secretary of Agriculture or a representative to whom authority has been delegated to act in the Secretary's stead.

Sewage sludge. A solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes but is not limited to: domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

Slaughter stock. Any animal that is intended to be slaughtered for consumption by humans or other animals.

Soil and water quality. Observable indicators of the physical, chemical, or biological condition of soil and water, including the presence of environmental contaminants.

Split operation. An operation that produces or handles both organic and non-organic agricultural products.

State. Any of the several States of the United States of America, its territories, the District of Columbia, and the Commonwealth of Puerto Rico.

State certifying agent. A certifying agent accredited by the Secretary under the National Organic Program and operated by the State for the purposes of certifying organic production and handling operations in the State.

State organic program (SOP). A State program that meets the requirements of section 6506 of the Act, is approved by the Secretary, and is designed to ensure that a product that is sold or labeled as organically produced under the Act is produced and handled using organic methods.

State organic program's governing State official. The chief executive official of a State or, in the case of a State that provides for the statewide election of an official to be responsible solely for the administration of the agricultural operations of the State, such official who administers a State organic certification program.

Synthetic. A substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant,

animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.

Tolerance. The maximum legal level of a pesticide chemical residue in or on a raw or processed agricultural commodity or processed food.

Transplant. A seedling that has been removed from its original place of production, transported, and replanted.

Unavoidable residual environmental contamination (UREC). Background levels of naturally occurring or synthetic chemicals that are present in the soil or present in organically produced agricultural products that are below established tolerances.

Wild crop. Any plant or portion of a plant that is collected or harvested from a site that is not maintained under cultivation or other agricultural management.

ANNEX H

Movement of Biological Agents

ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 331 -- POSSESSION, USE, AND TRANSFER OF BIOLOGICAL AGENTS AND TOXINS

Sec.

Authority: Secs. 211-213, Title II, Pub. L. 107-188, 116 Stat. 647 (7 U.S.C. 8401).

§331.0 Effective and applicability dates.

The regulations in this part are effective on February 11, 2003.On and after that date, any person possessing, using, or transferring any agent or toxin listed in §331.3 must be in compliance with the provisions of this part. However, so as not to disrupt research or educational projects involving listed agents or toxins that were underway as of the effective date of this part, any person possessing such agents or toxins as of the effective date (current possessors) will be afforded additional time to reach full compliance with this part. Any provision not specifically cited in paragraphs (a) through (f) of this section will be applicable as of February 11, 2003. In addition, any individual or entity who does not possess listed agents or toxins by the effective date of this part, but who wishes to initiate a research or educational project prior to November 12, 2003, must be in

compliance with the provisions of this part that are applicable for current possessors at the time of application, as provided in paragraphs (a) through (e) of this section.
(a) During the period from February 11, 2003, to November 12, 2003, biological agents or toxins listed in §331.3 may only be transferred to an individual or entity that is not registered under this part if the individual or entity has been issued a permit by the Administrator under part 330 of this chapter to import or move interstate that specific agent or toxin. If an individual or entity has not been issued a permit under part 330 of this chapter, the individual or entity may apply for a permit. To receive an agent or toxin, an individual or entity will also be required to submit APHIS Form 2041, in accordance with §331.13(c). Because USDA permits do not cover intrastate movement, an individual or entity may not receive a listed agent or toxin that is being moved intrastate until that individual or entity is registered in accordance with this part.
(b) By March 12, 2003, the responsible official must submit the registration application package as required in §331.8. In addition, the responsible official must submit to the Attorney General the names and identifying information for the responsible official; alternate responsible official, where applicable; entity; and, where applicable, the individual who owns or controls the entity.
(c) By April 11, 2003, the responsible official must submit to the Attorney General the names and identifying information for all individuals whom the responsible official has identified as having a legitimate need to handle or use listed agents or toxins, and who have the appropriate training and skills to handle such agents or toxins, as required in §331.10.
(d) By June 12, 2003, the responsible official must submit to APHIS the security section of the Bio-containment and Security Plan required in §331.11.
(e) By September 12, 2003, the responsible official must implement the security section of the Bio-containment and Security Plan, as required in §331.11, and provide security training in accordance with 7 CFR 331.12.
(f) By November 12, 2003, the registration application process must be complete and the entity in full compliance with the regulations in this part.

§331.1 Definitions.
Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.
Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.
Attorney General. The Attorney General of the United States or any person authorized to act for the Attorney General.
Biological agent. Any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substance, or any naturally occurring, bioengineered, or synthesized component of any such microorganism or infectious substance, capable of causing:
(1) Death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;
(2) Deterioration of food, water, equipment, supplies, or material of any kind; or
(3) Deleterious alteration of the environment.

Centers for Disease Control and Prevention (CDC). The Centers for Disease Control and Prevention of the United States Department of Health and Human Services.
Diagnostic laboratory. A laboratory facility that receives specimens for the purpose of determining the identities of pests, pathogens, contaminants, or causes of disease.
Entity. Any government agency (Federal, State, or local), academic institution, corporation, company, partnership, society, association, firm, sole proprietorship, or other legal entity.
Import. To move into, or the act of movement into, the territorial limits of the United States.
Interstate. From one State into or through any other State, or within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.
Permit. A written authorization by the Administrator to import or move interstate biological agents or toxins, under conditions prescribed by the Administrator.
PPQ. The Plant Protection and Quarantine Programs of the Animal and Plant Health Inspection Service
Responsible official. The individual designated by an entity to act on its behalf. This individual must have the authority and control to ensure compliance with the regulations in this part.
Specimen. A sample of material collected for use in testing, such as plant tissues (*e.g.*, stems, seeds, flowers, pollen, leaves, roots, fruits, tubers, tissue cultures, protoplasts), soil, water, swabs, cultures, and suspensions.
State. Any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.
Toxin. The toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes:
(1) Any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or
(2) Any poisonous isomer or biological product, homolog, or derivative of such a substance.
United States. All of the States.
USDA. The United States Department of Agriculture.

§331.2 Purpose and scope.
(a) This part sets forth the requirements for possession, use, and transfer of biological agents or toxins that have been determined to have the potential to pose a severe threat to plant health or to plant products. The purpose of this part is to ensure the safe handling of such agents or toxins, and to protect against the use of such agents or toxins in domestic or international terrorism or for any other criminal purpose.
(b) Accordingly, this part provides that any individual or entity that possesses, uses, or transfers any agent or toxin listed in §331.3 must register in accordance with §331.6. To

register, each entity must designate an individual who has the authority and control to ensure compliance with the regulations to be the responsible official. The responsible official must complete and submit the registration application package to APHIS. As part of registration, the responsible official, the entity, and, where applicable, the individual who owns or controls such entity will be subject to a security risk assessment by the Attorney General.
(c) The responsible official is responsible for ensuring compliance with the safety procedures in this part, including implementing the Bio-containment and Security Plan in accordance with §331.11, providing the proper training to individuals who handle or use agents or toxins listed in §331.3, and providing proper laboratory facilities to contain and dispose of such agents or toxins. In addition, the responsible official is responsible for ensuring compliance with the safeguard and security measures in this part, including restricting access to only those individuals who have a legitimate need to handle or use agents or toxins and who have been approved in accordance with §331.10, and transferring such agents or toxins only to registered individuals or entities in accordance with §331.13.

§331.3 List of biological agents and toxins.
(a) The biological agents and toxins listed in this section have been determined to have the potential to pose a severe threat to plant health or to plant products.
Liberobacter africanus, Liberobacter asiaticus
Peronosclerospora philippinensis
Phakopsora pachyrhizi
Plum pox potyvirus
Ralstonia solanacearum, race 3, biovar 2
Sclerophthora rayssiae var. *zeae*
Synchytrium endobioticum
Xanthomonas oryzae pv. *oryzicola*
Xylella fastidiosa (citrus variegated chlorosis strain)

(b) The Administrator has determined that it would be impractical to regulate a biological agent or toxin that is in its naturally occurring environment. Therefore, any biological agent or toxin listed in this section that is in its naturally occurring environment will not be subject to the requirements of this part, provided that the biological agent or toxin has not been intentionally introduced, cultivated, collected, or otherwise extracted from its natural source.
(c) The Administrator has determined that biological agents or toxins that meet any of the following criteria do not have the potential to pose a severe threat to plant health or to plant products. Therefore, an individual or entity that only possesses, uses, or transfers an agent or toxin that meets any of the following criteria will not be subject to the requirements of this part:
(1) Nonviable agents that are, bear, or contain listed agents or toxins;
(2) Genetic elements or subunits of listed agents or toxins, if the genetic elements or subunits are not capable of causing disease.

§331.4 Exemptions.

(a) Diagnostic laboratories [1] and other entities possessing, using, or transferring agents or toxins that are contained in specimens presented for diagnosis or verification will be exempt from the requirements of this part, provided that:

[1]However, diagnostic laboratories and other persons will still be required to obtain a permit under part 330 of this chapter in order to import or move interstate any listed agent or toxin.

(1) The identification of such agents or toxins is immediately reported to the Administrator and to other appropriate authorities when required by Federal, State, or local law; and

(2) Within 7 days after identification, the agents or toxins are transferred or inactivated, and APHIS Form 2040 is submitted to the Administrator. [2] During agricultural emergencies or outbreaks, or in endemic areas, the Administrator may require less frequent reporting. A copy of the completed form must be maintained for 3 years.

[2]A diagnostic laboratory or other person must immediately notify APHIS by calling (301) 734-5519. APHIS Form 2040 may be obtained by calling (301) 734-5519 or faxing a request to (301) 734-8700. The form is also available on the Internet at *http://www.aphis.usda.gov/ppq/permits.* The completed form may be mailed to Biological and Technical Services, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; or faxed to (301) 734-8700.

(b) In addition to the exemption provided in paragraph (a) of this section, the Administrator may grant a specific exemption upon a showing of good cause and upon his or her determination that such exemption is consistent with protecting animal or plant health, and animal or plant products. An individual or entity that possesses, uses, or transfers agents or toxins may request in writing an exemption from the requirements of this part. If granted, such exemptions are valid for a maximum of 3 years; thereafter, an individual or entity must request a new exemption. If a request for exemption is denied, an individual or entity may request reconsideration in writing to the Administrator. The request for reconsideration must state all of the facts and reasons upon which the individual or entity relies to show that the exemption was wrongfully denied. The Administrator will grant or deny the request for reconsideration as promptly as circumstances allow and will state, in writing, the reasons for the decision. If there is a conflict as to any material fact, the individual or entity may request a hearing to resolve the conflict. [3]

[3]A request for exemption may be mailed to biological and Technical Services, PPQ, APHIS, 4700 River road Unit 133, Riverdale, MD 20737-1236; or faxed to (301) 734-8700.

§331.5 Registration; who must register.

(a) Unless exempted under §331.4, any individual or entity that possesses, uses, or transfers any agent or toxin listed in §331.3 must register with APHIS.

(b) Each entity must designate an individual to be its responsible official. The responsible official must have the authority and control to ensure compliance with the regulations.

The responsible official must complete and sign the registration application package, and will be the individual contacted by APHIS if any questions arise concerning the application or subsequent compliance with the regulations in this part. As part of registration, the responsible official and the entity will be subject to a security risk assessment by the Attorney General. While most registrants are likely to be entities, in the event that an individual applies for and is granted a certificate of registration, APHIS will consider the individual to be the responsible official.
(c) An entity may designate an individual to be an alternate responsible official, who may act for the responsible official when he/she is unavailable. This individual must have the authority and control to ensure compliance with the regulations when acting for the responsible official. This individual will also be subject to a security risk assessment by the Attorney General as part of registration.

§331.6 Registration; general provisions.
(a) Unless exempted under this part, an individual or entity shall not possess, use, or transfer any agent or toxin listed in §331.3 without a certificate of registration issued by APHIS.
(b) A certificate of registration may be issued upon:
(1) Approval of the responsible official; the alternate responsible official, where applicable; the entity; and, where applicable, the individual who controls the entity following a security risk assessment by the Attorney General; [4] and
[4]The security risk assessment of the entity and the individual who owns or controls such entity may be waived for Federal, State, or local governmental agencies.
(2) Approval of the containment and security of the entity. The entity's containment and security procedures must be commensurate with the risk of the agent or toxin, given its intended use. APHIS will review the Bio-containment and Security Plan, and may inspect and evaluate the premises and records to determine compliance with the regulations and the containment and security requirements; and
(3) A determination by the Administrator that the individual or entity seeking to register has a lawful purpose to possess, use, or transfer such agents or toxins.
(c) A certificate of registration will be valid for only the specific agents or toxins listed on the certificate and specific activities and locations. A certificate of registration may cover more than one listed agent or toxin, and it may be amended to cover additional listed agents or toxins.
(d) A certificate of registration may be amended to reflect changed circumstances (*e.g.*, replacement of the responsible official, changes in ownership or control of the entity, [5] changes in the activities involving the agent or toxin). The responsible official must immediately notify APHIS of such changes in circumstances that occur after submission of the application for registration or after receipt of a certificate of registration.
[5]Any change in ownership or control of an entity will require a security risk assessment for the new individual(s) who owns or controls the entity.
(e) If a responsible official wishes to discontinue possessing, using, or transferring a particular agent or toxin, the responsible official may inactivate the agent or toxin or he/she may transfer the agent or toxin to a registered individuals or entities in accordance with §331.12. The responsible official must notify APHIS 5 business days prior to the

planned inactivation so that we may have the opportunity to observe the inactivation of the agents or toxins. We will notify the responsible official if we wish to observe the inactivation of the agents or toxins.
(f) A certificate of registration will be valid for a maximum of 3 years.

§331.7 Denial, revocation, or suspension of registration.
(a) APHIS may deny an application for registration or revoke registration if:
(1) The Attorney General identifies the responsible official, entity, or the individual who owns or controls the entity as within any of the categories described in 18 U.S.C. 175b; or
(2) The Attorney General identifies the responsible official, entity, or the individual who owns or controls the entity as reasonably suspected by any Federal law enforcement or intelligence agency of:
(i) Committing a crime set forth in 18 U.S.C. 2332b(g)(5); or
(ii) Knowing involvement with an organization that engages in domestic or international terrorism (as defined in 18 U.S.C. 2331) or with any other organization that engages in intentional crimes of violence; or
(iii) Being an agent of a foreign power as defined in 50 U.S.C. 1801; or
(3) The responsible official does not have a lawful purpose to possess, use, or transfer agents or toxins listed in §331.3; or
(4) The responsible official is an individual who handles or uses listed agents or toxins and he/she does not have the necessary training or skills to handle such agents or toxins; or
(5) The entity does not meet the containment and security requirements prescribed by the Administrator; [6] or
[6]If registration is denied for this reason, we may provide technical assistance and guidance.
(6) There are egregious or repeated violations of the containment or security requirements; or
(7) The Administrator determines that such action is necessary to protect animal or plant health, and animal or plant products.
(b) APHIS may summarily revoke or suspend registration for any of the reasons set forth in paragraph (a) of this section.
(c) APHIS will notify the responsible official in writing if an application for registration is denied or a certificate of registration is revoked or suspended.
(d) Denial of an application for registration, revocation of registration, and suspension of registration may be appealed under §331.16.

§331.8 Registration; how to register.
(a) To apply for a certificate of registration, an individual or entity must submit all of the information and documentation required in the registration application package to APHIS, including the name, source, and characterization data for each agent or toxin to be registered.

(b) The registration application package may be obtained by calling (301) 734-5519 or faxing a request to (301) 734-8700. It is also available on the Internet at *http://www.aphis.usda.gov/ppq/permits.* The completed registration application package may be mailed to APHIS, Plant Protection and Quarantine, Biological and Technical Services, 4700 River Road Unit 133, Riverdale, MD 20737-1236; or faxed to (301) 734-8700. Assistance in completing the registration application may be requested by calling (301) 734-5519.

§331.9 Responsibilities of the responsible official.

(a) The responsible official is responsible for ensuring compliance with the regulations, including:

(1) Developing and implementing a Bio-containment and Security Plan in accordance with §331.11;

(2) Allowing only approved individuals within the entity to have access to any agents or toxins listed in §331.3 in accordance with §331.10;

(3) Providing appropriate training in containment and security procedures for all personnel in accordance with §331.12;

(4) Transferring agents or toxins only to registered individuals or entities in accordance with §331.13;

(5) Ensuring that all visitors are informed of and follow the entity's security requirements and procedures;

(6) Notifying APHIS of changes in circumstances in accordance with §331.6;

(7) Providing timely notice of any theft, loss, or release of a biological agent or toxin in accordance with §331.16;

(8) Maintaining detailed records of information necessary to give a complete accounting of all of the activities related to agents or toxins listed in §331.3 in accordance with §331.14.

(b) In addition to the requirements in paragraph (a) of this section, the responsible official for a diagnostic laboratory or other entity possessing, using, or transferring agents or toxins listed in §331.3 that are contained in specimens presented for diagnosis must immediately report the identification of such agents or toxins to the Administrator and to other appropriate authorities when required by Federal, State, or local law. [7] During agricultural emergencies or outbreaks, or in endemic areas, the Administrator may require less frequent reporting.

[7] A diagnostic laboratory or other person must immediately notify APHIS by calling (301) 734-5519.

§331.10 Restricting access to biological agents and toxins.

(a) An individual may not have access to biological agents or toxins listed in §331.3 unless approved by APHIS. APHIS will grant, limit, or deny access of individuals to listed agents or toxins.

(b) The responsible official is responsible for ensuring that only approved individuals within the entity have access to any agents or toxins listed in §331.3. The responsible official must request such access for only those individuals who have a legitimate need to

handle or use listed agents or toxins, and who have the appropriate training and skills to handle such agents or toxins.
(c) The responsible official must provide appropriate training in containment and security procedures to all individuals with access to agents and toxins listed in §331.3, in accordance with §331.12.
(d) For each individual identified by the responsible official as having a legitimate need to handle or use listed agents or toxins, the responsible official must submit that individual's name and identifying information to APHIS and the Attorney General.
(e) In addition, the responsible official must submit information about the individual's training and skills to APHIS (*e.g.*, curriculum vitae for principal investigators and researchers, and a description of training completed by support personnel).
(f) APHIS may expedite the access approval process for individuals upon request by the responsible official and a showing of good cause (*e.g.*, agricultural emergencies, national security, impending expiration of a research grant, a short-term visit by a prominent researcher).
(g) APHIS will notify the responsible official if an individual is granted full or limited access, or denied access to listed agents or toxins. APHIS will also notify the individual if he/she is denied access or granted only limited access.
(h) APHIS may deny or limit access of an individual to listed agents or toxins if:
(1) The Attorney General identifies the individual as within any of the categories described in 18 U.S.C. 175b;
(2) The Attorney General identifies the individual as reasonably suspected by any Federal law enforcement or intelligence agency of committing a crime set forth in 18 U.S.C. 2332b(g)(5); knowing involvement with an organization that engages in domestic or international terrorism (as defined in 18 U.S.C. 2331) or with any other organization that engages in intentional crimes of violence; or being an agent of a foreign power as defined in 50 U.S.C. 1801;
(3) The individual does not have a legitimate need to handle listed agents or toxins;
(4) The individual does not have the necessary training or skills to handle listed agents or toxins;
(5) The Administrator determines that such action is necessary to protect plant health or plant products.
(i) An individual may appeal the Administrator's decision to deny or limit access under §331.15.
(j) Access approval is valid for 5 years; thereafter, the responsible official shall request renewal of access approval every 5 years for as long as the individual needs access to agents or toxins listed in §331.3.
(k) The responsible official must immediately notify APHIS when an individual's access to listed agents or toxins is terminated by the entity and the reasons therefore.

§331.11 Bio-containment and security plan.
(a) As a condition of registration, an individual or entity must develop and implement a Bio-containment and Security Plan. [8] The Bio-containment and Security Plan must contain sufficient information and documentation to describe the containment procedures

and the security systems and procedures. The plan must be commensurate with the risk of the agent or toxin, given its intended use.

[8]Technical assistance and guidance may be obtained by calling (301) 734-5519.

(1) *Containment procedures.* The containment procedures must be sufficient to contain the agent or toxin (*e.g.*, physical structure and features of the entity, and operational and procedural safeguards). At a minimum, the plan must address containment and inventory control.

(2) *Security systems and procedures.* [9] The security systems and procedures must be designed according to a site-specific risk assessment and must provide graded protection in accordance with the threat posed by the agent or toxin.

[9]For guidance, see the USDA Departmental Manual No. 9610-001, "USDA Security Policies and Procedures for Biosafety Level-3 Facilities" (August 30, 2002). The manual may be obtained by calling (301) 734-5519. The manual is also available on the Internet at *http://www.usda.gov/ocio/directives/DM/DM9610-001.htm. See* also Appendix F, "Biosafety in Microbiological and Biomedical Laboratories," in Morbidity and Mortality Weekly Report (2002). This document may be obtained by writing to Select Agent Program, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Mail Stop E 79, Atlanta, GA 30333. It is also available on the Internet at *http://www.cdc.gov/mmwr*.

(i) The site-specific risk assessment should involve a threat assessment and risk analysis in which threats are defined, vulnerabilities examined, and risks associated with those vulnerabilities are identified.

(ii) The security systems and procedures must be tailored to address site-specific characteristics and requirements, ongoing programs, and operational needs, and must mitigate the risks identified under paragraph (a)(2)(i) of this section.

(iii) The plan must describe inventory control procedures, personnel suitability for those individuals with access to agents or toxins listed in §331.3, physical security, and cyber-security. The plan must also contain provisions for securing the area (*e.g.*, card access, key pads, locks) and protocols for changing access numbers or locks following staff changes; procedures for loss or compromise of keys, passwords, combinations, etc.; procedures for reporting suspicious persons or activities, loss or theft of listed agents or toxins, release of listed agents or toxins, or alteration of inventory records; provisions for the control of access to containers where listed agents and toxins are stored; provisions for routine cleaning, maintenance, and repairs; and procedures for reporting and removing unauthorized persons.

(iv) With respect to areas containing listed agents or toxins, an entity or individual must adhere to the following security requirements or implement measures to achieve an equivalent or greater level of security as the provisions below:

(A) Allow unescorted access only to approved individuals who are performing a specifically authorized function during hours required to perform that job;

(B) Allow individuals not approved under §331.10 to conduct routine cleaning, maintenance, repairs, and other non-laboratory functions only when escorted and continually monitored by approved individuals;

(C) Provide for the control of access to containers where listed agents and toxins are stored by requiring that such containers be locked when not in the direct view of an approved individual and by using other monitoring measures, as needed;

(D) Require the inspection of all packages upon entry and exit;

(E) Establish a protocol for intra-entity transfers, including provisions for ensuring that the packaging and movement, is conducted under the supervision of an approved individual;
(F) Require that approved individuals do not share with any other person their unique means of accessing the area or listed agents or toxins; and
(G) Require that approved individuals immediately report any of the following to the responsible official:
(*1*) Any loss or compromise of keys, passwords, combinations, etc.;
(*2*) Any suspicious persons or activities;
(*3*) Any loss or theft of listed agents or toxins;
(*4*) Any release of a listed agent or toxin; and
(*5*) Any sign that inventory and use records for listed agents and toxins have been altered or otherwise compromised.
(3) *Incident response procedures.* [10] The Bio-containment and Security Plan must also include incident response plans for containment breach, security breach, inventory violations, non-biological incidents such as workplace violence, and cyber-security breach. The incident response plans must address containment, inventory control, and notification of managers and responders. The incident response plans must also address such events as bomb threats, severe weather (floods, hurricanes, tornadoes), earthquakes, power outages, and other natural disasters or emergencies.
[10]The requirements in this paragraph do not supercede or preempt the enforcement of emergency response requirements imposed by other statutes or regulations.
(b) The Bio-containment and Security Plan must be reviewed, performance tested, and updated annually. The plan must also be reviewed and revised, as necessary, after any incident.

§331.12 Training.
(a) The responsible official must provide appropriate training in containment and security procedures to all individuals with access to agents and toxins listed in §331.3.
(b) The responsible official must provide information and training to an individual at the time the individual is assigned to work with a listed agent or toxin. The responsible official must provide refresher training annually.

§331.13 Transfer of biological agents and toxins.
Biological agents and toxins listed in §331.3 may only be transferred to an individual or entity registered to possess, use, or transfer that particular agent or toxin. However, the sender of an agent or toxin may be an individual or entity that has a certificate of registration for the agent or toxin, an individual or entity that is exempt from the requirements of this part, or an individual or entity located outside of the United States. Biological agents or toxins may only be transferred under the conditions of this section and must be authorized by APHIS prior to the transfer.
(a) *Importation and interstate movement.* In addition to the permit required under part 330 of this chapter, biological agents or toxins listed in §331.3 may be imported or moved interstate only with the prior authorization of APHIS. To obtain such

authorization, the sender and the responsible official for the recipient must complete and submit APHIS Form 2041 to APHIS, in accordance with paragraph (c) of this section.
(b) *Intrastate movement*. Biological agents or toxins listed in §331.3 may be moved intrastate only with the prior authorization of APHIS. To obtain authorization, the sender and the responsible official for the recipient must complete and submit APHIS Form 2041 to APHIS prior to each transfer, in accordance with paragraph (c) of this section.
(c) *APHIS Form 2041; process and procedures.* (1) Prior to each transfer, the sender and the responsible official for the recipient must complete APHIS Form 2041, and the sender must submit the form to APHIS. [11]
[11]APHIS Form 2041 may be obtained by calling (301) 734-5519 or faxing a request to (301) 734-8700. The form is also available on the Internet at *http://www.aphis.usda.gov/ppq/permits.* APHIS Form 2041 may be mailed to Biological and Technical Services, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; or faxed to (301) 734-8700.
(2) APHIS will authorize the transfer based on a finding that the recipient has a certificate of registration covering the transfer of the listed agent or toxin.
(3) The responsible official for the recipient entity must notify APHIS and the sender upon receipt of the agent or toxin by mailing or faxing a completed APHIS Form 2041 within 2 business days.
(4) The responsible official for the recipient must notify APHIS immediately if the agent or toxin has not been received within 48 hours after the expected delivery or if the package containing the agent or toxin is leaking or has been damaged.
(d) The sender must comply with all applicable laws governing packaging and shipping.

§331.14 Records.
(a) The responsible official must maintain complete, up-to-date records of information necessary to give an accounting of all of the activities related to agents or toxins listed in §331.3. Such records must include the following:
(1) The Bio-containment and Security Plan;
(2) A current list of all individuals with access to agents or toxins listed in §331.3;
(3) Training records for individuals with access to such agents or toxins;
(4) Accurate and current inventory records (including source and characterization data);
(5) Permits and transfer documents (APHIS Form 2041) issued by APHIS;
(6) Security records (*e.g.*, transactions from automated access control systems, testing and maintenance of security systems, visitor logs); and
(7) Containment and security incident reports.
(b) The responsible official must maintain such records for 3 years.
(c) All records must be produced upon request to APHIS inspectors, and appropriate Federal, State, or local law enforcement authorities.

§331.15 Inspections.
(a) To ensure compliance with the regulations, any APHIS inspector must be allowed, without previous notification, to enter and inspect the entire premises, all materials and equipment, and all records required to be maintained by this part.

(b) Prior to issuing a certificate of registration to an entity or individual, APHIS may inspect and evaluate their premises and records to ensure compliance with the regulations and the containment and security requirements.

§331.16 Notification in the event of theft, loss, or release of a biological agent or toxin.

(a) The responsible official must orally notify APHIS and appropriate Federal, State, or local law enforcement agencies immediately upon discovery of the theft or loss of agents or toxins listed in §331.3. The oral notification must be followed by a written report (APHIS Form 2043) within 7 days.

(b) The responsible official must orally notify APHIS immediately upon discovery that a release of an agent or toxin has occurred outside of the bio-containment area. The oral notification must be followed by a written report (APHIS Form 2043) within 7 days. Upon notification and a finding that the release poses a threat to animal or plant health, or animal or plant products, APHIS will notify relevant Federal, State, and local authorities, and the public, if necessary.

(c) The responsible official must orally notify APHIS of a theft, loss, or release of an agent or toxin by calling (301) 734-5519. A copy of APHIS Form 2043 may be obtained by writing to Biological and Technical Services, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236, or by calling (301) 734-5519. APHIS Form 2043 may be mailed to the same address or faxed to (301) 734-8700.

§331.17 Administrative review.

An individual or entity may appeal a denial or revocation of registration under this part. An individual who has been denied access to listed agents or toxins or who has been granted only limited access to listed agents or toxins under this part may appeal that decision. [12] The appeal must be in writing and submitted to the Administrator within 30 days of the decision. The appeal must state all of the facts and reasons upon which the individual or entity disagrees with the decision. Where the denial or revocation of registration or the denial or limitation of an individual's access approval is based solely upon an identification by the Attorney General, APHIS will forward the request for review to the Attorney General. The Administrator's decision constitutes final agency action.

[12] An entity may not appeal the denial or limitation of an individual's access to listed agents or toxins.

ANNEX I

SPECIFIC TEMPLATE REGULATIONS:

(SEE EACH)

Regulation 6: Olives

OLIVES

Subpart -- Order Regulating Handling

DEFINITIONS

Sec.

OLIVE ADMINISTRATIVE COMMITTEE

EXPENSES AND ASSESSMENTS

RESEARCH AND DEVELOPMENT

REGULATIONS

REPORTS AND RECORDS

MISCELLANEOUS PROVISIONS

Subpart -- Rules and Regulations

Subpart -- Assessment Rates

Authority: 7 U.S.C. 601-674.

Source: 30 FR 12629, Oct. 2, 1965, unless otherwise noted.

Subpart -- Order Regulating Handling

Definitions

§932.1 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture who is or who may hereafter be authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§932.2 Act.

Act means Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601-674).

§932.3 Person.
Person includes an individual, partnership, corporation, association, or any other business unit.

§932.4 Area.
Area means the State of California.

§932.5 Olives.
Olives means the fruit of any variety of the species olea europaea, whether or not processed, grown within the area.

§932.6 Variety group 1.
Variety group 1 means the following varieties and any mutations, sports, or other derivations of such varieties: Aghizi Shami, Amellau, Ascolano, Ascolano dura, Azapa, Balady, Barouni, Carydolia, Cucco, Gigante di Cerignola, Gordale, Grosane, Jahlut, Polymorpha, Prunara, Ropades, Sevillano, Saint Agostino, Tafahi, and Touffahi.

§932.7 Variety group 2.
Variety group 2 means the following varieties and any mutations, sports, or other derivations of such varieties: Manzanillo, Mission, Nevadillo, Obliza, Redding Picholine.

§932.8 Natural condition olives.
Natural condition olives mean olives in their fresh harvested state, whether or not placed in water or other preserving medium.
[33 FR 11266, Aug. 8, 1968]

§932.9 Packaged olives.

Packaged olives means (a) processed olives in hermetically sealed containers and heat sterilized under pressure, otherwise known as *canned ripe olives* and including the three distinct types, *ripe, green ripe,* and *tree-ripened*; or (b) olives, packed in brine, and which have been fermented and cured, otherwise known as *green olives.*

§932.10 Lot.

Lot means the total net weight of natural condition olives of any one variety delivered to a handler at any one time.

§932.11 Grade.
Grade means the classification of olives as to quality according to the grading specifications established pursuant to the provisions of this part.

§932.12 Size.
Size means the number of whole olives contained in a pound and may be referred to in terms of size ranges.

§932.13 Size-grade.
Size-grade means to classify olives, or to cause olives to be classified, by sample or otherwise, into separate size designations.

§932.14 Process.
Process means to change olives in any way from their natural condition by any commercial process.

§932.15 Handler.
Handler means any person who handles olives.

§932.16 Handle.
Handle means to: (a) Size-grade olives, (b) process olives, or (c) use processed olives in the production of packaged olives, within the production area, or (d) ship packaged olives from the area to any point outside thereof or within the area: *Provided,* This term shall not include natural condition olives acquired and (1) used for olive oil, salt cured oil coated olives (also variously referred to as "Greek Olives," "Greek Style Olives," or "Oil Cured Olives"), or Sicilian Style Olives, or (2) shipped to fresh market outlets.
[36 FR 20356, Oct. 21, 1971]

§932.17 Producer.

Producer means any person engaged in a proprietary capacity in the production of olives for market as packaged olives.

§932.18 Committee.
Committee means the California Olive Committee established pursuant to §932.25.

§932.19 Crop year and fiscal year.

(a) *Crop year* means the 12-month period beginning on August 1 of each year and ending on July 31 of the following year or such other period that may be recommended by the committee and approved by the Secretary.
(b) *Fiscal year* means the 12-month period beginning on January 1 and ending on December 31 of each year or such other period that may be recommended by the committee and approved by the Secretary.
[47 FR 32906, July 30, 1982]

§932.20 Part and subpart.

Part means the Order Regulating the Handling of Olives Grown in California and all rules and regulations, and supplementary orders issued thereunder. The aforesaid Order Regulating the Handling of Olives Grown in California shall be a *subpart* of such part.

§932.21 District.
District means any of the following geographical areas of the State of California:
(a) *District 1* shall include the counties of Glenn, Tehama, and Shasta.
(b) *District 2* shall include the counties of Mono, Mariposa, Merced, San Benito, Monterey, Madera, Fresno, Tulare, and all counties to the south thereof.
(c) *District 3* shall include all counties not included in Districts 1 and 2.

§932.22 Sublot.
Sublot means a quantity of olives resulting from the separation by the handler of a lot into two or more parts.
[36 FR 20356, Oct. 21, 1971]

§932.23 Undersize olives and limited use size olives.

Undersize olives means olives of a size which, pursuant to §932.51(a)(3), shall be disposed of in non-canning use; and *limited use size olives* means processed olives of any size which, pursuant to §932.52(a)(3), is authorized for limited use.
[36 FR 20356, Oct. 21, 1971, as amended at 47 FR 32906, July 30, 1982]

§932.23a Limited use.

Limited use means the use of processed olives in the production of packaged olives of the halved, segmented (wedged), sliced, or chopped styles, as defined in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR part 52) or subsequent amendments thereto, including modifications of the requirements for such styles pursuant to this part, and such additional styles (and the requirements applicable thereto) as may be specified pursuant to §932.52(a)(7).

[47 FR 32906, July 30, 1982]

§932.24 Non-canning use.

Non-canning use means the use of olives other than in the production of canned ripe olives, and is the authorized outlet for undersize olives and the limited use size olives which, pursuant to §932.52(b), are not permitted for limited use in any crop year in which limited use is restricted to less than the available quantity of limited use size olives.
[36 FR 20356, Oct. 21, 1971]

Olive Administrative Committee

§932.25 Establishment and membership.
A California Olive Committee consisting of 16 members is hereby established to administer the terms and provisions of this part. Each member shall have an alternate who meets the same qualifications as the member. Eight of the members and their alternates shall be producers or officers or employees of producers, and eight of the members and their alternates shall be handlers or directors, officers, or employees of handlers. The eight members of the committee who are producers or officers or employees of producers are referred to in this subpart as "producer members" of the committee; and the eight members of the committee who are handlers or directors, officers, or employees of handlers are referred to in this subpart as "handler members" of the committee. The committee may be increased by one public member who shall not be a producer or handler of olives nor an officer or employee or director of any producer or handler of olives. District representation of the producer members shall be two from District 1, four from District 2, and two from District 3. Allocation of the handler members shall be four members to represent cooperative marketing organizations, herein referred to as "cooperative handlers", and four members to represent handlers who are not cooperative marketing organizations, herein referred to as "independent handlers": *Provided,* That whenever during the crop year in which nominations are made and in the preceding crop year, the cooperative handlers or the independent handlers handled as first handler 65 percent or more of the total quantity of olives so handled by all handlers, allocation shall be five members to represent the group which so handled 65 percent or more of such olives and three members to represent the group which handled 35 percent or less. The public member and alternate public member shall be selected from any place within the area. The committee may, with the approval of the Secretary, provide such other allocation of producer or handler membership, or both, as may be necessary to assure equitable representation.
[47 FR 32907, July 30, 1982]

§932.26 Term of office.

The term of office of members and alternate members of the committee shall be 2 years beginning on June 1 and ending on May 31 of odd numbered years: *Provided*, That the term of office of initial members and alternate members shall begin on the effective date of this subpart. Each such member and alternate member shall serve during that portion of the term of office for which he is selected and has qualified and shall continue to serve until his successor is selected and has qualified.

§932.27 Selection.

Selection of members of the committee, and their respective alternates, shall be made in the appropriate numbers specified in §932.25 by the Secretary from nominees nominated pursuant to this part or, in the discretion of the Secretary, from other persons eligible for nominations for such positions.

§932.28 Eligibility.

Each producer member of the committee shall, at the time of selection and during the member's term of office, be a producer in the district for which selected, and except for producers who are members of cooperative handlers shall not be engaged in the handling of olives either in a proprietary capacity, or as a director, officer, or employee. Each handler member of the committee shall, at the time of selection and during the member's term of office, be a handler in the group that the member represents or a director, officer, or employee of such handler. The public member and alternate public member of the committee shall not at the time of selection and during the term of office be engaged in or have a financial interest in the commercial production, marketing, buying, grading, or processing of olives, nor shall such member or alternate be an officer, director, member, or employee of any firm engaged in such activities.
[47 FR 32907, July 30, 1982]

§932.29 Nominations.

(a) *Producer members.* (1) Nominations for producer members of the committee, and their respective alternates, may be conducted according to the following procedures, or other procedures recommended by the committee and approved by the Secretary:
(i) Meetings shall be held in each producer district for the purpose of selecting candidates for the member and alternate member nominations;
(ii) Those candidates selected at the producer meetings shall be nominated by mail balloting of producers in that district;
(iii) The committee shall adopt, with approval of the Secretary, appropriate procedures to be observed for conducting producer nominations by mail: *Provided*, That the names of nominees shall be submitted to the Secretary prior to April 16 of the year in which nominations are made.
(2) Only producers, including duly authorized officers or employees of producers, shall participate in the nomination of producer members and alternate members. Each producer shall be entitled to cast only one vote for each nominee to be selected in the district in which the producer produces olives. No producer shall participate in the selection of

nominees in more than one district. If a producer produces olives in more than one district, such producer shall select the district in which such producer will so participate and notify the committee of such choice.
(b) *Handler members.* (1) At a meeting or meetings called by the committee, the cooperative handlers shall nominate a qualified person for each member position and a qualified person for each alternate member position allocated to cooperative handlers as provided in §932.25.
(2) At a meeting or meetings called by the committee, the independent handlers shall nominate a qualified person for each member position and a qualified person for each alternate member position allocated to independent handlers as provided in §932.25.
(3) Each handler shall be entitled to cast only one vote for each nominee for cooperative handler member or alternate member or independent handler member or alternate member, as the case may be, which vote shall be weighed by the tonnages of olives handled by such handler during the crop year in which nominations are made and in the previous crop year.
(c) *Public member.* Nominations for the public member and alternate public member of the committee shall be submitted to the Secretary prior to April 16 of the year in which nominations are made. The committee shall prescribe procedures for the selection and voting for each candidate.
[33 FR 11266, Aug. 8, 1968, as amended at 47 FR 32907, July 30, 1982]

§932.30 Alternates.

An alternate for a member of the committee shall act in the place and stead of such member (a) during such member's absence, and (b) in the event of such member's removal, resignation, disqualification or death, until a successor for such member's unexpired term has been selected and has qualified. Except as otherwise specifically provided in this subpart, the provisions of this part applicable to members also apply to alternate members. The committee or the chairman of the committee may request one or more alternates to attend any or all meetings notwithstanding the expected or actual attendance of the respective member or members.
[47 FR 32907, July 30, 1982]

§932.31 Failure to nominate.

If nominations for any position on the committee are not received by the Secretary by May 1 of the year in which nominations are to be made, the Secretary may select an eligible individual without regard to nomination.

§932.32 Acceptance.
Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§932.33 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member, or as an alternate member of the committee to qualify, or in the event of the removal, resignation, disqualification, or death of any member or alternate member, a successor for such person's unexpired term shall be nominated and selected in the manner set forth in §932.29 insofar as such provisions are applicable. If nomination to fill any such vacancy is not made within 60 calendar days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, but on the basis of the applicable representations and qualifications set forth in §§932.25, 932.27, and 932.28.

§932.34 Powers.

The committee shall have the following powers:
(a) To administer this subpart in accordance with its terms and provisions;
(b) To make rules and regulations to effectuate the terms and provisions of this subpart;
(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this subpart; and
(d) To recommend to the Secretary amendments to this subpart.

§932.35 Duties.

The committee shall have, among others, the following duties:
(a) To act as intermediary between the Secretary and any producer or handler;
(b) To keep minutes, books, and other records, which shall clearly reflect all of its acts and transactions, and such minutes, books, and other records shall be subject to examination by the Secretary at any time;
(c) To make, subject to approval by the Secretary, scientific and other studies, and assemble data on the producing, handling, shipping, and marketing conditions relative to olives, which are necessary in connection with the performance of its official duties;
(d) To submit to the Secretary such available information with respect to olives as he may request or as the committee may deem desirable and pertinent;
(e) To select, from among its members, a chairman and other officers, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;
(f) To appoint or employ such other persons as it may deem necessary, and to determine the salaries and define the duties of each such person;
(g) To submit to the Secretary, prior to the beginning of each fiscal year and not later than December 15, a budget of the anticipated expenses of the committee and the proposed assessment rate for such fiscal year, together with a report thereon.
(h) To cause the books of the committee to be audited by one or more certified public accountants at least once each fiscal year, and at such other times as the committee may deem necessary or as the Secretary may request. The report of each such audit shall show, among other things, the receipts and expenditures of funds, and at least two copies of each such audit report shall be submitted to the Secretary.

(i) To prepare monthly statements of its financial operations and make such statements, together with the minutes of its meetings, available at the office of the committee for inspection by any producer or handler, and to submit copies of such statements and minutes to the Secretary;
(j) To give reasonable advance notice of each meeting by mail addressed to each member, and such notice shall be given as widespread publicity as practicable. The same notice of meetings given to members shall be given to the Secretary;
(k) With the approval of the Secretary, to redefine the districts into which the area has been divided in §932.21 and to reapportion the membership in accordance therewith: *Provided,* That any such changes reflect insofar as practicable shifts in olive acreage within the districts and area, the numbers of growers in the districts, the tonnage produced, and are equitable as to producers; and
(l) To investigate compliance with the provisions of this part.
[30 FR 12629, Oct. 2, 1965, as amended at 33 FR 11266, Aug. 8, 1968; 47 FR 32907, July 30, 1982]

§932.36 Procedure.

Decisions of the committee shall be by majority vote of the members present and voting, and a quorum must be present: *Provided,* That decisions requiring a recommendation to the Secretary on matters pertaining to grade and size regulations shall require at least 10 affirmative votes, at least 5 of which must be from producer members and at least 5 of which must be from handler members and, if the committee is increased by the addition of a public member, at least 11 affirmative votes shall be required, at least 5 of which must be from producer members and at least 5 of which must be from handler members. A quorum shall consist of at least 10 members of whom at least 5 shall be producer members and at least 5 shall be handler members and, if the committee is increased by the addition of a public member, a quorum shall consist of at least 11 members of which at least 5 shall be producer members and at least 5 shall be handler members. Except in case of an emergency, a minimum of 5 days advance notice shall be given with respect to any meeting of the committee. In case of an emergency, to be determined within the discretion of the chairman of the committee, as much advance notice of a meeting as is practicable in the circumstances shall be given. The committee may vote by mail or telegram upon due notice to all members, but any proposition to be so voted upon first shall be explained accurately, fully, and identically by mail or telegram to all members. When voted on by such method, at least 14 affirmative votes, of which seven shall be producer member votes and seven shall be handler member votes, shall be required for adoption and, if the committee is increased by the addition of a public member, votes by mail or telegram shall require at least 15 affirmative votes, of which at least 7 shall be producer member votes and at least 7 shall be handler member votes. The committee may recommend for the Secretary's approval changes in the number of affirmative votes required for adoption of any proposition voted upon by means of a mail or telegram ballot: *Provided,* That the number of affirmative votes required for adoption shall not be less than ten, and in any case an equal number of producer member and handler member votes shall be required for adoption and, if the committee is increased by the addition of a

public member, the number of affirmative votes required for adoption shall be increased by one.
[47 FR 32908, July 30, 1982]

§932.37 Compensation and expenses.

The members of the committee and alternates when acting as members or at the request of the committee or its chairman shall serve without compensation, but shall be reimbursed for necessary expenses, as approved by the committee, incurred by them in the performance of their duties under this part.
[47 FR 32908, July 30, 1982]

Expenses and Assessments

§932.38 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part. The funds to cover such expenses shall be acquired in the manner prescribed in §932.39.

§932.39 Assessments.

(a) As each handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal year, each handler who first handles olives during the current crop year shall pay to the committee, upon demand, assessments less any amounts which may be credited pursuant to §932.45, on all olives to be used in the production of packaged olives, including olives to be used in canned ripe olives of the "tree-ripened" type or green olives when such are regulated as packaged olives pursuant to §932.52. The payment of assessments for maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.
(b) The Secretary shall fix the rate of assessment to be paid by each such handler during a fiscal year in an amount designed to secure sufficient funds to cover the expenses which may be incurred during such period. At any time during or after the fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses that may be incurred. Such increase shall be applied to all olives handled during the applicable crop year. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal year before sufficient operation income is available from assessments, the

committee may accept the payment of assessments in advance, and may also borrow money for such purpose.
(c) Any assessment not paid by a handler within a period of time prescribed by the committee may be subject to an interest or late payment charge, or both. The period of time, rate of interest and late payment charge shall be as recommended by the committee and approved by the Secretary. Subsequent to such approval, all assessments not paid within the prescribed period of time shall be subject to an interest or late payment charge or both.
[47 FR 32908, July 30, 1982, as amended at 47 FR 51093, Nov. 12, 1982]

§932.40 Accounting.

(a) If, at the end of a fiscal year, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:
(1) If such excess is not retained in a reserve as provided in paragraph (a)(2) of this section, the committee shall refund or credit to handler accounts the aforesaid excess. Each handler's share of such excess funds shall be the amount of assessments such handler has paid in excess of such handler's pro rata share of the actual net expenses of the committee for such fiscal year. Excess funds may be used temporarily by the committee to defray expenses of the subsequent fiscal year: *Provided,* That each handler's share of such excess shall be made available to the handler by the committee within five months after the end of the fiscal year.
(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal years as a reserve: *Provided,* That funds already in the reserve do not exceed approximately one fiscal year's expenses. Such reserve funds may be used for any expenses authorized pursuant to §932.38 and for necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practicable, such funds shall be returned pro rata to the persons from whom such funds were collected.
(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.
(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.
[30 FR 12629, Oct. 2, 1965, as amended at 47 FR 32908, July 30, 1982]

Research and Development

§932.45 Production research and marketing research and development projects.

(a) The following activities of the committee are authorized under this section.

(1) The committee may, with the approval of the Secretary, establish or provide for the establishment of production research, and marketing research and development projects designed to assist, improve or promote the marketing, distribution, and consumption or efficient production of California olives. Such projects may provide for any marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of California olives. Such projects may provide for any form of marketing promotion including paid advertising. The expenses of such research and projects shall be paid from funds collected pursuant to §932.39 or from voluntary contributions. Voluntary contributions may be accepted by the committee only to pay the expenses of such projects: *Provided,* That the committee shall retain complete control over the use of such contributions that shall be free from any encumbrances.

(2) The committee, with the approval of the Secretary, may provide for crediting a portion of a handler's direct expenditures for paid brand advertising for olives. Such expenditures may include, but are not limited to, money spent for advertising space in magazines, newspapers, outdoor media and transit or time charges for radio and television. No handler shall receive credit in excess of such handler's pro rata share of the total monies allotted by the committee for brand advertising credit. Each advertisement must be published, broadcast or displayed during the fiscal year for which credit is requested. Before any creditable brand advertising may be undertaken pursuant to this paragraph (a)(2) of this section, the Secretary, upon recommendation by the committee, shall prescribe appropriate rules and regulations as are necessary to effectively regulate such activity.

(b) In recommending marketing research and development projects pursuant to this section, the committee shall give consideration to the following factors:

(1) The expected supply of olives in relation to market requirements;

(2) The supply situation among competing areas and commodities; and

(3) The need for marketing research with respect to any marketing development activity and the need for a coordinated effort with USDA's Plentiful Food Program.

(c) In recommending production research projects pursuant to this section, the committee shall give consideration to the extent and need for assistance to, and improvement of California olive production.

(d) If the committee should conclude that a program of production research, marketing research, or development should be undertaken or continued pursuant to this section in any fiscal year, it shall submit the following for the approval of the Secretary:

(1) Its recommendations as to funds to be obtained pursuant to §932.39 or voluntary contributions;

(2) Its recommendations as to any production research or marketing research project; and

(3) Its recommendation as to promotion activity and paid advertising.

(e) The committee shall, as soon as practicable, prepare and mail reports on current production research and marketing research and development projects to the Secretary and make a copy of such reports available at the committee office for examination by producers, handlers, or other interested parties.
[36 FR 20356, Oct. 21, 1971, as amended at 47 FR 32908, July 30, 1982; 47 FR 51093, Nov. 12, 1982]

Regulations

§932.50 Report of marketing policy.

At least 14 days prior to the start of each crop year (except that this period may be shortened by the committee not more than 5 days if warranted), the committee shall hold a meeting for the purpose of formulating a marketing policy for the coming crop year: *Provided,* That with respect to the 1982-83 crop year the committee shall hold a meeting for such purpose as soon as practicable. The committee shall prepare and submit to the Secretary promptly after each such meeting, a report setting forth its recommended marketing policy for the ensuing crop year. In the event it becomes advisable to modify such policy, because of changed supply, demand, or other conditions, the committee shall formulate a new policy and shall submit a report thereon to the Secretary. In developing the marketing policy, the committee shall give consideration to the handler carryover, production, probable quality and composition of olive sizes in the crop, trade demand, probable imports, whether producer prices are likely to exceed parity, the probable assessable tonnage and such other factors as may have a bearing on the marketing of olives or the administration of this part. Notice of the committee's marketing policy, and of any modifications thereof, shall be given promptly by reasonable publicity to producers and handlers.
[30 FR 12629, Oct. 2, 1965, as amended at 47 FR 32908, July 30, 1982]

§932.51 Incoming regulations.

(a) *Minimum standards for natural condition olives.* (1) Except as otherwise provided in this section, no handler shall process any lot of natural condition olives for use in the production of packaged olives which has not first been:
(i) Weighed on scales sealed by the State of California Department of Weights and Measures, an official certified weight certificate issued thereon, and a copy of such certificate furnished to the Federal or Federal-State Inspection Service and the committee; and
(ii) Size-graded, either by sample or by lot, under the supervision of any such inspection service and classified into separate size designations and a certification issued with respect thereto by such inspection service. Such size designations shall be in accordance with those set forth in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR part 52) or subsequent amendments thereto, or such sizes as may be recommended by the committee and established by the Secretary: *Provided,* That, for the purpose of this part, the size designations in said standards shall be deemed to include the following additional size designations.

Designation(s)	Approximate count (per pound)	Average count range (per pound)
Subpetite		181 and up.
Petite	160	141-180, inclusive.
Extra Large Sevillano ``L''	82	76-88, inclusive.
Extra Large Sevillano ``C''	70	65-75, inclusive.

Provided further, That the additional size designations may be renamed and/or modified as recommended by the committee and approved by the Secretary. Such certification shall show, in addition to the quantities by weight of the olives in the lot that are classified as being in each size or size designation the quantity of olives classified as culls by the handler: *Provided,* That when the Secretary, upon the recommendation of the committee, issues a definition of and classification for "culls", the aforesaid quantity of culls shall be determined on the basis of such definition and in accordance with such classification.

(2) Each handler may satisfy the incoming and outgoing size requirements for any lot of olives under the conditions set forth in subdivisions (i), (ii), and (iii) of this paragraph: *Provided,* That any such lot shall be kept intact under surveillance by the inspection services:

(i) When the Secretary authorizes use of limited size olives for limited use styles during any crop year, any lot of limited use size olives may be used in the production of packaged olives for limited use styles without an outgoing inspection if such olives are within the following average count range for that variety group, and meet such further size requirements as recommended by the committee with the approval of the Secretary:

Variety	Average count range (per pound)
Group 1, except Ascolano, Barouni, and St. Agostino.	76-88, inclusive.
Group 1, Ascolano, Barouni and St. Agostino.	89-140, inclusive.
Group 2, except Obliza	141-180, inclusive.
Group 2, Obliza	128-140, inclusive.

Provided, That the varietal groupings and/or average count ranges may be changed, and additional size certification procedures and requirements may be established as recommended by the committee and approved by the Secretary;

(ii) When limited use size olives are not authorized for limited use styles during any crop year, any lot of the minimum canning size olives may be used in the production of packaged olives for limited use styles without an outgoing inspection for size if such olives are within the following average count range for that variety group, and meet such further size requirements as recommended by the committee with approval of the Secretary:

Variety	Average count range (per pound)
Group 1, except Ascolano, Barouni, and St. Agostino.	65-75, inclusive.
Group 1, Ascolano, Barouni and St. Agostino.	65-88, inclusive.
Group 2, except Obliza.....	128-140, inclusive.
Group 2, Obliza.....	106-121, inclusive.

Provided, That for whole and whole pitted styles of olives an additional size grading is required after processing, prior to canning, and those olives that fail to meet the requirements in §932.52 may be used in limited use styles. *Provided further,* That the varietal groupings, average count ranges, and/or other size requirements may be changed or modified as recommended by the committee and approved by the Secretary;
(iii) The committee may recommend, subject to approval by the Secretary, size certification procedures for olives used in the production of canned whole or pitted styles of olives: *Provided,* That if size certification for canned whole or pitted styles is implemented, marketing order sizes shall be adopted and size requirements in the U.S. Grade Standards shall not apply. Size certification of such styles shall be applicable to any or all sizes of olives recommended by the committee and approved by the Secretary pursuant to §932.52(a)(2). Size certification procedures recommended to the Secretary may include but are not limited to the establishment of average count ranges, acceptable count ranges, and approximate counts (midpoints) for each variety or variety group.
(3) Each handler shall, under the supervision of any such inspection service, dispose of into non-canning use an aggregate quantity of olives, comparable in size and characteristics and equal to the quantities shown on the certification for each lot to be:
(i) Variety Group 1 olives, except the Ascolano, Barouni, and St. Agostino varieties, of a size which individually weigh less than 1/90 pound;
(ii) Variety Group 1 olives of the Ascolano, Barouni, and St. Agostino varieties of a size which individually weigh less than 1/140 pound;
(iii) Variety Group 2 olives, except the Obliza variety, of a size which individually weigh less than 1/180 pound;
(iv) Variety Group 2 olives of the Obliza variety of a size which individually weigh less than 1/140 pound;
(v) Such other sizes for the foregoing variety groups as are not authorized for limited use pursuant to §932.52; and

(vi) Olives classified as culls.
(4) Notwithstanding the provisions of paragraph (a)(3) of this section, a handler may (i) meet any deficit in such handler's undersize obligation in one variety by disposing of, under supervision of the inspection service, as other than canned ripe olives, an equal quantity of undersize olives, of any other variety, or by so disposing of an equal quantity of olives of that or any other variety of sizes larger than undersize of a quality better than culls, and (ii) meet any deficit in such handler's cull obligation in one variety by so disposing of an equal quantity of cull olives of any other variety, or by so disposing of an equal quantity of olives of any variety of sizes larger than undersize of a quality better than culls.
(5) Each handler shall hold at all times a quantity of olives equal to the quantities required in paragraph (a)(3) of this section, less any quantity previously disposed of as specified in such subparagraph.
(b) Whenever a handler receives a lot of natural condition olives, or makes a separation resulting in a sublot, solely for use in the production of green olives or canned ripe olives of the "tree-ripened" type, he may handle such lot or sublot without regard to the provisions of this section and §932.52 only if (1) he notifies the committee upon receiving such a lot or making such a separation; (2) the identity of all such lots and sublots of olives is maintained by keeping them separate and apart from other olives he receives; (3) the packaged olives produced from such lots and sublots after processing are canned ripe olives of the "tree-ripened" type or green olives; and (4) there are no outgoing regulations pursuant to §932.52 then applicable to packaged olives that are canned ripe olives of the "tree-ripened" type or green olives.
[30 FR 12629, Oct. 2, 1965, as amended at 33 FR 11267, Aug. 8, 1968; 36 FR 20356, Oct. 21, 1971; 47 FR 32909, July 30, 1982]

Effective Date Note: At 56 FR 49669, Oct. 1, 1991, in §932.51, paragraphs (a)(3) (i), (ii), (iii), (iv) and the words "for the foregoing variety groups" in paragraph (a)(3)(v) were suspended indefinitely.

§932.52 Outgoing regulations.
(a) *Minimum standards for packaged olives.* No handler shall use processed olives in the production of packaged olives or ship such packaged olives unless they have first been inspected as required pursuant to §932.53 and meet each of the following applicable requirements:
(1) Canned ripe olives, other than those of the "tree-ripened" type, shall grade at least U.S. Grade C as such grade is defined in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR part 52) or subsequent amendments thereto, or as modified by the committee, with approval of the Secretary, for purposes of this part.
(2) Except as provided in §932.51(a) (1) and (2), canned whole ripe olives, other than those of the "tree-ripened" type, shall conform to the single size designations set forth in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR part 52) or subsequent amendments thereto, or as modified by the committee, with the approval of the Secretary, and shall be of a size not smaller than the following applicable size requirements,

tolerances and percentages: *Provided,* That the Secretary, on the basis of a recommendation of the committee or other available information, may change such sizes, tolerances or percentages:
(i) With respect to variety group 1 olives, except the Ascolano, Barouni, and St. Agostino varieties, the individual fruits shall each weigh no less than 1/75 pound, except that (A) for olives of the extra large size designation, not more than 25 percent, by count, of such olives may weigh less than 1/75 pound each including not more than 10 percent, by count, of such olives that weigh less than 1/82 pound each; and (B) for olives of any designation except the extra large size, not more than 5 percent, by count, of such olives may weigh less than 1/75 pound each;
(ii) With respect to variety group 1 olives of the Ascolano, Barouni and St. Agostino varieties, the individual fruits shall each weigh not less than 1/88 pound except that (A) for olives of the extra large size designation, not more than 25 percent, by count, of such olives may weigh less than 1/88 pound each including not more than 10 percent, by count, of such olives that weigh less than 1/98 pound each, and (B) for olives of any size designation, except the extra large size, not more than 5 percent, by count, of such olives may weigh less than 1/88 pound each;
(iii) With respect to variety group 2 olives, except the Obliza variety, the individual fruits shall each weigh not less than 1/140 pound except that (A) for olives of the small size designation, not more than 35 percent, by count, of such olives may weigh less than 1/140 pound each including not more than 7 percent, by count, of such olives that weigh less than 1/160 pound each; and (B) for olives of any size designation, except the small size, not more than 5 percent, by count, of such olives may weigh less than 1/140 pound each; and
(iv) With respect to Variety Group 2 olives of the Obliza variety, the individual fruits shall each weigh not less than 1/121 pound except that (*a*) for olives of the medium size designation, not more than 35 percent, by count, of such olives may weigh less than 1/121 pound each including not more than 7 percent, by count, of such olives that weigh less than 1/135 pound each; and (*b*) for olives of any size designation, except the medium size, not more than 5 percent, by count, of such olives may weigh less than 1/121 pound each.
(3) Subject to the provisions set forth in paragraph (a)(4) of this section and §932.51(a) (1) and (2), processed olives to be used in the production of canned pitted ripe olives, other than those of the "tree-ripened" type, shall meet the same requirements as prescribed pursuant to paragraph (a)(2) of this section: *Provided,* That olives smaller than those so prescribed, as recommended annually by the committee and approved by the Secretary, may be authorized for limited use but any such limited use size olives so used shall be not smaller than the following applicable minimum size: *Provided further,* That each such minimum size may also include a size tolerance (specified as a percent) as recommended by the committee and approved by the Secretary.
(i) Variety Group 1 olives, except the Ascolano, Barouni, and St. Agostino varieties, of a size which individually weigh 1/90 pound;
(ii) Variety Group 1 olives of the Ascolano, Barouni, or St. Agostino varieties, of a size which individually weigh 1/140 pound;
(iii) Variety Group 2 olives, except the Obliza variety, of a size which individually weigh 1/180 pound;

(iv) Variety Group 2 olives of the Obliza variety, of a size which individually weigh 1/140 pound.
(4) The Secretary may, upon recommendation of the committee, restrict the total quantity of limited use size olives for limited use during any crop year. Such restricted quantity shall be apportioned among the handlers by applying a percentage, established annually by the Secretary upon recommendation by the committee, to each handler's total receipts of limited use size olives during such crop year.
(5) Canned ripe olives of the "tree-ripened" type and green olives shall meet such grade, size, and pack requirements as may be established by the Secretary based upon the recommendation of the committee or other available information.
(6) The size designations used in this section mean the size designations described in (a)(1)(ii) of §932.51.
(7) For the purposes of this part the committee may, with the approval of the Secretary, specify the styles of olives, including the requirements with respect thereto, for limited use.
(b) *Disposition requirements for limited use size olives.* (1) The requirements of this paragraph are in addition to and not in substitution of the requirements of §932.51(a)(5).
(2) Each handler shall, under the supervision of the Processed Products Branch, USDA, or the Federal or Federal-State Inspection Service, dispose of limited use size olives into limited use or into non-canning use: *Provided,* That whenever a handler's use of limited use size olives is restricted pursuant to §932.52(a)(4), such handler shall dispose of into non-canning use that quantity of such limited use size olives which is in excess of the quantity permitted for limited use.
(3) Notwithstanding the provisions of paragraph (b)(2) of this section, a handler may meet any deficit in his obligation to dispose of limited use size olives into non-canning use pursuant to this paragraph by disposing of, under supervision of the inspection service, an equivalent quantity of olives of a size larger than the limited use size and of a quality better than culls.
(4) Each handler shall hold at all times a quantity of olives eligible to meet the disposition requirements of this paragraph less any quantity previously disposed of as specified in paragraphs (b) (2) and (3) of this section.
[36 FR 20357, Oct. 21, 1971, as amended at 47 FR 32910, July 30, 1982]

Effective Date Note: At 56 FR 49669, Oct. 1, 1991, in §932.52, in paragraph (a)(3) introductory text and paragraphs (a)(3)(i) through (a)(3)(iv) the words "but any such limited use size olives so used shall be not smaller than the following applicable minimum size: *Provided further,* That each such minimum size may also include a size tolerance (specified as a percent) as recommended by the committee and approved by the Secretary" were suspended indefinitely.

§932.53 Inspection and certification.
(a) Each handler shall have the olives such handler handles inspected and certified as for conformance with all applicable requirements pursuant to §§932.51 and 932.52 with respect to such handling. Inspection and certification for conformance with the requirements of §932.51 shall be by the Federal or Federal-State Inspection Service,

including certification as to size, and inspection for conformance with the requirements of §932.52 shall be by the Processed Products Branch, USDA, except that the disposition of olives, other than as canned ripe olives, in accordance with the requirements of §932.51(a)(3) may be under the supervision of any of such inspection services. A copy of each certification by the said inspection services, pursuant to the provisions of this section, shall be furnished to the committee.
(b) The committee may enter into an agreement with either or both of said inspection services with respect to the costs of the inspection required by this section and may collect from handlers their respective pro rata share of such costs.
[30 FR 12629, Oct. 2, 1965, as amended at 47 FR 32910, July 30, 1982]

§932.54 Transfers.

Transfers within the area of olives from one handler to another for further handling within the area are permitted. Whenever such a transfer of olives is made, the transferring handler shall comply with all applicable regulations up to the time of such transfer, and the receiving handler shall comply with all applicable regulations subsequent to such transfer: *Provided,* That the disposition obligations referable to transferred natural condition olives pursuant to §932.51(a)(3) may be transferred along with the olives, in which event the receiving handler shall comply with the disposition obligations. Transfers of olives from within the area to any point outside the area shall be subject to such requirements with respect to inspection, holding, disposition, and reporting as may be established by the Secretary on the basis of recommendations by the committee or other available information.
[33 FR 11267, Aug. 8, 1968, as amended at 36 FR 20357, Oct. 21, 1971; 47 FR 32910, July 30, 1982]

§932.55 Exemption.

(a) The provisions of this subpart shall not be applicable to processed olives on hand on the effective date of this subpart but only if the identity of such olives is maintained and such olives are not commingled with olives processed after such effective date in the production of packaged olives. However, olives on hand on such effective date that are commingled with olives processed after such date and are used in the production of packaged olives shall be subject to all relevant provisions applicable to the handling of packaged olives.
(b) Upon the basis of the recommendation submitted by the committee or from other available information, the Secretary may relieve from any or all requirements under this part the handling of olives in such minimum quantities, in such types of shipments, or for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to §932.45) as the committee with the approval of the Secretary may prescribe.
(c) The committee, with the approval of the Secretary, shall prescribe rules, regulations, and safeguards as it may deem necessary to ensure that olives exempted under the provisions of this section are handled only as authorized.

[30 FR 12629, Oct. 2, 1965, as amended at 33 FR 11267, Aug. 8, 1968]

Reports and Records

§932.60 Reports of acquisitions, sales, uses, shipments and creditable brand advertising.

(a) Each handler shall file such reports of his acquisitions, sales, uses, and shipments of olives, as may be requested by the committee.
(b) Upon the request of the committee, each handler shall furnish such other reports and information as are needed to enable the committee to perform its functions under this part.
(c) Each handler shall file such reports of creditable brand advertising as recommended by the committee and approved by the Secretary.
[30 FR 12629, Oct. 2, 1965, as amended at 47 FR 51094, Nov. 12, 1982]

§932.61 Records.

Each handler shall maintain such records of olives acquired, held, and disposed of by such handler as may be prescribed by the committee and needed by it to perform its functions under this subpart. Such records shall be retained for at least two years beyond the crop year in which the transaction occurred. The committee, with the approval of the Secretary, may prescribe rules and regulations to include under this section handler records that detail advertising and promotion activities which the committee may need to perform its functions under §932.45(a).
[47 FR 51094, Nov. 12, 1982]

§932.62 Verification of reports.

For the purpose of checking and verifying reports filed by handlers, the committee, through its duly authorized representatives, shall have access to any handler's premises during regular business hours, and shall be permitted at any such time to: (a) Inspect such premises and any olives held by such handler, and any and all records of the handler with respect to such handler's acquisition, sales, uses and shipments of olives; and (b) inspect any and all records of such handler with respect to advertising and promotion activities subject to §932.45(a) and maintained by the handler pursuant to §932.61. Each handler shall furnish all labor and equipment necessary to make such inspections.
[47 FR 51094, Nov. 12, 1982]

§932.63 Confidential information.

All reports and information submitted by handlers pursuant to the provisions of this part shall be received by, and at all times be in the custody of one or more designated

employees of the committee. No such employees shall disclose to any person, other than the Secretary upon request therefor, data, or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided,* That such data and information may be combined, and made available in the form of general reports in which the identities of the individual handlers furnishing the information is not disclosed.

Miscellaneous Provisions

§932.65 Compliance.

Except as provided in this part, no person shall handle olives, the handling of which has been prohibited by the Secretary in accordance with the provisions of this part, and no person shall handle olives except in conformity with the provisions of this part and the regulations issued hereunder.

§932.66 Right of the Secretary.

The members of the committee (including successors and alternates) and any agents or employees appointed or employed by the committee, shall be subject to removal or suspension at any time by the Secretary. Each and every order, regulation, determination, decision, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, such disapproved action shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§932.67 Effective time.

The provisions of this subpart, as well as any amendments to this subpart, shall become effective at such time as the Secretary may declare, above his signature, and shall continue in force until terminated in one of the ways specified in §932.68.

§932.68 Termination.

(a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary shall terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any crop year whenever the Secretary finds that such termination is favored by a majority of producers

who, during a representative period determined by the Secretary, have been engaged in the area in the production of olives for market as packaged olives: *Provided,* That such majority have during such representative period produced for market more than 50 percent of the volume of such olives produced for market, but such termination shall be effective only if announced on or before July 15 of the then current crop year.
[30 FR 12629, Oct. 2, 1965, as amended at 47 FR 32910, July 30, 1982]

§932.69 Proceedings after termination.

(a) Upon the termination of the provisions of this subpart, the members of the committee then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the committee, of all funds and property then in the possession or under the control of the committee including claims for any funds unpaid or property not delivered at the time of such termination. Action by such trustee shall require the concurrence of a majority of the trustees.
(b) Said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements, and deliver all property on hand, together with all books and records of the committee and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the joint trustees.
(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or the joint trustees, pursuant to this section, shall be subject to the same obligations imposed upon the members of the said committee and upon said joint trustees.

§932.70 Effect of termination or amendment.
Unless otherwise expressly provided by the Secretary, the termination of this subpart or any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen, or which may thereafter arise, in connection with any provision of this subpart, or any regulation issued thereunder; (b) release or extinguish any violation of this subpart or of any regulation issued thereunder; or (c) affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

§932.71 Duration of immunities.
The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§932.72 Agents.
The Secretary may, by a designation in writing, name any person, including any officer or employee of the U.S. Government or name any service or division in the U.S.

Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§932.73 Derogation.
Nothing contained in this subpart is or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§932.74 Personal liability.
No member or alternate member of the committee or any employee or agent thereof shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person, for errors in judgment, mistakes, or other acts either of commission or omission, as such member, alternate member, employee, or agent, except for acts of dis- honesty.

§932.75 Separability.
If any provision of this subpart is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

Subpart -- Rules and Regulations

§932.108 Non-canning olives.
Non-canning olives means those olives which, pursuant to the requirements of §932.51(a)(2), are to be disposed of as other than canned ripe olives.
[31 FR 12634, Sept. 27, 1966]

§932.109 Canned ripe olives of the tree-ripened type.

(a) *Canned ripe olives of the tree-ripened type* means packaged olives, not oxidized in processing, that are prepared from a lot or sub-lot of natural condition olives of advanced maturity which:
(1) Range in color from pinkish red, with some greenish cast, to black; and
(2) Have not more than 10 percent, by count, of *off-color* olives (*off-color* means those olives whose greenish cast covers more than 50 percent of the surface of the individual olives).
(b) [Reserved]
[40 FR 38146, Aug. 27, 1975]

§932.121 Producer districts.

Pursuant to the authority in §932.35(k), commencing with the term of office beginning June 1, 1987, *district* means any of the following geographical areas of the State of California:
(a) *District 1* shall include the counties of Glenn, Tehama, and Shasta.
(b) *District 2* shall include the counties of Mono, Mariposa, Merced, San Benito, Monterey, and all counties south thereof excluding Tulare County.
(c) *District 3* shall include all the counties of Alpine, Tuolumne, Stanislaus, Santa Clara, Santa Cruz, and all counties north thereof except those in District 1.
(d) *District 4* shall include the county of Tulare.
[52 FR 12135, Apr. 15, 1987]

§932.125 Producer representation on the committee.
Pursuant to the authority in §§932.25 and 932.35(k), commencing with the term of office beginning June 1, 1987, representation shall be apportioned as follows:
(a) District 1 shall be represented by two producer members and alternates.
(b) District 2 shall be represented by one producer member and alternate.
(c) District 3 shall be represented by one producer member and alternate.
(d) District 4 shall be represented by four producer members and alternates.
[52 FR 12135, Apr. 15, 1987]

§932.129 Nomination procedures for producer members.

Members and alternate members on the Committee who represent producers shall be nominated in accordance with the procedures specified in either paragraph (a) or paragraph (b) of this section as the Committee may determine.
(a) *Mail ballot voting.* (1) The Committee shall schedule a meeting, prior to March 1 of each odd-numbered year, in each producing district for the purpose of selecting candidates for member and alternate member nominations. A notice of such meetings will be mailed to each producer of record in each district. The nomination process is as follows:
(i) Any person who produces olives in a particular district may offer the name of any producer from that district as a candidate for either a member or alternate member position in said district.
(ii) A producer, who produces olives in more than one district, can be selected as a candidate for a member or alternate member position in only one district.
(iii) The Committee will notify by mail producers who are selected as candidates but are not in attendance at such meetings. Such producers have the right to decline such listing on the ballot within 7 days of mailing such notice.
(iv) In the event a producer cannot attend a meeting but wishes to be included on the ballot, that producer may notify the Committee office in writing no later than 7 days after

the date of the nomination meeting for the producer's district and request that the producer's name be included on the ballot.
(v) In the event that no candidates or an insufficient number of candidates are selected at such meetings for the producer members and alternates in the respective districts, the Committee will give written notice to producers in said district that additional names may be submitted for the specified position(s).
(2) Following such meetings, and no later than March 15 of each odd-numbered year, the Committee shall prepare and mail a ballot to each producer that delivered olives during that crop year in each district.
(i) A producer who produces olives in more than one district must choose the district in which the producer will vote and notify the Committee of that choice. If the Committee is not notified and more than one ballot is received from such a producer, the first ballot received will be counted. Candidates may only vote in the district in which they are seeking nomination.
(ii) Each ballot will list separately the names of candidates for the member positions and the names of candidates for the alternate member positions for said district.
(iii) A ballot will be mailed to producers of record to give them an opportunity to vote. Committee records will be used to determine the list of producers eligible to cast ballots. However, any producer who is not identified in such records may receive a ballot if the Committee determines that such producer is eligible to participate in nominations in that district.
(iv) A producer may cast a vote for as many candidates as there are member or alternate positions in said district.
(v) The candidate on each list, as prescribed in paragraph (a)(2)(ii) of this section, who receives the most votes will be the nominee for the first position, and until all positions for that district are filled, the candidates receiving the second, third and fourth highest number of votes will be the nominees for the second, third and fourth position respectively.
(vi) In the event of a tie which would result in elimination of a tied candidate, a second ballot with the names of those tied candidates will be mailed to producers in said district for another vote.
(b) *Nomination meetings.* In lieu of the mail ballot nomination procedure specified in paragraph (a) of this section, the Committee may schedule nomination meetings. In such an event, the following procedure will apply:
(1) Prior to March 15 of each odd-numbered year, the Committee shall schedule a nomination meeting to be held in each district for the purpose of obtaining nominees for producer members and alternate members for such district.
(2) Nominations for members and balloting thereon shall precede nominations and balloting for alternate members.
(3) The candidate for each position who receives the highest number of votes shall be the nominee for the position: *Provided,* That such candidate receives a majority of the ballots cast. If no candidate receives such a majority, the two candidates who received the highest number of votes shall participate in a run-off balloting to determine which is the nominee.
(c) For the purposes of this section, a producer is a person engaged in a proprietary capacity as a single business unit in the production of olives for market as packaged

olives and includes an individual (owner-operated), partnership, corporation, association, institution, or other legal business unit.
(d) *Determination of producer eligibility.* (1) Only producers (including duly authorized officers or employees of producers) who produced olives within the district shall participate in the nomination and election of producer members and alternates.
(2) Each producer (as defined in paragraph (c) of this section) shall be entitled to cast only one vote for each position.
(3) A producer having olive acreage in more than one district may participate in nominations and elections in only one district. The district in which the producer wishes to participate shall be the producer's choice.
(4) Any member of a producer's family (husband, wife, son or daughter) may vote on behalf of an owner-operated, landlord-tenant, family enterprise, or other farming unit.
(5) Any authorized officer or employee of a corporation which is a producer may vote.
(6) Any authorized member of a partnership which is a producer may vote.
(7) Power of attorney (proxies) for voting purposes are not accepted.
[48 FR 24312, June 1, 1983, as amended at 54 FR 46222, Nov. 2, 1989]

§932.130 Public member and alternate public member eligibility requirements and nomination procedures.

(a) *Eligibility requirements.* (1) The public member and alternate public member shall not be a producer, handler, or family member (husband, wife, son or daughter) of a producer or handler of olives and shall have no direct financial interest in, nor be engaged in, the commercial production, marketing, buying, grading or processing of olives; nor shall they be either an officer, director, or employee, or family member of an officer, director, or employee of any firm engaged in such activities.
(2) The public member and alternate public member should be able to devote sufficient time and must express a willingness to attend subcommittee and committee activities regularly and to familiarize themselves with the background and economics of the olive industry.
(3) The public member and alternate public member must be residents of California.
(b) *Nomination procedures.* (1) Prior to April 16 of the year in which nominations are made, the Committee will recommend to the Secretary a public member and alternate public member for the Committee for a two-year term of office beginning June 1 and ending May 31 of odd numbered years.
(2) The Committee will solicit, interview and recommend to the Secretary its nominees for public member and alternate public member.
(3) A majority vote is required in Committee actions concerning the nomination of the public member and alternate public member.
[48 FR 24313, June 1, 1983]

§932.139 Late payment and interest charges.

(a) The committee shall impose a late payment charge on any handler whose assessment has not been received in the committee's office, or the envelope containing the payment legibly postmarked by the U.S. Postal Service, within 30 days of the invoice date shown

on the handler's assessment statement. The late payment charge shall be five percent of the unpaid balance.
(b) In addition to that specified in paragraph (a) of this section, the committee shall impose an interest charge on any handler whose assessment payment has not been received in the committee's office, or the envelope containing the payment legibly postmarked by the U.S. Postal Service, within 30 days of the invoice date. The interest charge shall be the current commercial prime rate of the committee's bank plus two percent which shall be applied to the unpaid balance and late payment charge for the number of days all or any part of the assessment specified in the handler's assessment statement is delinquent beyond the 30 day payment period.
(c) The committee, upon receipt of a late payment equal to or greater than the assessment specified on the handler's assessment statement, shall promptly notify the handler (by registered mail) of any late payment charge and/or interest due as provided in paragraphs (a) and (b) of this section. If such charges are not paid, or the envelope containing payment is not legibly postmarked by the U.S. Postal Service, within 30 days of the date on such notification, late payment and interest charges as provided in paragraphs (a) and (b) of this section will accrue on the unpaid amount.
[49 FR 29210, July 19, 1984]

§932.149 Modified minimum quality requirements for specified styles of canned olives of the ripe type.

(a) Except as otherwise provided in this section, the minimum quality requirements prescribed in §932.52(a)(1) are modified as follows, for specified styles of canned olives of the ripe type:
(1) Canned whole and pitted olives of the ripe type shall meet the minimum quality requirements as prescribed in table 1 of this section;
(2) Canned sliced, segmented (wedged), and halved olives of the ripe type shall meet the minimum quality requirements as prescribed in table 2 of this section;
(3) Canned chopped olives of the ripe type shall meet the minimum quality requirements as prescribed in table 3 of this section; and shall be practically free from identifiable units of pit caps, end slices, and slices ("practically free from identifiable units" means that not more than 10 percent, by weight, of the unit of chopped style olives may be identifiable pit caps, end slices, or slices); and,
(4) Canned broken pitted olives of the ripe type shall meet the minimum quality requirements as prescribed in table 4 of this section;
(5) A lot of canned ripe olives is considered to meet the requirements of this section if all or most of the sample units meet the requirements specified in tables 1 through 4 of this section: *Provided,* That the number of sample units which do not meet the requirements specified in tables 1 through 4 of this section does not exceed the acceptance number prescribed for in the sample size provided in table I of 7 CFR 52.38: *Provided further,* That there is no off flavor in any sample unit.

Table 1_Whole and Pitted Style
[Defects by count per 50 olives]

FLAVOR	Reasonably good; no ``off'' flavor
FLAVOR (Green Ripe Type)	Free from objectionable flavors of any kind
SALOMETER	Acceptable Range in degrees: 3.0 to 14.0
COLOR	Reasonably uniform with not less than 60% having a color equal or darker than the USDA Composite Color Standard for Ripe Type
CHARACTER	Not more than 5 soft units or 2 excessively soft units
UNIFORMITY OF SIZE	60%, by visual inspection, of the most uniform in size. The diameter of the largest does not exceed the smallest by more than 4mm
DEFECTS:	
Pitter Damage (Pitted Style Only)	15
Major Blemishes	5
Major Wrinkles	5
Pits and Pit Fragments (Pitted Style Only).	Not more than 1.3% average by count
Major Stems	Not more than 3
HEVM	Not more than 1 unit per sample
Mutilated	Not more than 3
Mechanical Damage	Not more than 5
Split Pits or Misshapen	Not more than 5

Table 2_Sliced, Segmented (Wedged), and Halved Styles
[Defects by count per 255 grams]

FLAVOR	Reasonably good; no ``off'' flavor
SALOMETER	Acceptable Range in degrees: 3.0 to 14.0
COLOR	Reasonably uniform with no

units lighter than the USDA Composite Color Standard for Ripe Type
CHARACTER..... Not more than 13 grams excessively soft
DEFECTS:
Pits and Pit Fragments..... Average of not more than 1 by count per 300 grams
Major Stems..... Not more than 3
HEVM..... Not more than 2 units per sample
Broken Pieces and End Caps..... Not more than 125 grams by weight

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Table 3_Chopped Style
[Defects by count per 255 grams]

FLAVOR..... Reasonably good; no ``off'' flavor
SALOMETER..... Acceptable Range in degrees: 3.0 to 14.0
COLOR..... Reasonably uniform with no units lighter than the USDA Composite Color Standard for Ripe Type
DEFECTS:
Pits and Pit Fragments..... Average of not more than 1 by count per 300 grams
Major Stems..... Not more than 3
HEVM..... Not more than 2 units per sample

Table 4_Broken Pitted Style
[Defects by count per 255 grams]

FLAVOR..... Reasonably good; no ``off'' flavor
SALOMETER..... Acceptable Range in degrees: 3.0 to 14.0
COLOR..... Reasonably uniform with no

units lighter than the USDA Composite Color Standard for Ripe Type
CHARACTER..... Not more than 13 grams excessively soft
DEFECTS:
Pits and Pit Fragments..... Average of not more than 1 by count per 300 grams
Major Stems..... Not more than 3
HEVM..... Not more than 2 units per sample

(b) Terms used in this section shall have the same meaning as are given to the respective terms in the current U.S. Standards for Grades of Canned Ripe Olives (7 CFR part 52): *Provided,* That the definition of "broken pitted olives" is as follows: "Broken pitted olives" consist of large pieces that may have been broken in pitting but have not been sliced or cut.
[62 FR 1242, Jan. 9, 1997]

§932.150 Modified minimum quality requirements for canned green ripe olives.

The minimum quality requirements prescribed in §932.52 (a)(1) of this part are hereby modified with respect to canned green ripe olives so that no requirements shall be applicable with respect to color and blemishes of such olives.
[62 FR 1244, Jan. 9, 1997]

§932.151 Incoming regulations.

(a) *Inspection stations.* Natural condition olives shall be sampled and size-graded only at inspection stations which shall be a plant of a handler or other place having facilities for sampling and size-grading such olives: *Provided,* That such location and facilities are satisfactory to the Inspection Service and the committee: *Provided further,* That upon prior application to, and approval by, the committee, a handler may have olives size-graded at an inspection station other than the one where the lot was sampled.
(b) *Lot identification.* Immediately upon receipt of each lot of natural condition olives for which inspection is required, the handler shall complete Form COC 3A or 3C, weight and grade report or such other lot identification form as may be approved by the committee, which shall contain at least the following: (1) Lot number; (2) date; (3) variety; and (4) number and type containers. Pending completion of size-grading of such lot, or the sampling of such lot if it is to be size-graded by sample, the handler shall maintain identity of such lot of olives with its corresponding lot weight and grade report.
(c) *Weighing.* Each lot of natural condition olives for which inspection is required shall be separately weighed to determine the net weight of olives. If the lot is to be size-graded by sample, the lot shall be weighed upon receipt by the hanlder. If the lot is to be size-

graded by lot, the net weight shall be determined after size-grading by weighing all of the component parts resulting from the size-grading operations (including culls), and totaling such weights.

(d) *Incoming inspection* -- (1) *General.* The handler is responsible for the proper performance of all actions connected with the identification of lots of olives, the weighing of boxes or bins, the taking of samples, the size-grading of samples, and the furnishing of necessary personnel for the carrying out of such actions. All such actions shall be performed under the supervision of the Inspection Service.

(2) *Certification.* For each lot of olives that are size-graded, the handler shall complete Form COC-3A or 3C weight and grade report, which shall contain at least the following: (i) Name of handler; (ii) name of producer; (iii) county of production; (iv) applicable lot number; (v) weight certificate number; (vi) net weight; (vii) number and type of containers; (viii) date received; (ix) time received; (x) method of size-grade determination (sample or lot); (xi) weight of sample, if size-graded by sample; and (xii) the quantity of olives in each size designation. The completed Form COC-3A or 3C shall be furnished to the Inspection Service which shall certify thereon that the lot was size-graded as required by §932.51 if in accordance with the facts.

(e) *Disposition of non-canning olives* -- (1) *Notification and inspection of non-canning olives.* Prior to disposition of non-canning olives the handler shall complete Form COC-5, report of limited and undersize and cull olives inspection and disposition, which shall contain the following: (i) Type and number of containers; (ii) type of olives (undersize or culls); (iii) net weight; (iv) variety; (v) outlet (green olives, olive oil, etc.); and (vi) consignee. Before disposition of such olives, the completed Form COC-5 shall be furnished to the Inspection Service which shall inspect the olives for conformance with the information contained thereon, and, if correct, so certify in the space provided thereon.

(2) *Control and surveillance.* Non-canning olives that have been reported on Form COC-5 and inspected by the Inspection Service shall, unless such olives are disposed of immediately after being inspected under supervision of the inspector, be identified by fixing to each bin or pallet of boxes an COC control card which may be obtained from the committee. Such olives shall be kept separate and apart from other olives in the handler's possession and shall be disposed of only in the outlet shown on Form COC-5 and under the supervision of an inspector of the Inspection Service.

(3) *Time period for disposition.* All required disposition of non-canning olives shall be completed not later than September 30 of the crop year following the one in which the obligation is incurred or such later date that a handler may specify in a notice filed with the committee at least 15 days prior to September 15 of such subsequent crop year: *Provided,* That such notice shows that such handler has a sufficient quantity of olives held in storage to meet his obligation and such later date is not later than the date when he will have completed his disposition of olives of the crop year of obligation.

(4) *Olives not subject to incoming inspection.* Except as otherwise prescribed in §932.51(b), any lot of olives to be used solely in the production of green olives or canned ripe olives of the "tree ripened" type shall not be subject to incoming inspection: *Provided,* That the applicable requirements of §932.51(b) are met and the handler notifies the Inspection Service, in writing, that such lot is to be so used. Notice may be given by writing on the weight certificate "Lot to be used solely for use in the production of green

olives or tree ripened olives" and a copy of such weight certificate given to the Inspection Service.

(f) *Partially exempted lots.* (1) Pursuant to §932.55, any handler may process any lot of natural condition olives for use in the production of packaged olives which has not first been weighed and size-graded as an individual lot as required by §932.51(a) (i) and (ii), but was combined with any other lot or lots of natural condition olives, only if (i) all the olives in the combined lot are delivered to the handler in the same day, (ii) the total net weight of the olives delivered to the handler by any person in such day does not exceed 500 pounds, (iii) each such person had authorized combination of his lot with other lots, and (iv) the combined lot of the natural condition olives is weighed and size-graded as required by §932.51(a) (i) and (ii) prior to processing the olives.

(2) Whenever the natural condition olives in partially exempt individual lots are combined with other such olives as provided in paragraph (f)(1) of this section, the provision of the section applicable on individual lots shall apply instead to a combined lot.

(3) Each such handler shall file with the committee a weekly report showing for each day of the week the respective quantity in combined lots together with each person's authorization for combining lots. The report shall be filed upon a form supplied by the committee.

(g) *Additional Marketing Order Size Designations.* Pursuant to the authority in §932.51(a)(1)(ii), the following additional size designations are established:

Designation(s)	Approximate count (per pound)	Average count range (per pound)
Subpetite.....	.....	181 and up.
Petite.....	166	141-180, inclusive.
Extra Large Sevillano ``L".....	86	76-90, inclusive.
Extra Large Sevillano ``C".....	70	65-75, inclusive.

[31 FR 12635, Sept. 27, 1966, as amended at 33 FR 15631, Oct. 23, 1968; 34 FR 15389, Oct. 2, 1969; 49 FR 34440, Aug. 31, 1984; 49 FR 44448, Nov. 7, 1984; 52 FR 38224, Oct. 15, 1987; 52 FR 49346, Dec. 31, 1987]

§932.152 Outgoing regulations.

(a) *Inspection stations.* Processed olives shall be sampled and inspected only at an inspection station which shall be any olive processing plant having facilities for in-line or lot inspection which are satisfactory to the Inspection Service and the Committee; or an olive processing plant which has an approved Quality Assurance Program in effect.

(b) *Inspection -- General.* Inspection of packaged olives for conformance with §932.52 shall be by a Quality Assurance Program approved by the Processed Products Branch (PPB), USDA; or by in-line or lot inspection. A PPB approved Quality Assurance Program shall be pursuant to a Quality Assurance contract as referred to in §52.2.

(c) *Certification.* (1) Each handler shall furnish daily to the Inspection Service a copy of a pack report for the preceding work day which shall contain at least the following: (i) The total number of cases of packaged olives; (ii) number of cans per case; (iii) can size; (iv) can code; (v) variety; (vi) fruit size; and (vii) style.
(2) The Inspection Service shall issue for each day's pack a signed certificate covering the quantities of such packaged olives which meet all applicable minimum quality and size requirements. Each such certificate shall contain at least the following:
(i) Date;
(ii) Place of inspection;
(iii) Name and address of handler;
(iv) Can code;
(v) Variety;
(vi) Fruit size;
(vii) Can size;
(viii) Style;
(ix) Total number of cases;
(x) Number of cans per case;
(xi) And statement that packaged olives meet the effective minimum quality requirements for canned ripe olives as warranted by the facts.
(d) *Olives which fail to meet minimum quality and size requirements.* (1) Whenever any portion of a handler's daily pack of packaged olives fails to meet all applicable minimum quality and size requirements, the Inspection Service shall issue a signed report covering such olives. Each such report shall contain at least the following:
(i) Date;
(ii) Place of inspection;
(iii) Name and address of handler;
(iv) Can code;
(v) Variety;
(vi) Fruit size;
(vii) Can size;
(viii) Style;
(ix) Total number of cases;
(x) Number of cans per case; and
(xi) Reason why the applicable requirements were not met.
(2) All such packaged olives shall be kept separate and apart from other packaged olives and shall be so identified by control cards or other means satisfactory to the Inspection Service and the committee that their identity is readily apparent. Such packaged olives may be reprocessed under supervision of the Inspection Service. Any such packaged olives that are not so reprocessed may be disposed of only in accordance with §932.155.
(e) *Examination of certain olives received for use in the production of canned ripe olives of the tree-ripened type.* Pursuant to §932.51(b), whenever a handler receives a lot of natural condition olives or makes a separation resulting in a sublot, solely for use in the production of canned ripe olives of the tree-ripened type he shall, at the time of receiving such lot or making such separation, notify the committee or the Inspection Service of the lot so received or the sublot so created which shall then be subject to examination by the committee, or by the Inspection Service if so designated by the committee, to assure that

the olives in such lot or sublot comply with the specifications set forth in §932.109. Each such handler shall identify all such lots and sublots of natural condition olives and keep them separate and apart from other olives received. Such identification and separation shall be maintained throughout the processing and production of such olives as canned ripe olives of the tree-ripened type.

(f) *Size designations.* (1) In lieu of the size designations specified in §932.52(a)(2), except as provided in §932.51(a) (1) and (2), canned whole ripe olives, other than those of the "tree-ripened" type, shall conform to the marketing order size designations listed in table 1 contained herein, and shall be of a size not smaller than the applicable size requirements, tolerances, and percentages listed in paragraph (h) of this section.

Table I_Canned Whole Ripe Olive Sizes Average Count Ranges
[Per Pound]

Size designation	Variety group 1		Variety group 2	
	Except Ascolano, Barouni, St. Agostino	Ascolano, Barouni, St. Agostino	Obliza	Except Obliza
Small	N.A.	N.A.	N.A.	128-140
Medium	N.A.	N.A.	106-127	106-127
Large	N.A.	91-105	91-105	91-105
Extra Large	65-75	65-90	65-90	65-90
Jumbo	47-60	47-60	47-60	47-60
Colossal	33-46	33-46	33-46	33-46
Sup. Colossal	(\1\)	(\1\)	(\1\)	(\1\)

\1\ 32 or fewer.
N.A._Not Applicable.

(2) The size of the canned whole olives shall conform with the applicable count per pound range indicated in table I of paragraph (f)(1) of this section. When the count per pound of whole olives falls between two count ranges, the size designation shall be that of the smaller size. The average count for canned whole ripe olives is determined from all containers in the sample and is calculated on the basis of the drained weight of the olives.

(3) Pitted olives must meet the size requirements for canned whole olives specified in paragraphs (f)(1) and (f)(2) of this section prior to pitting, or must meet the size designations specified in §52.3754 of the U.S. Standards for Grades of Canned Ripe Olives subsequent to pitting, subject to the following minimum size requirements:

(i) Variety group 1 olives, except Ascolano, Barouni, and St. Agostino varieties, shall be at least "Extra Large;"

(ii) Variety group 1 olives of the Ascolano, Barouni, and St. Agostino varieties shall be at least "Large;"
(iii) Variety group 2 olives, except the Obliza variety, shall be at least "Small;"
(iv) Variety group 2 olives of the Obliza variety shall be at least "Medium."
(g) *Size Certification.* (1) When limited-use size olives for limited-use styles are authorized during a crop year and a handler elects to have olives sized pursuant to §932.51(a)(2)(i), any lot of limited-use size olives may be used in the production of packaged olives for limited-use styles if such olives are within the average count range in table II contained herein for that variety group, and meet such further mid-point or acceptable count requirements for the average count range in each size as approved by the committee.

Table II_Limited Use Size Olives

Variety	Average count range (per pound)
Group 1, except Ascolano, Barouni, and St. Agostino.	76-90, inclusive.
Group 1, Ascolano, Barouni, and St. Agostino.	106-140, inclusive.
Group 2, except Obliza.....	141-180, inclusive.
Group 2, Obliza.....	128-140, inclusive.

(2) When limited-use size olives are not authorized for limited-use styles during a crop year and a handler elects to have olives sized pursuant to §932.51(a)(2)(ii), any lot of canning-sized olives may be used in the production of packaged olives for whole, pitted, or limited-use styles if such olives are within the average count range in table III contained herein for that variety group, and meet such further mid-point or acceptable count requirements for the average count range in each size as approved by the committee.

Table III_Canned Whole Ripe Olive Sizes Average Count Ranges
[Per Pound]

Size designation	Variety group 1		Variety group 2	
	Except Ascolano, Barouni, St. Agostino	Ascolano, Barouni, St. Agostino	Obliza	Except Obliza
Small	N.A.	N.A.	N.A.	128-140
Medium	N.A.	N.A.	106-127	106-127
Large	N.A.	91-105	91-105	91-105
Ex. Large	65-75	65-90	65-90	65-90
Jumbo	47-60	47-60	47-60	47-60
Colossal	33-46	33-46	33-46	33-46
Sup. Colossal	(\1\)	(\1\)	(\1\)	(\1\)

\1\ 32 or fewer.
N.A._Not Applicable.

(h) Canned whole ripe olives, other than those of the "tree-ripened" type, shall be of a size not smaller than the following applicable size requirements, tolerances and percentages:
(1) With respect to variety group 1 olives, except Ascolano, Barouni, and St. Agostino varieties, the individual fruits shall each weigh no less than 1/75 pound, except that
(i) For olives of the extra large size designation, not more than 25 percent, by count, of such olives may weigh less than 1/75 pound each including not more than 10 percent, by count, of such olives that weigh less than 1/82 pound each; and
(ii) For olives of any designation except the extra large size, not more than 5 percent, by count, of such olives may weigh less than 1/75 pound each;
(2) With respect to variety group 1 olives of the Ascolano, Barouni, and St. Agostino varieties, the individual fruits shall each weigh not less than 1/105 pound, except that
(i) For olives of the large size designation, not more than 25 percent, by count, of such olives may weigh less than 1/105 pound each including not more than 10 percent, by count, of such olives that weigh less than 1/116 pound each; and
(ii) For olives of any designation except the large size, not more than 5 percent, by count, of such olives may weigh less than 1/105 pound each;
(3) With respect to variety group 2 olives, except the Obliza variety, the individual fruits shall each weigh not less than 1/140 pound, except that

(i) For olives of the small size designation, not more than 35 percent by count, of such olives may weigh less than 1/140 pound each including not more than 7 percent, by count, of such olives that weigh less than 1/160 pound each; and
(ii) For olives of any designation except the small size, not more than 5 percent, by count, of such olives may weigh less than 1/140 pound each;
(4) With respect to variety group 2 olives of the Obliza variety, the individual fruit shall each weigh not less than 1/127 pound, except that
(i) For olives of the medium size designation, not more than 35 percent, by count, of such olives may weigh less than 1/127 pound each including not more than 7 percent, by count, of such olives that weigh less than 1/135 pound each; and
(ii) For olives of any designation except the medium size, not more than 5 percent, by count, of such olives may weigh less than 1/127 pound each.
[31 FR 12635, Sept. 27, 1966, as amended at 33 FR 15632, Oct. 23, 1968; 36 FR 24795, Dec. 23, 1971; 48 FR 54212, Dec. 1, 1983; 52 FR 38224, Oct. 15, 1987; 52 FR 49346, Dec. 31, 1987; 57 FR 36353, Aug. 13, 1992; 59 FR 38106, July 27, 1994; 59 FR 55341, Nov. 7, 1994; 62 FR 1244, Jan. 9, 1997]

§932.153 Establishment of minimum quality and size requirements for processed olives for limited uses.

(a) *Minimum quality requirements.* On or after August 1, 1996, any handler may use processed olives of the respective variety group in the production of limited use styles of canned ripe olives if such olives were processed after July 31, 1996, and meet the minimum quality requirements specified in §932.52(a)(1) as modified by §932.149.
(b) *Sizes.* On and after August 1, 1996, any handler may use processed olives in the production of limited-use styles of canned ripe olives if such olives were harvested after August 1, 1996, and meet the following requirements:
(1) The processed olives shall be identified and kept separate and apart from any olives harvested before August 1, 1996.
(2) Variety Group 1 olives, except the Ascolano, Barouni, or St. Agostino varieties, shall be of a size which individually weigh at least 1/105 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/105 pound.
(3) Variety Group 1 olives of the Ascolano, Barouni, or St. Agostino varieties shall be of a size which individually weigh at least 1/180 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/180 pound.
(4) Variety Group 2 olives, except the Obliza variety, shall be of a size which individually weigh at least 1/205 pound: *Provided,* That not to exceed 35 percent of the olives in any lot or sublot may be smaller than 1/205 pound.
(5) Variety Group 2 olives of the Obliza variety shall be of a size which individually weigh at least 1/180 pound: *Provided,* That not to exceed 35 percent of the olives in any lot or sublot may be smaller than 1/180 pound.
[61 FR 40510, Aug. 5, 1996, as amended at 62 FR 1244, Jan. 9, 1997]

§932.154 Handler transfer.

(a) Except as hereinafter provided in paragraph (b) of this section, Form COC-6 "Report of Interhandler Transfer" shall be completed by the transfering handler for all lots of processed, but not packaged, olives transferred to another handler within the area and for all lots and sublots of natural condition olives transferred to another handler within the area or shipped to destinations outside the area except fresh market outlets. For natural condition and processed, but not packaged, olives transferred between handlers within the area, two completed copies of said form, signed by the transferring handler, shall accompany the lot or sublot to the receiving handler who shall certify on both copies as to receipt of the olives and forward one copy to the committee within 10 days following receipt of the olives. For natural condition olives transferred by a handler to a destination outside the area, except fresh market outlets, two copies of said form shall be completed by the transferring handler with the words *Outside the Area* included in the upper right corner of the form and one copy shall be returned to the committee within 10 days following transfer of the olives. The completed form shall contain at least the following information: (1) Name and address of both the transferor and transferee; (2) date of transfer; (3) condition (natural, processed but not packaged); (4) weight, number and size of each type of container; (5) variety; and (6) other identification (undersize olives, culls, style, etc.).
(b) Undersize or cull olives that are transferred from one handler to another and for which the transferring handler desires credit toward satisfaction of his obligation under §932.51(a)(2) need only be accompanied by two copies of Form COC-5, report of limited and undersize and cull olives inspection and disposition: *Provided,* That such transfers are carried out under the supervision of the Inspection Service.
(c) No handler may ship any lot or sublot of natural condition olives to a destination outside the area, except fresh market outlets, unless such olives have first been size-graded and meet the disposition and holding requirements applicable under paragraphs (a) (2) and (4) of §932.51. The size of such transferred olives shall be verified, prior to transfer, by certification issued to the transferring handler by the appropriate inspection service (Federal or Federal-State Inspection Service or the Processed Products Branch, USDA).
[31 FR 12636, Sept. 27, 1966, as amended at 36 FR 24795, Dec. 23, 1971; 49 FR 34440, Aug. 31, 1984; 49 FR 44448, Nov. 7, 1984]

§932.155 Special purpose shipments.

(a) The disposition of packaged olives covered by §932.152(d) which are not reprocessed, and new packaged olive products covered under paragraph (b) of this section which have not been disposed of by the end of the test market period, shall be handled in conformity with the applicable provisions of this paragraph.
(1) Under the supervision of the Inspection Service, such packaged olives may be disposed of for use in the production of olive oil or dumped.

(2) Such packaged olives may be disposed of to a charitable organization for use by such organization, provided the following conditions are met:
(i) Any handler who wishes to so dispose of olives shall first file a written application with, and obtain written approval thereof, from the committee. Each such application shall contain at least:
(A) The name and address of the handler and the charitable organization;
(B) The physical location of the charitable organization's facilities;
(C) The quantity, in cases, the variety, size, can size, and can code of the packaged olives; and
(D) A certification from the charitable organization that such olives will be used by the organization and will not be sold.
(ii) Prior to approval, the committee shall perform such verification of the accuracy of the information on the application as it deems necessary. The committee may deny any application if it finds that the required information is incomplete or incorrect, or has reason to believe that the intended receiver is not a charitable organization, or that the handler or the organization has disposed of packaged olives contrary to a previously approved application. The committee shall notify the applicant and the organization in writing of its approval, or denial, of the application. Any such approval shall continue in effect so long as the packaged olives covered thereby are disposed of consistent with this section. The committee shall notify the handler and the organization of each such termination of approval. The handler shall furnish the committee, upon demand, such evidence of disposition of the packaged olives covered by an approved application as may be satisfactory to the committee.
(b) In accordance with the provisions of §932.55(b), packaged olives to be used in marketing development projects may be handled without regard to §932.149 provided the following conditions are met. Such olives must be identified to the satisfaction of the Inspection Service and kept separate from other packaged olives. The handler shall submit to the committee for its approval "COC Form 155" at least 10 working days prior to the shipment of such packaged olives to test markets, and report progress or changes to the committee, as requested. The applicant handler shall provide the following information on COC Form 155:
(1) The quantity of olives to be utilized (limited to not more than five percent of the handler's crop year acquisitions);
(2) Specific market outlet;
(3) Flavorings or other ingredients added to the olives;
(4) Style of olives used;
(5) Type of olives used, either black or green ripe;
(6) Container sizes;
(7) Varieties used, whether Ascolano, Barouni, Manzanillo, Mission, Sevillano, etc.;
(8) Sizes of olives utilized;
(9) Approximate dates when the new product will be packaged;
(10) Name and address of requesting handler;
(11) Place of inspection;
(12) Certification that all assessment and reporting requirements in effect under the marketing order will be met prior to shipment;

(13) Certification that all such fruit will be kept separate from other packaged olives and will be so identified by control cards or other means acceptable to the Inspection Service;
(14) Purpose and nature of the request, whether for test marketing, evaluation, market research, etc.; and
(15) An estimate of the amount of time required to complete the test. The committee shall promptly approve or deny the application, and may add limitations to any such approval. Upon approval, the applicant handler shall notify the Inspection Service. Packaged olives so identified and remaining unused at the end of the approved test-market period shall be disposed of according to paragraph (a) of this section.
(c) In accordance with the provisions of §932.55(b), any handler may use processed olives in the production of packaged olives for repackaging, and ship packaged olives for repackaging, if the packaged olives meet the minimum quality requirements, except for the requirement that the packaged olives possess a reasonably good flavor: *Provided,* That the failure to possess a reasonably good flavor is due only to excessive sodium chloride.
[33 FR 15632, Oct. 23, 1968, as amended at 39 FR 38221, Oct. 30, 1974; 62 FR 1244, Jan. 9, 1997; 65 FR 4575, Jan. 31, 2000]

§932.159 Reallocation of handler membership.

Pursuant to §932.25, handler representation on the Committee is reallocated to provide that the two handlers who handled the largest and second largest total volume of olives during the crop year in which nominations are made and in the preceding crop year shall each be represented by four members and four alternate members.
[65 FR 62994, Oct. 20, 2000]

§932.161 Reports.

(a) *Reports of olives received.* Each handler shall submit to the committee, on a form provided by the committee, for each week (Sunday through Saturday, or such other 7-day period for which the handler has submitted a request and received approval from the committee) and not later than the fourth day after the close of such week, a report showing by size designation and culls the respective quantities of each variety of olives received. In addition thereto, he shall also report the seasonal totals to date of the report.
(b) *Sales reports.* (1) Each handler shall submit to the committee, on COC Form 21 as provided by the committee, for each month and not later than the 15th day following the end of that month, a report showing the handler's total sales of packaged olives to commercial outlets in the United States, to governmental agencies, and to foreign countries. Such sales shall be reported in the following categories:
(i) Whole and whole pitted styles of canned ripe olives in consumer size containers;
(ii) Whole and whole pitted styles of canned ripe olives in institutional size containers;
(iii) Chopped style of canned ripe olives in all types of containers; and
(iv) Halved, segmented (wedged), and sliced styles of canned ripe olives in all types of containers.

The quantity in each category shall be reported in terms of the equivalent number of cases of 24 No. 300 (300×407) size cans.
(2) Each handler shall submit to the committee, on a form provided by the committee, for each month and not more than 15 days after the end of such month, a report showing the total quantity of packaged olives of the ripe and green ripe types sold during the month. Such reports shall include the following information, as applicable:
(i) With respect to the whole, pitted, and broken pitted styles of packaged olives of the ripe or green ripe type, each style shall be reported separately on COC Form 29a in terms of the quantity of each size of olives as designated on the form. Such quantity, or quantities, shall be reported in terms of the total amount packaged in each of the container sizes listed on said form except that the committee may require such reporting in terms of the equivalent number of cases of 24 No. 300 (300×407) size cans. Each handler shall report separately the total monthly sales of packaged olives of the green ripe type.
(ii) Limited use styles of packaged olives of the ripe or green ripe type shall be reported in terms of the quantity of each style packaged in each of the container sizes listed on COC Form 29b except that the committee may require such reporting in terms of the equivalent number of cases of 24 No. 300 (300×407) size cans.
(c) *Report of handler's utilization of limited size olives.* Each handler shall submit to the committee, on a form provided by the committee, upon completion of the handler's canning season, but not later than August 1st of each crop year, a report showing the quantities of limited canning size olives used in (1) halved; (2) segmented (wedged); (3) sliced; (4) chopped; (5) acidified; (6) Spanish olives; (7) Sicilian style olives; (8) Greek style olives; (9) olive oil; (10) olives dumped; and (11) any other use (specify such use).
(d) *Packaged olive inventory reports.* Each handler shall submit an inventory report to the committee, on a form provided by the committee, not later than the 15th day of each month showing the total quantity of packaged olives of the ripe and green ripe types held in storage at all locations on the last day of the preceding month. Such reports shall contain the following information, as applicable:
(1) With respect to the whole, pitted, and broken pitted styles of packaged ripe or green ripe type olives, each style shall be reported separately on COC Form 27a in terms of the packaged quantity of each size designated on the form. Such quantity, or quantities, shall be reported in terms of the total amount packaged in each of the container sizes listed on said form except that the committee may require such reporting in terms of the equivalent number of cases of 24 No. 300 (300×407) size cans. Each handler shall report separately the total quantity of any packaged olives of the green ripe type held in storage at all locations.
(2) Halved, sliced, segmented (wedged), and chopped styles of packaged olives of the ripe or green ripe type shall be reported in terms of the quantity of each style packaged in each of the container sizes listed on COC Form 27b except that the committee may require such reporting in terms of the equivalent number of cases of 24 No. 300 (300×407) size cans.
(e) *Processed olive bulk inventory reports.* Each handler shall submit an inventory report to the committee, on a form provided by the committee, not later than the 15th day of each month showing the total quantity of processed olives of the ripe and green ripe types

held in bulk storage at all locations on the last day of the preceding month. Such reports shall contain the following information, as applicable:
(1) The total tonnage of processed olives of the ripe and green ripe types, held in storage by the handler, which are of any size that may be used in the production of packaged olives of the whole or the pitted styles shall be reported on COC Form 27c in terms of the total quantity of each size designated on the form.
(2) The total tonnage of processed olives of the ripe and green ripe types, held in storage by the handler, which are of sizes that may be used in the production of packaged olives of the halved, sliced, segmented (wedged), or chopped style shall be reported on COC Form 27b.
(f) *Packout reports.* Each handler shall submit to the committee, on a form provided by the committee, for each month and not more than 15 days after the end of such month, a report showing the total production of packaged olives of the ripe and green ripe types. Such reports shall include the following information, as applicable:
(1) With respect to the whole, pitted, and broken pitted styles of packaged olives of the ripe or the green ripe types, each style shall be reported separately on COC Form 28a in terms of the total quantity of each size of olives as designated on the form. Such quantity, or quantities, shall be reported in terms of the total amount packaged in each of the container sizes listed on said form except that the committee may require such reporting in terms of the equivalent number of cases of 24 No. 300 (300×407) size cans. Each handler shall report separately the total monthly production of packaged olives of the green ripe type.
(2) Halved, sliced, segmented (wedged), and chopped styles of packaged olives of the ripe or green ripe type shall be reported in terms of the quantity of each style packaged in each of the container sizes listed on COC Form 28b except that the committee may require such reporting in terms of the equivalent number of cases of 24 No. 300 (300×407) size cans.
[33 FR 15632, Oct. 23, 1968, as amended at 36 FR 24795, Dec. 23, 1971; 47 FR 13118, Mar. 29, 1982; 49 FR 34440, 34441, Aug. 31, 1984; 49 FR 44448, Nov. 7, 1984]

Subpart -- Assessment Rates

§932.230 Assessment rate.
On and after January, 1, 2002, an assessment rate of $10.09 per ton is established for California olives.
[67 FR 5440, Feb. 6, 2002]

Regulation 15: Waste Water Use

WATER & SALINITY (CRSC) CONTROL PROGRAM

Sec.

Authority: Sec. 201, Pub. L. 93-320, 88 Stat. 271; Sec. 2, Pub. L. 98-569, 98 Stat. 2933 (43 U.S.C. 1592(c)).

Source: 52 FR 16741, May 5, 1987, unless otherwise noted.

§702.1 General.

The regulations in this part set forth the terms and conditions of the Colorado River Salinity Control (CRSC) Program authorized by section 202 of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592) (the Act). Under the Act the Secretary is authorized to:

(a) Identify salt-source areas in the Colorado River Basin;

(b) Develop plans for implementing conservation measures that will reduce the salt load in the Colorado River, including the voluntary replacement of incidental fish and wildlife values foregone;

(c) Share the cost of establishing such conservation measures and practices;

(d) Provide technical assistance;

(e) Monitor and evaluate changes in salt contributions to the Colorado River; and

(f) Carry out related research, demonstration and education activities.

§702.2 Definitions.

(a) The following definitions shall be applicable for the purposes of this part:

(1) *Applicant* means an entity who has offered to enter into a CRSC Contract in accordance with the provisions of this part;
(2) *Actual cost* means the direct costs of establishing a salinity reduction practice, and includes the cost of labor, supplies, and other necessary activities;
(3) *Average cost* means the cost, determined by averaging actual costs and current cost estimates, considered to be necessary for a participant to carry out a salinity reduction practice, a designated component of a salinity reduction practice, or a system of practices;
(4) *Conservation District* (CD) means a subdivision of a State organized pursuant to applicable State law. The term includes bodies variously known in the States as conservation district, soil conservation district, soil and water conservation district, natural resource district, resource conservation district, or natural resource conservation district;
(5) *Components* means measurable units of a salinity reduction practice which, when completed by the program participant, can be certified by the Soil Conservation Service (SCS) as reasonable, identifiable progress toward completion of the practice with respect to which cost-share payment is being made under the CRSC program;
(6) *Conservation treatment* means the combination of salinity reduction practices that will provide the salinity control treatment required to reduce seepage and improve irrigation water management in order to achieve the projected salt load reductions indicated in the applicable published USDA Salinity Control Report. Such treatment may include replacement of incidental fish and wildlife values foregone as a result of salinity control treatment applied by the participant under the CRSC program.
(7) *CRSC Contract* means the contract including the salinity control plan, entered into in writing between the local Agricultural Stabilization and Conservation Committee (COC) and the participant which sets forth the terms and conditions for participation in the CRSC Program established in accordance with this part.
(8) *Cost-effective* means maximization of the CRSC Program on-farm and offsite benefits at the least Federal cost per unit of salinity reduction.
(9) *Cost-share assistance* means the providing of financial resources to assist program participants in establishing conservation treatment identified in participants' contracts;
(10) *Cost-share rate* means a fixed amount of cost-share funds paid per unit for carrying out certain salinity reduction practices.
(11) *Deputy Administrator* means the FSA Deputy Administrator for State and County Operations, or designee.
(12) *Entity* means an individual or group of individuals, Indian tribe, partnership, firm, joint-stock company, corporation, association, trust, estate, irrigation district/company, or other public or nonpublic entity (except federal agencies), and wherever applicable, a State, a political subdivision of a State, or any agency thereof;
(13) *Fish and wildlife values foregone* means incidental fish and wildlife habitats that may be affected adversely by salinity reduction practices applied by the program participant;
(14) *Irrigation district/company* means a group of individuals (private or public) associated together in a locality, that has a vested interested in the operation of an irrigation distribution system that serve as a specific area. This definition includes irrigation districts, mutual water companies or districts, water conservancy districts, canal companies, and other similar entities;

(15) *Lifespan* means the period of time during which a salinity reduction practice is expected to effectively achieve or provide the results for which it was developed and implemented.
(16) *Offsite benefits* means those benefits, which accrue downstream as a result of reduced salinity concentrations in the Colorado River by the salt load reductions achieved through implementation of the CRSC Program and/or its constituent practices and treatments;
(17) *On-farm benefits* means those benefits which accrue on a farm from improved irrigation systems and efficiencies, including reduced production costs, reduced labor costs, reduced operation and maintenance costs, and improved crop yields;
(18) *Operation and Maintenance Agreement* means the agreement entered into between the COC and the participant which sets forth the terms and conditions requiring the participant to use and maintain the salinity reduction practices for their effective lifespan as set forth in the agreement;
(19) *Participant* means any entity that has entered into an approved CRSC Contract with the COC to participate in the CRSC Program;
(20) *Project implementation plan* means a plan of operations developed by Farm Service Agency, Extension Service and Soil Conservation Service, in consultation with local officials for the purpose of implementing a project plan for a specific salt source area;
(21) *Project plan* means that plan of conservation treatment that is identified in the applicable USDA Salinity Control Report as the preferred plan for implementation of salinity reduction practices in a specific salt source area. The project plan will identify cost-effective salinity reduction practices, the land which should receive conservation treatment on a priority basis in relation to other land in the specific salt source area, and the levels of conservation treatment needed in the specific salt source area in order to achieve the most cost-effective salinity control objectives for the particular area to be achieved;
(22) *Salinity control plan* means the plan and schedule of operations that sets forth salinity reduction practices that must be establish on a specific unit of land. The salinity control plan shall be developed by the applicant with assistance from the SCS and must be approved by the CD;
(23) *Salinity Reduction Practice (SRP)* means a specific conservation practice designed to reduce salt loading from a salt source area or to replace incidental fish and wildlife values foregone that is identified in a project plan and project implementation plan for a salt-source area;
(24) *Salt-source area* means a geographical area within the Colorado River Basin that has been identified by SCS as a significant contributing source of salt to the Colorado River;
(25) *Specifications* means minimum quantity and quality requirements established by SCS to meet the standard for a specific conservation practice;
(26) *State Conservationist* means the SCS official in charge of agency operations within a state, as set forth in part 600 of this chapter;
(27) *Technical assistance* means use of personnel and financial resources to identify salt-source areas, develop project plans, prepare salinity control plans, contracts, and designs, supervise plan installation, and carry out research, demonstration, education, monitoring, and evaluation activities;

(28) *USDA Salinity Control Report* means a report that identifies salt source areas in the Colorado River Basin and establishes a cost-effective project plan for such areas designed to reduce the salinity levels in the Colorado River. The USDA Salinity Control Report is prepared and published by the Soil Conservation Service with provision for public comment;
(29) *Technical guide* means a document on file in the local SCS office containing technical information and specifications for the conservation of soil, water, plant, animal, and related natural resources specifically applicable to the area for which it is prepared.
(b) In the regulations in this part and in all instructions, forms, and documents in connection therewith, all other words and phrases shall, unless the context of subject matter otherwise requires, have the meanings assigned to them in the regulations governing reconstitutions of farms, allotments and bases, 7 CFR part 719.
[52 FR 16741, May 5, 1987, as amended at 58 FR 11785, Mar. 1, 1993]

§702.3 Administration.

(a) *Farm Service Agency.* (1) The Farm Service Agency (FSA), under the general supervision of the Administrator, FSA, shall administer the program established by this part. This program shall be carried out in the field by State ASC committees (STC) and local county ASC committees (COC).
(2) Except as provided in paragraph (b) of this section, the Deputy Administrator, State and County Operations, FSA (Deputy Administrator), may determine any question arising under the program provided for in this part, may reverse or modify any determination made by an STC or COC in connection with this program, and may administer any and all phases of this program delegated to the COC, STC, or any employee(s) where the COC, STC, or any employee fails to perform a function required in these regulations. In exercising this authority, the Deputy Administrator may authorize a person or persons to carry out this program for such period of time as is deemed necessary.
(b) *Soil Conservation Service.* (1) The Soil Conservation Service (SCS) shall:
(i) Identify salt source areas in the Colorado River Basin;
(ii) Develop USDA Salinity Control Reports;
(iii) Assist participants in developing salinity control plans; and
(iv) Provide such other technical assistance in the implementation of the CRSC Program as is determined to be necessary.
(2) The Chief, SCS, may determine any question arising under the CRSC Program with respect to the activities of SCS, State Conservationists, and conservation districts.
(3) In developing the USDA Salinity Control Report and implementing the project plan, SCS shall coordinate with other agencies of the U.S. Department of Agriculture, the United States Department of the Interior, and the Environmental Protection Agency.
(c) The Extension Service (ES) shall develop and coordinate information and educational programs and may provide other technical support to carry out the program provided for by this part.
(d) Other USDA agencies such as Cooperative State Research Service (CSRS) and the Agricultural Research Service (ARS) may conduct research and may provide other technical support needed to carry out the CRSC Program.

§702.4 Applicability.
(a) The provision of this part shall be applicable to areas within the Colorado River Basin that have been identified by SCS as salt source areas.
(b) The program provided for by this part shall be applicable to private lands, Indian tribal lands, lands owned or controlled by irrigation districts or companies, Federal land under the control of the USDA, and State and local government lands.

§702.5 Eligible land.
For the purposes of this part, eligible land is land that is within the Colorado River Basin area which:
(a) Has been identified by SCS as a salt source area;
(b) Is the subject of a published USDA Salinity Control Report and an approved project implementation plan;
(c) Has been irrigated at least two years during the period between 1982 and 1986, inclusive; and
(d) Notwithstanding the criteria articulated in paragraphs (a) through (c) of this section, the Deputy Administrator has final authority to approve land for CRSC program eligibility if one of the following conditions is satisfied:
(1) If it is determined impossible to reorganize the existing irrigation system to increase irrigation efficiencies to obtain salt load reduction, irrigated land may be exchanged for non-irrigated land.
(2) Non-irrigated wildlife areas devoted to replacing incidental fish and wildlife values foregone because of the CRSC program.
(3) Incidental land, which in the course of improving or reorganizing the existing irrigation system, becomes irrigable.
[52 FR 16741, May 5, 1987, as amended at 58 FR 11785, Mar. 1, 1993]

§702.6 Eligible entity.

In order to be eligible to enter into a CRSC Contract, an entity must own or have control over eligible land.

§702.7 Salinity control plan.
(a) The applicant, in consultation with SCS, shall develop the salinity control plan which is the most cost-effective consistent with the project plan.
(b) All salinity control plans must be approved by the CD in order for the SRP's contained therein to be eligible for cost-share assistance.
(c) When approving salinity control plans, the CD shall ensure that the salinity control plan is consistent with the approved project plan and cost-effective SRP's identified in the approved project implementation plan for the area.

§702.8 Eligible salinity reduction practices (SRP's).

(a) Eligible SRP's are those practices specified in the project implementation plan and the participant's salinity control plan that:
(1) Significantly reduce the salt loading from a unit of land; or
(2) Replace incidental fish and wildlife values foregone; or
(3) Reduce erosion or seepage to a degree that significantly benefits salinity control.
(b) Notwithstanding the foregoing provisions of this section, the following practices shall not be considered to be eligible SRP's:
(1) Practices installed primarily for the purpose of bringing additional land into production, for increasing production above that which is incidental to application of conservation treatment for salinity control, or for flood protection; and
(2) Practices that are installed or commenced before the contract for cost-share assistance has been approved.

§702.9 CRSC Contract and obligations of the participant.
(a) In order to receive cost-share assistance in accordance with this part, an eligible entity must enter into a CRSC Contract with a COC and, if required by the COC, enter into separate operation and maintenance agreements in accordance with §702.10 of this part.
(b) The CRSC Contract will be comprised of:
(1) The terms and conditions of the contract; and
(2) The salinity control plan.
(c) All CRSC Contracts shall have a term of not less than 3 nor more than 10 years.
(d) Eligible entities may offer to enter into a CRSC Contract in accordance with this part through the COC located in the same county as the eligible land or such other COC designated to administer contracts in the project area.
(e) By entering into a CRSC Contract, the participant agrees to:
(1) Carry out the terms and conditions of the CRSC Contract;
(2) Implement the salinity control plan:
(i) In accordance with the schedule of completion dates included in such plan, unless an extension of time is granted by the COC in consultation with the CD; and
(ii) Install all SRP's included in the salinity control plan in accordance with the SCS field office technical guide, regardless of whether the applicant receives cost-share assistance with respect to a SRP;
(3) Acquire all authorities, rights, easements, permits or other approvals necessary to install and maintain the SRP's and for compliance with applicable Federal, State, and local laws and regulations;
(4) Hold the Federal government harmless for any losses it may sustain if the participant infringes on the rights of others or fails to comply with applicable Federal, State, or local laws or regulations;
(5) Operate and maintain, at no cost to the Federal government, the SRP's as specified in the salinity control plan and ACP-245, Practice Approval and Payment Application, or as specified in separate operation and maintenance agreements entered into by the participant for the effective lifespan of the SRP's, as determined by SCS; and
(6) Not undertake any action on the land subject to the CRSC Contract that tends to defeat the purposes of the program provided for by this part.

(f) All entities who have a present possessory interest in the land, to be eligible for CRSC cost share, must sign a CRSC contract.
(g) The participant and each entity signing the CRSC Contract shall be jointly and severally responsible for compliance with the contract and the provisions of this part and for any refunds or payments which may be required for violation of any of the terms and conditions of the CRSC Contract and the provisions of this part.
(h) The CRSC contract may require that all participants and/or landowners, as a condition of eligibility for cost-share assistance, grant to the Secretary a recordable security interest in the property or equipment of the SRP's that are installed, with the value of the granted interest to be determined by FSA.
(i) The Deputy Administrator, or the Deputy Administrator's designee, may, in consultation with SCS and the CD, accept or reject offers to enter into a CRSC Contract.
(j) CRSC Contracts shall be implemented, and salinity control plans shall be developed, in the order of priority within the applicable salt source area that is established by the COC and CD in consultation with SCS.
[52 FR 16741, May 5, 1987, as amended at 58 FR 11785, Mar. 1, 1993]

§702.10 Operation and maintenance agreements.

(a) The participant shall enter into with the COC any operation and maintenance agreements determined to be necessary by the COC in order to ensure proper operation and maintenance of the SRP's provided for in the CRSC Contract.
(b) The operation and maintenance agreement will be comprised of:
(1) The terms and conditions of the agreement; and
(2) An operation and maintenance plan prepared by SCS.
(c) By entering in a operation and maintenance agreement, the participant agrees to:
(1) Carry out the terms and conditions of the operation and maintenance agreement;
(2) Operate and maintain, at no cost to the Federal government, the SRP's for the effective lifespan of all SRP's included in the operation and maintenance agreement;
(3) Operate, maintain and inspect the SRP's in accordance with the operation and maintenance plan;
(4) Obtain prior COC and SCS approval of all plans, designs, and specifications for any alteration to the SRP's;
(5) Prohibit the installation of any structure or facility that will interfere with the operation and maintenance of the SRP's;
(6) Notify the COC and SCS of any agreement to be entered into with other parties for the operation and maintenance of all or part of SRP's and provide the COC and SCS with a copy of such agreement when it has been signed by the participant and the other party; and
(7) Not undertake any action on the land subject to the operation and maintenance agreement that tends to defeat the purposes of the CRSC program;
(d) The participant and each person signing the operation and maintenance agreement shall be jointly and severally responsible for compliance with the operation and maintenance agreement and the provisions of this part and for any refunds or payment adjustments that may be required for violation of any of the terms and conditions of the operation and maintenance agreement and provisions of this part.

§702.11 Obligations of USDA.

FSA shall, subject to the availability of funds, share the cost with participants of establishing eligible SRP's specified in the salinity control plan at the levels and rates of cost-sharing determined in accordance with the provisions of §702.13 and SCS shall provide such technical assistance as may be necessary to assist the participant in carrying out the CRSC Contract.

§702.12 Availability of cost-share payments.

(a) Cost-share payments shall be made available to a participant in a CRSC Contract upon a determination by the COC that SCS has certified that the eligible SRP or an identifiable portion thereof has been established in accordance with the appropriate standards and specifications and that such SRP would serve the functional purposes for which the practice is intended.

(b) Cost-share payments may be made available under this part only for the establishment or installation of an eligible SRP.

(c) Cost-share assistance may be approved for the replacement, enlargement, or restoration of SRP's installed under a CRSC Contract if such practices, as originally installed, failed to achieve the desired salinity reduction and if:

(1) The replacement, enlargement, or restoration of the SRP is required to solve identified problems or to achieve salt reduction benefits;

(2) The approved specifications for the SRP were met in the original installation of the practice; and

(3) The failure of the SRP to solve the identified problem or to achieve salt reduction benefits was caused by circumstances beyond the control of the participant.

(d) If a participant has taken any action which tends to defeat the purposes of the program provided for by this part, the COC may withhold or require a refund of all or part of any payments otherwise due or paid that participant in accordance with this part. Such actions include, but are not limited to, failure to properly maintain or deliberately destroying a SRP.

§702.13 Levels and rates of cost-share payments.

(a) The level of Federal cost-share assistance for the required SRP's for the project shall be determined by formulas as established in the USDA Salinity Control Report.

(b) Except as provided in paragraph (c) of this section, cost-share payments shall not exceed the lesser of 70 percent of the average cost or 70 percent of the actual cost of the installation of the SRP.

(c) The Deputy Administrator, in consultation with the USDA Salinity Control Coordinating Committee, may approve cost-share levels in excess of 70 percent of the average or actual cost of installation of the SRP or in excess of the level based on the ratio of on-farm and offsite benefits if such increased assistance is necessary to obtain acceptable program participation. Higher cost-share levels shall be considered only when one or more of the following apply, unless the Secretary finds at his descretion that such

cost-sharing requirement would result in a failure to proceed with needed on-farm measures:
(1) On-farm benefits that are low relative to offsite benefits;
(2) Higher degree of project cost-effectiveness and magnitude of salinity reduction benefits to be achieved relative to other projects;
(3) The need for and the cost of implementing voluntary SRP's to replace incidental fish and wildlife values foregone;
(d) The combined cost-share assistance provided by Federal, State, and local governments or subdivisions thereof shall not exceed 100 percent of the cost of installing the SRP.
[52 FR 16741, May 5, 1987, as amended at 58 FR 11786, Mar. 1, 1993]

§702.14 Assignments.

Any participant entitled to cost-share payments under this program may assign the right to receive such payment, in whole or in part, as provided in the regulations at 7 CFR part 709, Assignment of Payment, or as provided in instructions issued by the Deputy Administrator.

§702.15 Payments not subject to claims.
Subject to the regulations found at 7 CFR part 13, any cost-share payment or portion thereof due any entity shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against the practice in favor of the owner or any other creditor, except agencies of the United States Government.

§702.16 Maximum amount of cost-share payments.
(a) Maximum payments for on-farm SRP's.
(1) Except as provided in paragraph (a)(2) of this section, the maximum amount of cost-share payments that a COC may approve for the establishment of on-farm SRP's on all land owned or controlled by a participant for the life of the program provided for by this part shall not exceed $100,000.
(2) The Deputy Administrator may approve cost-share payments to a participant for the establishment of on-farm SRP's in excess of $100,000.
(b) Except as provided in paragraphs (b)(1) and (b)(2) of this section, the maximum program cost-share payment that a COC may approve for implementing required SRP's for installing and improving canals and laterals on all land owned and controlled by a participant for the life of the program shall not exceed $200,000.
(1) Upon the request of the COC, the STC may authorize the COC to approve cost-share payments to a participant for the establishment of canal and lateral improvements in an amount that exceeds, $200,000 but not greater than $400,000.
(2) Upon the request of the COC, the Deputy Administrator may authorize the COC to approve cost-share payments to a participant for the establishment of canal and laterals improvements in amounts exceeding $400,000.

(c) Cost-sharing payments in excess of $100,000 shall be considered only when such payment will result in greater total offsite benefits, because the offsite benefits for the participants SCP, are greater than those of other participants under consideration at the same time and one or more of the following conditions exist:
(1) The cost of establishing required SRP's on the participant's land is high relative to the cost of installing practices on other similar land because of barriers or limitations imposed by nature or by man through past irrigation system practices;
(2) The extent of SRP's that must be established on a participant's land; and
(3) Increases in the cost of conservation materials and services that are beyond the participant's control.

§702.17 Transfers of land and contract modifications.
(a) CRSC Contracts may be transferrred or modified with the agreement of all parties to the contract. The transferee shall assume full responsibility for performance under the CRSC Contract, including the implementation of scheduled SRP's and the operation and maintenance of existing and scheduled SRP's.
(b) A participant who sells or loses control of the land under a CRSC Contract or any related operation and maintenance agreement to a new owner who refuses to perform the provisions of the CRSC Contract or operation and maintenance agreement or a participant who sells the water rights before there is compliance with all of the terms and conditions of a CRSC Contract or operation and maintenance agreement may be required to refund all or a portion of the cost-share assistance earned under the program.

§702.18 Violations.
(a)(1) If a participant violates the CRSC Contract or any related operations and maintenance agreement, the COC may, after considering the recommendations of the CD and SCS, terminate the CRSC Contract and operation and maintenance agreement.
(2) If the CRSC Contract is terminated by the COC in accordance with this section, the participant shall forfeit all rights to further cost-share payments under the CRSC Contract and shall refund all or part of the payments received as determined by the COC.
(b) The following actions constitute a violation of the CRSC Contract or any related operation and maintenance agreement by a participant:
(1) Destruction of a SRP on land which is the subject of a CRSC Contract, unless prior approval in writing is granted by FSA with SCS concurrence;
(2) Failure to comply with the terms and conditions of the CRSC Contract and any related operation and maintenance agreements;
(3) Filing of a false claim;
(4) Undertaking any action during the CRSC Contract or any operation and maintenance agreement period that tends to defeat the purpose of the program, including the destruction of any existing conservation practices that were established under any other cost-share program unless the participant provides evidence that all of the participant's obligations under such other program have been met; or

(5) Employment of any scheme or device to obtain cost-share assistance or additional cost-share assistance, or to deprive any other land user of cost-share assistance or the right to participate in the program.
(c) The Deputy Administrator may terminate any CRSC Contract and any related operation and maintenance agreements by mutual agreement with the paticipant based upon recommendations from COC, STC, SCS, and CD, if the termination of the CRSC Contract and operation and maintenance agreement is determined to be in the best interest of the public.
(d) If the participant fails to perform the terms and conditions of the CRSC contract and the Deputy Administrator determines, after considering the recommendations of the CD and SCS, that such failure does not warrant termination of the CRSC contract, the Deputy Administrator may require such participant to refund all or part of the payments received under the CRSC contract, or to accept such adjustments in the payment as are determined to be appropriate by the Deputy Administrator.
[52 FR 16741, May 5, 1987, as amended at 58 FR 11786, Mar. 1, 1993]

§702.19 CRSC Contracts and operation and maintenance agreements not in conformity with regulations.

If, after a CRSC Contract and related operation and maintenance agreement are entered in by the COC with a participant, it is discovered that such contract and operation and maintenance agreement are not in conformity with the provisions of this part as the result of a misunderstanding of the program procedures by a signatory to the contract and operation and maintenance agreement, a modification of the contract and operation and maintenance agreement may be made by mutual agreement. If the parties to the CRSC Contract and operation and maintenance agreement cannot reach agreement with respect to such modification, the contract and operation and maintenance agreement shall be terminated and all payments paid or payable under the contract shall be forfeited or refunded to the Federal government, except as may otherwise be allowed in accordance with the provisions of §702.18 of this part.

§702.20 Appeals.
The participant may obtain a review, in accordance with the provisions of 7 CFR part 614 and 7 CFR part 11, of any administrative decision made under the provisions of this part.
[60 FR 67316, Dec. 29, 1995]

§702.21 Access to land.

The COC, SCS or other agency providing technical services or representatives thereof shall have the right of access to land for which application to enter into a CRSC Contract has been made or for which a CRSC Contract has been entered into and the right to examine any program records to ascertain the accuracy of any representation made in the application or to determine compliance with the contract.

§702.22 Performance based upon advice or action of representatives of the Department or a CD.

Notwithstanding any other provision of law, performance rendered in good faith in reliance upon the action or advice of any authorized representative of a CD, a representative of SCS or the STC or COC may be accepted by the Chief of SCS or the Deputy Administrator, as applicable, as meeting the requirements of this program. SCS or the Deputy Administrator, respectively, may grant relief because of such good faith reliance to the extent it is deemed necessary to provide fair and equitable treatment.

§702.23 Filing of false claims.

(a) If it is determined by the COC, with STC concurrence, that any participant has knowingly submitted false information or filed a false claim, such participant shall be ineligible for payments under the provisions of this part with respect to the calendar year in which the false information or claim was filed.

(b) False information or false claims include a claim for payment for a SRP not carried out or for the establishment of SRP's which do not meet the required specifications. Any amounts paid under these circumstances shall be refunded and any amounts otherwise due the participant shall be withheld. The withholding or refunding of such payments will be in addition to any other penalty or liability otherwise imposed by law.

§702.24 Depriving others of payments.

If the COC with STC concurrence finds that any participant has employed any scheme or device to deprive any other person of payments under this part, it may withhold or require a refund of all or part of any program payment otherwise due or paid that person in accordance with the CRSC Contract. A scheme or device includes, but is not limited to, coercion, fraud, or misrepresentation.

§702.25 Miscellaneous.

(a) In accordance with the regulations set forth at 7 CFR part 796:

(1) No payment shall be made to any participant who harvests or knowingly permits to be harvested for illegal use, marihuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by such participants; and

(2) Any participant who is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for any payments under this part during that crop year and the four (4) succeeding crop years.

(b) In case of death, incompetence, or disappearance of any participant, any cost-share payment due shall be paid to the participant's successor in accordance with provisions of 7 CFR part 707.

Regulation 19: Fruit Trees, Vegetables, Ornamentals, Cut Flowers

PART 51 -- FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS [1, 2] (INSPECTION, CERTIFICATION, AND STANDARDS)

[1]Among such other products are the following: Raw nuts, Christmas trees and evergreens; flowers and flower bulbs; and onion sets.
[2]None of the requirements in the regulations of this part shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to products covered in the regulations in this part.

Subpart -- Regulations [1]

[1]None of the requirements in the regulations of this subpart shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to products covered in the regulations of this subpart.

Source: 32 FR 15066, Nov. 1, 1967, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

Administrative

§51.1 Administration of regulations.
(a) The Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, is charged with the administration of the regulations in this part, except at his discretion, he may delegate any or all such functions to any other officer or employee of the Agricultural Marketing Service of the Department.
(b) The conduct of all services and the hiring and licensing of inspection, grading and sampling personnel under these regulations shall be accomplished without discrimination as to race, color, religion, sex or national origin.
[39 FR 40937, Nov. 22, 1974. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

Definitions

§51.2 Terms defined.

Words in the regulations in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand. For the purposes of the regulations in this part, unless the context otherwise requires, the following terms shall have the following meanings:
(a) *Act*. "Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq.) as amended; (7 U.S.C. 1621 et seq.) or any other act of Congress conferring like authority.
(b) *Administrator.* "Administrator" means the Administrator of Agricultural Marketing Service.
(c) *Applicant.* "Applicant" means any interested party who has applied for inspection service under the regulations in this part.
(d) *Carlot.* "Carlot"means any number of containers that contain a product of the same kind located on or unloaded from the same conveyance and available for inspection at the same time and location: *Provided,* That:
(1) Product of the same carlot shall be considered to be separate lots whenever the product differs markedly as to quality and/or condition, and such differences are definitely associated with certain brands, varieties, sizes or container markings;
(2) If the applicant requests more than one inspection certificate covering portions of the same carlot, the quantity of the carlot covered by each certificate shall be considered to be a separate carlot;
(3) If product of the same carlot is packed in more than one size or type container, each such size or type shall be considered to be a separate lot.
(e) *Carlot equivalent.* "Carlot equivalent" shall be the quantity of an individual product customarily loaded in common highway trailers.
(f) *Condition.* (1) "Condition" means the relative degree of soundness of a product that may affect its merchantability and includes those factors that are subject to change and may result from, but not necessarily limited to, age, improper handling, storage or lack of refrigeration.
(2) Examples of condition factors include maturity or stage of ripeness; state of freshness, such as crispness, tenderness, or toughness; wilting; shriveling or flabbiness; mechanical injuries resulting from improper handling after packing; progressive pathological, physiological, and virus diseases, including fungal and bacterial roots; and freezing damage which may occur in transit or storage; or any other factor which may occur, develop, or progress in the marketing channels.
(g) *Agricultural Marketing Service.* "Agricultural Marketing Service" means the Agricultural Marketing Service of the Department.
(h) *Department.* "Department" means the U.S. Department of Agriculture.
(i) *Federal-State Inspection Agency.* "Federal-State Inspection Agency" means any State agency, business association or trade organization, private firm, or other person or corporation with which the Department has entered into a cooperative agreement for inspection service.
(j) *Grade.* "Grade" means a class or rank of quality.
(k) *Inspector.* "Inspector" means any employee of the Department authorized by the Secretary or any other person licensed by the Secretary, to investigate, sample, inspect, and certify, in accordance with the regulations in this part, to any interested party the

quality, quantity and/or condition of any fresh product covered in this part, and to perform related duties in connection with the inspection service.
(l) *Inspection service.* "Inspection service" means:
(1) The Service established and conducted under the regulations in this part for the determination and certification or other identification as to the grade, the quality and/or condition of fresh fruits or vegetables and related products including the condition of container.
(2) Performance by an inspector of any related services such as reporting the temperatures of loads or lots of fresh products.
(3) To observe conditions under which a product is being packed, to observe plant sanitation as a prerequisite to inspection of the packed product either on a continuous or periodic basis, or checkload the inspected product in connection with the marketing of the product.
(4) The issuance of inspection certificates or reports relating to paragraphs (j)(1), (2), and (3) of this section.
(m) *Interested party.* "Interested party" means any person who has a financial interest in the product for which inspection is requested.
(n) *Person.* "Person" means any individual, partnership, association, business trust, corporation, any organized group of persons (whether incorporated or not), the United States (including, but not limited to, any corporate agencies thereof), and any State, county, or municipal government, any common carrier, and any authorized agent of any of the foregoing.
(o) *Packing plant.* "Packing plant" means the premises, buildings, structures, and equipment including but not limited to, machines, utensils, fixtures, employed or used with respect to preparation and packing the product.
(p) *Quality.* "Quality" means the combination of the inherent properties or attributes of a product that determines its relative degree of excellence.
(q) *Regulations.* "Regulations" means the regulations in this subpart.
(r) *Sample.* "Sample" means any number of sample units to be used for inspection.
(s) *Sample unit.* "Sample unit" means a container and/or its entire contents, a portion of the contents of a container or other unit of a commodity, or a composite mixture of a commodity to be used for inspection.
(t) *Sampling.* "Sampling" means the act of selecting samples of a commodity for the purpose of inspection under the regulations in this part.
(u) *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.
[32 FR 15066, Nov. 1, 1967. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981; 56 FR 55799, Oct. 30, 1991]

§51.3 Designation of official certificates, memoranda, marks, other identifications and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purpose of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:
(a) *Inspection certificate.* "Inspection certificate" means any form of certification, either written or printed, used under this part to certify with respect to the inspection, identification, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).
(b) *Official memorandum.* "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.
(c) *Official mark.* "Official mark" means the grade mark, inspection mark, combined form of inspection and grade mark, and any other mark, or any variations in such marks, including those prescribed in §51.49, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected, or both, or indicating the appropriate U.S. grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected, or both, under this part.
(d) *Official identification.* "Official identification" means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label or seal indicating that the product has been graded or inspected and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.
(e) *Official device.* "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof; or any device approved and designated by the Administrator as a USDA official device for use as a color standard, defect guide, or other similar aid to interpret the U.S. Department of Agriculture grade standards and to facilitate conduct of the Inspection Service.

Inspection Service

§51.4 Where inspection service is offered.

Products will be inspected at appropriate points indicated in paragraphs (a), (b), and (c) of this section whenever inspectors are available.
(a) *Shipping points.* Inspection service is available in all areas covered by cooperative agreements entered into on behalf of the Department with Cooperating Federal-State Inspection Agencies providing for this inspection work pursuant to authority contained in

any Act of Congress, or may be provided in any other area which is not covered by a cooperative agreement if the Administrator determines that it is practicable to provide inspection service.
(b) *Destination markets.* Inspection is available in all central markets in which an inspection office is located.
(c) *Other destination points.* Inspection may be made at any point which may be conveniently reached from any terminal market in which an inspection office is located to the extent inspection personnel is available.
(d) *Addresses of offices.* Any prospective applicant may obtain an up-to-date list of inspection offices by addressing an inquiry to Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

§51.5 Who may obtain inspection service.
An application for inspection service may be made by any interested party including, but not limited to, the United States and any instrumentality or agency thereof, any State, county, municipality, or common carrier, and any authorized agent in behalf of the foregoing.

§51.6 How to make application.
An application for inspection service may be filed in an office of inspection at any market referred to in §51.4 (b), (c), or (d) or with any inspector. It may be made in writing, orally, by telegraph, or by telephone. If made orally or by telephone, the inspector may require that it be confirmed by applicant in writing or by telegraph. An application may be made for one or more lots, or it may be in the nature of a blanket application for inspection of all designated lots of a given commodity within a particular period, or for all designated lots loaded or received at a specified point.

§51.7 Form of application.
Each application for inspection service shall state (a) the name and address of the applicant and the name and capacity of the person, if any, making the application in his behalf; (b) the name and address of the shipper; (c) the kind and quantity of the products involved; (d) the interest of the applicant therein; (e) the identification of the products by (1) grade, brand, or other marks, if practicable, (2) car number of carrier or number of truck or name of boat, if practicable, and (3) the name and location of the store, warehouse, or other place where the products are located; (f) the particular quality or condition concerning which inspection is requested, to which may be added the time and place at which it is desired that the inspection be made; (g) when the lot is to be inspected in a receiving market, the name and address of the receiver; (h) the name of the shipping point and of the destination, when known; and (i) such other information as may be necessary for identification of the product, or as may be required by the inspector or the Administrator.

§51.8 Filing of application.
An application shall be regarded as filed only when made at the office of inspection nearest the place where the commodity is located. A record showing the date and time of filing shall be made and kept in such office.

§51.9 When application may be rejected.
An application may be rejected by the inspector in charge of the appropriate office of inspection if the applicant objects to the inspector cutting an adequate number of specimens to determine the interior quality or condition of the product to be inspected, or for failure of the applicant (a) to observe the regulations of this part, (b) to furnish necessary information or to make the commodity reasonably available or accessible for inspection, (c) to pay for previous inspection services rendered, or (d) when it appears that to perform the inspection and certification service would not be to the best interest of the Government. Such applicant shall be notified promptly of the reason for such rejection.

§51.10 When application may be withdrawn.
An application may be withdrawn by the applicant at any time before the inspection is performed: *Provided,* That the applicant shall pay any travel expenses, telephone, telegraph, or other expenses which have been incurred by the Inspection Service in connection with such application.

§51.11 Authority to request inspection.
Proof of the interest of an applicant in the product involved, or of the authority of any person applying for inspection in behalf of another may be required, at the discretion of the inspector.

§51.12 Accessibility of products.
The applicant shall cause the products for which inspection is requested to be made reasonably accessible for sampling or inspection and to be so placed as to disclose their quality or condition. Samples of the products drawn for examination shall be inspected only under such conditions as, in the opinion of the inspector, will permit a true and correct determination to be made of their quality or condition.

§51.13 Basis of service.
Inspection and certification service for quality and/or condition shall be based upon the appropriate standards promulgated by the U.S. Department of Agriculture, applicable standards prescribed by the laws of the State where the particular product was produced, specifications of any governmental agency, written buyer and seller contract specifications, or any written specification by an applicant which is approved by the

Administrator: *Provided,* That if such product is regulated pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), or the comparable laws of any State, such inspection and certification shall be on the basis of the standards, if any, prescribed in, or pursuant to, the marketing order and/or agreement effective thereunder.

§51.14 Order of inspection service.
Inspection service shall be performed, insofar as practicable, in the order of which applications are received, except that precedence shall be given (a) to the inspection of lots involved in complaints filed pursuant to the Perishable Agricultural Commodities Act, 1930 (U.S.C. 449a et seq.), and (b) to appeal inspections. Precedence may also be given to applications made on behalf of the Federal or State Government.

§51.15 Financial interest of inspector.
No inspector shall inspect any product in which he is directly or indirectly financially interested.

§51.16 Postponing inspection service.
If the inspector has reason to believe that, because of latent defects due to climatic or other conditions, he is unable to determine the true quality or condition of the product, he shall postpone examination for such period as may, in his judgment, be reasonably necessary to enable him to determine its true quality or condition. The inspector shall also postpone inspection, unless otherwise directed by the applicant, if in his judgment examination of the product when exposed to low temperatures may result in damage to the product.

§51.17 Official sampling.
Samples may be officially drawn by any duly authorized inspector and delivered, or shipped, for analysis and certification to the nearest designated market or to such market as shall be directed by the Administrator. The container in which such samples are delivered, or shipped, shall contain a statement, signed by the inspector who drew the samples, showing the time and place of the sampling and the brands or other identifying marks of the containers from which the samples were drawn. The certificate based on such samples shall show the time and place of drawing the samples, and the name of the inspector by whom they were drawn.

§51.18 Certificate forms.
Certificates shall be issued on forms approved by the Administrator.

§51.19 Issuance of certificates.

(a) A separate certificate shall be issued for each lot inspected, except that when an application covers more than one lot a single certificate may be issued to cover all such lots. The person signing and issuing the certificate shall be one of the following:
(1) The inspector who performed the inspection;
(2) Another employee of the Inspection Service who has been given power of attorney by the inspector and authorized by the Administrator to affix the inspector's signature to an inspection certificate;
(3) Another employee of the Inspection Service who has been authorized by the Administrator to act in a supervisory capacity;
(4) With the approval of the administrator, the signature of the person performing the inspection or that of an employee of the Inspection Service who has been authorized to act in a supervisory capacity may be affixed by computer to an official certificate.
Provided, That in all cases the inspection certificate shall be prepared in accordance with the official memoranda of the inspector or inspectors who performed the inspection: *And provided further,* That whenever a certificate issued is signed by a person given power of attorney by the inspector, that person's signature must appear along with the name of the inspector.
(b) When the inspection is made for the purpose of determining whether food products for use by the applicant comply with contract specifications therefore, a formal certificate need not be issued, but the fact of such compliance or noncompliance may be indicated by affixing an appropriate stamp or mark on such products or the containers thereof, at the discretion of the inspector.
[35 FR 13571, Aug. 26, 1970. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981; 51 FR 8478, Mar. 12, 1986]

§51.20 Issuance of corrected certificates.

A corrected inspection certificate may be issued by the inspector who issued the original certificate after distribution of a certificate if errors, such as incorrect dates, grade statements, lot or car numbers, identification marks, types of containers, sizes, weights, quantities, or errors in any other pertinent information require the issuance of a corrected certificate. Whenever a corrected certificate is issued, such certificate shall supersede the inspection certificate that was issued in error and the superseded certificate shall become null and void after the issuance of the corrected certificate.

§51.21 Disposition of inspection certificates.
(a) The original certificate, and not to exceed four copies (if requested by applicant prior to issuance), shall be delivered or mailed promptly to the applicant or to a person designated by him. One copy shall be delivered or mailed to the shipper of the inspected product. One copy shall be filed in the office of the inspector when a Federal Government employee makes the inspection, otherwise, it shall be filed in the appropriate office of the cooperating Federal-State Inspection Agency. Unless otherwise directed by the Administrator, two copies of each official certificate issued on products received in destination markets shall be forwarded to the Administrator to be kept on file in Washington and no copies of official certificates issued at shipping point need be so forwarded. In the case of any product covered by a marketing agreement and/or order effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7

U.S.C. 601 *et seq.*), at least one copy of each certificate covering the inspection of such product shall, on request, be delivered to the administrative agency established thereunder, subject to such terms and conditions as the Administrator may prescribe. Copies may be furnished to other interested parties as outlined in §51.41.
(b) [Reserved]
[63 FR 15277, Mar. 31, 1998]

§51.22 Disposition of samples.

If it is necessary to take samples of the product to the inspection office for further examination, the inspector, after completion of inspection of such samples shall dispose of them or any usable portion as follows: (a) Ascertain from the applicant if the owner wants the samples returned to him at his expense, (b) if he does not want them returned at his expense, give them to a nonsectarian charitable organization or, (c) if they have a substantial monetary value, sell them and remit the proceeds to the Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, or if applicable, to the cooperating State Agency. Such proceeds shall be deposited to the credit of the Inspection Trust Fund, Federal or cooperating agency, whichever is applicable.

§51.23 Report of inspection results prior to issuance of formal report.
Upon request of an applicant, all or any part of the contents of a certificate covering an inspection requested by him may be telegraphed or telephoned to him, or to any person designated by him, at his expense. If the application for such information is received after the certificate has been issued, it will be considered as an application for an extra copy of the certificate, and the fees prescribed in §51.41 shall apply.

Appeal Inspection

§51.24 When appeal inspection may be requested.
An application for appeal inspection may be made by any financially interested person who is dissatisfied with the results of an inspection as stated in an inspection certificate, if the lot can be positively identified by the Inspection Service as the lot that was previously inspected.

§51.25 Where to file for an appeal inspection and information required.
An appeal inspection may be obtained by the applicant, or other person financially interested in the product, by filing a request (a) with the Inspection Office nearest the point where the product is located, or (b) with the inspector who made the original inspection, or (c) with any district supervisory inspection office, or (d) with the Administrator. The application for the appeal inspection shall state the reasons therefore, and shall be accompanied by a copy of any previous inspection certificate or inspection report, and any other information which the applicant received regarding the quality or condition of the product at the time of the original inspection. Such application may be

made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation shall be made promptly.

§51.26 Record of filing time.
A record showing the date and time of filing an application for appeal inspection shall be made promptly by the receiving office.

§51.27 When appeal inspection may be refused.
An application for an appeal inspection may be refused if: (a) The reasons for the appeal inspection are frivolous or not substantial; (b) the quality or condition of the product has undergone a material change since the inspection covering the product on which the appeal inspection is requested; (c) the lot in question is not, or cannot be, made accessible for the inspection; (d) the lot relative to which appeal inspection is requested cannot be identified positively by the inspector as the lot which was previously inspected; or (e) there is noncompliance with the regulations in this part. Such an applicant shall be notified promptly of the reason for refusal.

§51.28 When an application for an appeal inspection may be withdrawn.
An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided*, That the applicant shall pay any travel expenses, telephone, telegraph or other expenses which have been incurred by the Inspection Service in connection with such application.

§51.29 Order in which made.
Appeal inspections shall be made, as soon as practicable, following the time requested by the applicant and in the order in which applications are received. They shall take precedence over all other pending applications, except applications for inspections covering lots involved in complaints filed pursuant to the Perishable Agricultural Commodities Act, 1930 as amended (7 U.S.C. 499a *et seq.*).

§51.30 Who shall perform appeal inspections.
Appeal inspections shall be performed by an inspector or inspectors authorized for this purpose by the Administrator and whenever practical, such appeal inspections shall be made by two inspectors.

§51.31 Appeal inspection certificate.
After an appeal inspection has been completed, an appeal inspection certificate shall be issued showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the product involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection

certificate that it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality described therein. The inspector or inspectors issuing an appeal inspection certificate shall sign the certificate and forward notice of such issuance to such persons as considered necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the inspector or inspectors issuing the appeal inspection certificate. The provisions in the regulations in this part concerning forms of certificates and issuance of certificates, shall apply to appeal inspection certificates, except that copies of such appeal inspection certificates shall be furnished all interested parties who receive copies of the superseded certificate.

Licensing of Inspectors

§51.32 Who may be licensed.

Persons who are employed by a cooperative Federal-State Inspection Agency and possess adequate qualifications, as determined by such examinations as the Administrator may consider to be appropriate, may be licensed as inspectors of products that may be inspected under the regulations in this part. Such license shall bear the printed signature of the Secretary and shall be countersigned by an authorized employee of the Department. A licensed inspector shall perform his duties pursuant to the regulations in this subpart as directed by the Administrator.

§51.33 Application to become a licensed inspector.

Application to become a licensed inspector shall be made to the Administrator on forms furnished for that purpose. Each such application shall be filled in and signed by the applicant in his own handwriting, and the application shall contain or be accompanied by:
(a) A statement of present address, age, height, and weight of the applicant;
(b) A statement showing education and present and previous occupations, together with names of all employers for whom he has worked with periods of service, during the last 5 years previous to the date of his application;
(c) A statement by the applicant that he agrees to comply with all terms and conditions of the regulations in this part relating to the duties of inspectors; and
(d) Such other information as may be required by the Administrator.

§51.34 Suspension or revocation of license of a licensed inspector.

Pending final action by the Secretary, the Administrator may, whenever he deems such action necessary, suspend the license of any licensed inspector issued pursuant to the regulations in this part by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefore. Within 10 days after the receipt of the aforesaid notice and statement of the reasons by such licensee, he may file an appeal, in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 10-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license shall be automatically revoked.

§51.35 Surrender of license.
Upon termination of his services as a licensed inspector, or suspension or revocation of his license, a licensee shall surrender his license immediately to the office of inspection serving the area in which he is located. These same provisions shall apply in case of an expired license.

§51.36 Expiration and renewal of license.
An inspector's license issued pursuant to the regulations in this subpart shall expire on December 31 of each year in which it is issued. The license of an inspector may be renewed by the issuance of a new license and the renewal shall subject the inspector to the terms and conditions of the regulations of this subpart.
[37 FR 11313, June 7, 1972. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

Schedule of Fees and Charges at Destination Markets

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

§51.38 Basis for fees and rates.
(a) When performing inspections of product unloaded directly from land or air transportation, the charges shall be determined on the following basis:
(1) For products in quantities of 51 or more packages:
(i) Quality and condition inspection of 1 to 4 products unloaded from the same conveyance:
(A) $86 for over a half-carlot equivalent of an individual product.
(B) $72 for a half carlot equivalent or less of an individual product.
(C) $14 for each additional lot of the same product.
(ii) Condition only inspection of 1 to 4 products unloaded from the same conveyance:
(A) $72 for over a half-carlot equivalent of an individual product.
(B) $66 for a half carlot equivalent or less of an individual product.
(C) $14 for each additional lot of the same product.
(iii) Quality and condition inspection and/or condition only inspection of 5 or more products unloaded from the same conveyance:
(A) $305 for the first 5 products.
(B) $43 for each additional product.
(C) $14 for each additional lot of any of the same product.
(2) For quality and condition inspection and/or condition only inspection of products in quantities of 50 or less packages unloaded from the same conveyance:
(i) $43 for each individual product.
(ii) $14 for each additional lot of any of the same product.

(b) When performing inspections of palletized products unloaded directly from sea transportation or when palletized product is first offered for inspection before being transported from the dockside facility, charges shall be determined on the following basis:
(1) For each package inspected according to the following rates:
(i) 1.1 cent per package weighing less than 15 pounds;
(ii) 2.2 cents per package weighing 15 to 29 pounds; and
(iii) 3.3 cents per package weighing 30 or more pounds.
(2) $14 for each additional lot of any of the same product.
(3) A minimum charge of $86 for each product inspected.
(c) When performing inspections of products from sea containers unloaded directly from sea transportation or when palletized products unloaded directly from sea transportation are not offered for inspection at dockside, the carlot fees in §51.38(a) shall apply.
(d) When performing inspections for Government agencies, or for purposes other than those prescribed in the preceding paragraphs, including weight-only and freezing-only inspections, fees for inspection shall be based on the time consumed by the grader in connection with such inspections, computed at a rate of $43 an hour: *Provided*, That:
(1) Charges for time shall be rounded to the nearest half hour;
(2) The minimum fee shall be two hours for weight-only inspections, and one-half hour for other inspections; and
(3) When weight certification is provided in addition to quality and/or condition inspection, a one-hour charge shall be added to the carlot fee.
(4) When inspections are performed to certify product compliance for Defense Personnel Support Centers, the daily or weekly charge shall be determined by multiplying the total hours consumed to conduct inspections by the hourly rate. The daily or weekly charge shall be prorated among applicants by multiplying the daily or weekly charge by the percentage of product passed and/or failed for each applicant during that day or week. Waiting time and overtime charges shall be charged directly to the applicant responsible for their incurrence.
(e) When performing inspections at the request of the applicant during periods which are outside the grader's regularly scheduled work week, a charge for overtime or holiday work shall be made at the rate of $21.50 per hour or portion thereof in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Overtime or holiday charges for time shall be rounded to the nearest half hour.
(f) When an inspection is delayed because product is not available or readily accessible, a charge for waiting time shall be made at the prevailing hourly rate in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Waiting time shall be rounded to the nearest half hour.
[63 FR 15277, Mar. 31, 1998]

§51.39 Fees for appeal inspections.

The fee to be charged to an applicant, including any Government agency, for appeal inspections on all products shall be at the same rate as those set forth in this part, except that when a material error is found in the determination of the original inspection, no fee will be charged.

[56 FR 55800, Oct. 30, 1991]

§51.40 Traveling and other expenses.

Costs including travel incurred by the Agricultural Marketing Service in providing inspection service or appeal inspections may be charged to the applicant, including any Government agency. These charges shall be included with the fee for inspection on the bill furnished the applicant.
[56 FR 55800, Oct. 30, 1991]

§51.41 Fees for additional copies of inspection certificates.

Additional copies of any inspection certificate other than those copies provided for in §51.21, or copies of official memoranda, may be mailed, faxed, or otherwise provided to any interested party upon payment of a fee of $5.00 for each copy.
[56 FR 55800, Oct. 30, 1991]

§51.42 Charges for inspection services on a contract basis.

Irrespective of fees and charges prescribed in the foregoing sections, the Administrator may enter into contracts with applicants to perform inspection services pursuant to the regulations in this part and other requirements as prescribed by the Administrator in such contract, and the charges for such inspection services provided for in such contracts shall be on such basis as will reimburse the Agricultural Marketing Service of the Department for the full cost of conducting such inspection service, including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses, as may be determined by the Administrator.

§51.43 How fees shall be paid.

Fees shall be paid by the applicant in accordance with the directions on the fee bill furnished him by the billing office, and in advance, if required by the inspector.

§51.44 Disposition of fees.

(a) The fees collected for services rendered shall be disposed of as follows:
(1) Fees for inspections made by inspectors acting exclusively for the Agricultural Marketing Service shall be remitted promptly to the Agricultural Marketing Service.
(2) Fees for inspections made by an inspector acting under a cooperative agreement with a State or other organization shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement with a State or other cooperating bodies as may be due the United States shall be remitted to the Agricultural Marketing Service.

(b) Fees and charges collected pursuant to §§51.40 to 51.41 shall be remitted to the Agricultural Marketing Service.
(c) Fees and charges collected pursuant to §51.42 shall be disposed of in accordance with the terms of the contract.

Schedule of Fees and Charges at Shipping Point Areas

§51.45 Fees and charges at shipping point areas.

Fees for inspection performed under cooperative agreements pursuant to authority contained in any Act of Congress shall be those provided by such agreements.

Miscellaneous

§51.46 Denial of inspection service.

Any or all benefits of the act may be denied any person for any of the following reasons: (a) Any willful misrepresentation or deceptive or fraudulent practice made or committed by any person in connection with the making or filing of an application for inspection service; (b) any fradulent or unauthorized use, alteration, or imitation of any certificate issued pursuant to the regulations in this subpart; (c) any interference with or obstruction of any inspector or official sampler in the performance of his duties, by intimidation, threat, assault or any other improper means; or (d) any willful violation of the regulations in this subpart may be deemed sufficient cause for debarring the person found guilty thereof from any or all benefits of the acts, after notice and opportunity for hearing has been accorded him. The Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth in §§1.130 through 1.151 of this title and the Supplemental Rules of Practice in part 50 of this chapter shall govern proceedings conducted pursuant to this section.
[32 FR 15066, Nov. 1, 1967. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 60 FR 8464, Feb. 14, 1995]

§51.47 Political activity.

All inspectors are forbidden, during the period of their respective appointments or while holding a valid inspectors' license to take an active part in political campaigns and a violation by a licensee shall constitute grounds for revocation of his license. All Federal employees are subject to the applicable provisions of the Department's administrative regulations relating to political activity.

§51.48 Inspector's identification.

Each inspector shall have in his possession at all times, and present upon request, while on duty, the means of identification furnished by the Department to such person.

§51.49 Approved identifications.

(a) *Grade marks.* The approved shield mark with the appropriate U.S. grade designation may be used on containers, labels or otherwise indicated on the package when: (1) The product has been packed under continuous inspection as provided by the Inspection Service, (2) the plant in which the product is packed is maintained under good commercial sanitary practices, and (3) the product has been certified by an inspector as meeting the requirements of U.S. Grade A, U.S. Grade No. 1, or a higher U.S. grade as shown within the shield. The shields with approved grade designation for use shall be similar in form and design to the examples in figures 1 and 2 of this section.

Shield using red, white and blue background

FIGURE 1

(b) *Inspection legends.* The approved continuous inspection legends may be used on containers, labels or otherwise indicated on the package when: (1) The product has been packed under continuous inspection provided by the Inspection Service, (2) the plant in which the product is packed is maintained under good commercial sanitary practices, and (3) the product meets the requirements of such quality, grade, or specification as may be approved by the Administrator. The continuous inspection legends approved for use shall be similar in form and design to the examples in figures 3 and 4.

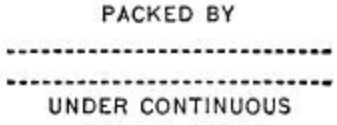

FIGURE 4

(c) *Combined grade and inspection legends.* The grade marks set forth in paragraph (a) of this section and illustrated by figures 1 and 2 of this section and the inspection legends set forth in paragraph (b) of this section and illustrated by figures 3 and 4 of paragraph (b) of this section may be combined into a consolidated grade and inspection legend for use on products which meet the requirements of both of these paragraphs. See figure 5.

PACKED BY

UNDER CONTINUOUS
FEDERAL-STATE
INSPECTION

FIGURE 5

(d) *Packer identification.* The packer's name and address or assigned code number or other mark identifying the packer as may be approved by the Administrator, shall appear on any container bearing grade marks or inspection legends approved under paragraph (a), (b), or (c) of this section, as illustrated by the example in figure 6.

PACKER NO. 01
PACKED UNDER CONTINUOUS
FEDERAL - STATE INSPECTION

FIGURE 6

(e) *Other identification marks.* Products may be inspected on a lot inspection basis as provided in this part and identified by an official inspection mark similar in form and design to figure 7 of this paragraph. The use of this mark or other comparable identification marks may be required by the Administrator whenever he determines that such identification is necessary in order to maintain the identity of lots which have been inspected and certified.

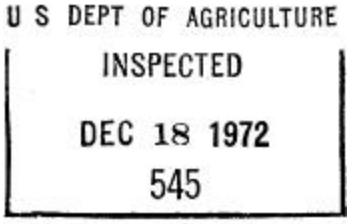

FIGURE 7

[38 FR 7448, Mar. 22, 1973. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

§51.50 Custody of official inspection marking devices.

All official inspection marking devices as shown in figure 6 of §51.49 shall be kept in the custody of the Agricultural Marketing Service and accurate records shall be kept of these devices. Each inspection office shall keep a record of the devices assigned to it. Such devices shall be distributed only to authorized employees of the Department who shall keep the devices in their official possession or control at all times and keep complete records of such devices.

§51.51 Prohibited uses of approved identification.

No label or advertising material used on, or in conjunction with any product, shall bear a brand name, trademark, product name or any other descriptive material that incorporates, resembles, simulates, or alludes to any official U.S. Department of Agriculture grade mark, grade statement, continuous inspection legend, sampling mark or sampling statement, or combination of one or more thereof.

§51.52 Licensing and identification of certain official devices.

The Administrator may issue licenses permitting the manufacture, identification, distribution, and sale of any official device designated as a USDA color standard, defect guide or other similar aid under such terms and conditions as may be specified by the Administrator. Licenses shall be available to all persons meeting conditions prescribed by the Administrator, shall be nonexclusive, and shall be revocable for cause. No person shall manufacture, identify, distribute or sell any such official device except at the direction of or under license from the Administrator. Such official devices may be marked, tagged or otherwise designated with the prefix "USDA" together with other identifying words or symbols, as prescribed by the license.

Requirements for Plants Operating Under Continuous Inspection on a Contract Basis

§51.53 Continuous inspections.

Continuous inspection service which is associated with the use of the approved shield showing the U.S. grade, the approved continuous inspection legend, or both, on the container may be furnished whenever inspectors are available, the facilities and conditions are satisfactory for the conduct of the service, and there is a signed contract between the applicant and the Department or a cooperative Federal-State Inspection Agency in which it is agreed that such service will be conducted subject to regulations governing the inspection and certification of fresh fruits, vegetables, and other products, contained in this part and any additional and supplemental instructions issued by the

Department or such instructions issued by a cooperating agency which are not inconsistent with those issued by the Department.

§51.54 Plant survey.
Prior to the inauguration of continuous Federal or Federal-State Inspection Service on a contract basis, the Administrator will make or cause to be made a survey and inspection where such service is to be performed to determine whether the premises, plant and facilities are suitable and adequate for the performance of such service in accordance with the regulations in this part, including, but not limited to requirements contained in §§51.54 through 51.59.

§51.55 Premises.
The premises shall be free from conditions objectionable to packing operations, including, but not limited to litter, waste and refuse within the immediate vicinity of the plant buildings, excessively dusty roads, yards or parking lots, and poorly drained areas.

§51.56 Buildings and structures.
The packing plant buildings shall be properly constructed and maintained in a sanitary condition, including, but not limited to the following requirements:
(a) There shall be sufficient light consistent with the use to which the particular portion of the building is devoted and to permit efficient cleaning. The grading belts and bins shall be provided with sufficient proper nonglaring light to insure adequacy of grading and inspection operations;
(b) If the product is washed there shall be ample supply of water of a safe and sanitary quality with adequate facilities for its distribution throughout the plant and washing machinery;
(c) There shall also be an efficient waste disposal and plumbing system maintained in good repair;
(d) Each room in which the product is graded or stored shall be designed and constructed as to insure operating conditions of a clean and orderly character and shall be maintained in a clean and sanitary manner; and,
(e) Every practical precaution shall be taken to exclude dogs, cats, rodents and other vermin from the rooms in which the products are to be graded or stored.

§51.57 Facilities.
Each packing plant shall be equipped with adequate sanitary facilities and accommodations, including but not being limited to the following:
(a) There shall be a sufficient number of adequately lighted toilet rooms, ample in size and conveniently located. Toilet rooms shall be adequately screened and equipped with self-closing doors, and shall have independent outside ventilation;

(b) Adequate lavatory accommodations and supplies shall be placed at such locations in or near toilet rooms as to insure the cleanliness of each person who grades or handles the product to be inspected; and
(c) Suitable facilities for cleaning shall be provided at convenient locations in the plant.

§51.58 Equipment.
All equipment used for receiving, washing, grading, packaging or storing shall be of such design, material and construction that it may be kept clean.

§51.59 Operations and operating procedures.
(a) The inspector shall refuse to permit the use of the official shield with grade mark or continuous inspection legend on packages if the produce is from a field or orchard having a disease or other condition which may not be apparent on individual specimens at packing time but which may cause the product to materially decrease in quality after packing.
(b) All products which are certified shall be subjected to continuous inspection throughout the packing operations.
(c) The inspectors are available for consultation purposes but shall not become involved in plant operations.
(d) The Inspection Service will not be responsible for damages occurring through any act of commission or omission on the part of its inspectors when engaged in rendering continuous inspection service; for packing errors or misbranding of products; or for failure to supply enough inspectors during any period of service provided under the contract.
(e) The applicant for continuous inspection shall:
(1) Conform to all applicable regulations under which the continuous inspection service is conducted.
(2) Use only raw material which has been handled or stored under conditions which insures its suitability for packing; maintain the plant designated herein in such sanitary condition and to employ such methods of handling raw materials for packing as may be necessary to conform to the sanitary requirements prescribed in this part.
(3) Not permit any of his marks or labels or buyers' and distributors' marks or labels applied by him on which reference is made to continuous inspection to be used on any product not packed under this continuous inspection service; or permit any of his marks or labels or buyers' and distributors' marks or labels applied by him on which reference is made to any U.S. Grade to be used on any product which does not meet the requirements of such grade; or to supply labels bearing reference to continuous inspection service to another plant unless the products to which such labels are to be applied have been packed under continuous inspection.
(4) Furnish any reports of packaging and output of products inspected, as may be requested by the inspection agencies.
(5) Make available to inspectors adequate office space in the designated plant and furnish suitable desks and office equipment for the proper care of inspection records.

(6) Make his laboratory or other facilities and necessary equipment available for the use of inspectors in making inspection of samples.
(7) Furnish if required, such stenographic and clerical assistance as may be necessary in the typing of certificates and reports and the handling of official correspondence, as well as the labor incident to drawing of samples and facilitating adequate inspection procedure when necessary.
(8) Submit to the Chief of the Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, for approval prior to printing, drawings or printers' proofs of each packer's or distributor's label bearing or referring in any manner to official inspection legends or grade marks.
(9) Not make deceptive, fraudulent, or unauthorized use in his advertising, or otherwise, of the continuous inspection service, the inspection certificates or reports issued, or the containers on which the shield of the Department is identified, in connection with the sale of any of the packaged products; and to submit to the Agricultural Marketing Service through the inspector assigned to the plant or other representative of the Inspection Service, for approval to use any proposed advertising in which reference is made to the Inspection Service.
[32 FR 15066, Nov. 1, 1967, as amended at 38 FR 7448, Mar. 22, 1973. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

§51.60 Termination of contracts.

In case the applicant wishes to terminate the contract he agrees either to continue the service until all unused containers, labels and advertising material on hand or in the possession of his supplier bearing the Department shield, or reference to continuous inspection service have been used, or to destroy such containers, labels and advertising material, or to obliterate the Department shield and all other reference to the continuous inspection service on said containers, labels, and advertising material, or otherwise furnish assurance satisfactory to the Agricultural Marketing Service that such containers, labels and advertising material will not be used in violation of the terms and conditions of this agreement. In case the continuous inspection service is terminated for cause by the Agricultural Marketing Service, the applicant agrees to destroy all unused containers, labels and advertising material on hand bearing the Department shield, or reference to continuous inspection service, or to obliterate the Department shield, and all reference to the continuous inspection service on said containers, labels and advertising material or otherwise furnish assurance satisfactory to the Agricultural Marketing Service that such containers, labels and advertising material will not be used in violation of the terms and conditions of the agreement.

§51.61 Congressional interest in contracts.
No member of, or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of any contract provided for in the regulations in this subpart or to any benefit that may arise therefrom, but this provision shall not be construed to extend to such contract if made with a corporation for its general benefit, and shall not extend to

any benefits that may accrue from the contract to a member of, or delegate to Congress, or a Resident Commissioner in his capacity as a farmer.

§51.62 OMB control numbers assigned pursuant to the Paperwork Reduction Act.
The information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control No. 0581-0125. (44 U.S.C. Chap. 35)
[49 FR 23826, June 8, 1984]

Subpart -- United States Standards for Grades of Apples

Source: 67 FR 69663, Nov. 19, 2002, unless otherwise noted.

Grades

§51.300 U.S. Extra Fancy.
"U.S. Extra Fancy" consists of apples of one variety (except when more than one variety is printed on the container) which are mature but not overripe, clean, fairly well formed, free from decay, internal browning, internal breakdown, soft scald, scab, freezing injury, visible water core, and broken skins. The apples are also free from injury caused by bruises, brown surface discoloration, smooth net-like russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, disease, insects, or other means. The apples are free from damage caused by bitter pit or Jonathan spot and by smooth solid, slightly rough or rough russeting, or stem or calyx cracks, as well as damage by invisible water core after January 31st of the year following the year of production except for the Fuji variety of apples. Invisible water core shall not be scored against the Fuji variety of apples under any circumstances. For the apple varieties listed in table I of §51.305, each apple of this grade has the amount of color specified for the variety. (*See* §§51.305 and 51.306.)

§51.301 U.S. Fancy.
"U.S. Fancy" consists of apples of one variety (except when more than one variety is printed on the container) which are mature but not overripe, clean, fairly well formed, and free from decay, internal browning, internal breakdown, soft scald, freezing injury, visible water core, and broken skins. The apples are also free from damage caused by bruises, brown surface discoloration, russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, disease, insects, bitter pit, Jonathan spot, or damage by other means, or invisible water core after January 31st of the year following the year of production, except for the Fuji variety of apples. Invisible water core shall not be scored against the Fuji variety of apples under any circumstances. For the apple

varieties listed in table I of §51.305, each apple of this grade has the amount of color specified for the variety. (*See* §§51.305 and 51.306.)

§51.302 U.S. No. 1.

"U.S. No. 1" consists of apples which meet the requirements of U.S. Fancy grade except for color, russeting, and invisible water core. In this grade, less color is required for all varieties listed in table I of §51.305. Apples of this grade are free from excessive damage caused by russeting which means that apples meet the russeting requirements for U.S. Fancy as defined under the definitions of "damage by russeting," except the aggregate area of an apple which may be covered by smooth net-like russeting shall not exceed 25 percent; and the aggregate area of an apple which may be covered by smooth solid russeting shall not exceed 10 percent: *Provided,* That, in the case of the Yellow Newtown or similar varieties, the aggregate area of an apple which may be covered with smooth solid russeting shall not exceed 20 percent. Each apple of this grade has the amount of color specified in §51.305 for the variety. Invisible water core shall not be scored in this grade. (*See* §§51.305 and 51.306.)

(a) *U.S. No. 1 Hail:* "U.S. No. 1 Hail" consists of apples which meet the requirements of U.S. No. 1 grade except that hail marks where the skin has not been broken and well healed hail marks where the skin has been broken, are permitted, provided the apples are fairly well formed. (*See* §§51.305 and 51.306.)

(b) [Reserved]

§51.303 U.S. Utility.

"U.S. Utility" consists of apples of one variety (except when more than one variety is printed on the container) which are mature but not overripe, not seriously deformed and free from decay, internal browning, internal breakdown, soft scald, and freezing injury. The apples are also free from serious damage caused by dirt or other foreign matter, broken skins, bruises, brown surface discoloration, russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, visible water core, bitter pit or Jonathan spot, disease, insects, or other means. (*See* §51.306.)

§51.304 Combination grades.

(a) Combinations of the above grades may be used as follows:

(1) Combination U.S. Extra Fancy and U.S. Fancy;

(2) Combination U.S. Fancy and U.S. No. 1; and

(3) Combination U.S. No. 1 and U.S. Utility.

(b) Combinations other than these are not permitted in connection with the U.S. apple grades. When Combination grades are packed, at least 50 percent of the apples in any lot shall meet the requirements of the higher grade in the combination. (*See* §51.306.)

Color Requirements

§51.305 Color requirements.

In addition to the requirements specified for the grades set forth in §§51.300 to 51.304, apples of these grades shall have the percentage of color specified for the variety in table I appearing in this section. All apple varieties other than those appearing in table I shall have no color requirements pertaining to these grades. For the solid red varieties, the percentage stated refers to the area of the surface which must be covered with a good shade of solid red characteristic of the variety: *Provided,* That an apple having color of a lighter shade of solid red or striped red than that considered as a good shade of red characteristic of the variety may be admitted to a grade, provided it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of good red characteristic of the variety required for the grade. For the striped red varieties, the percentage stated refers to the area of the surface in which the stripes of a good shade of red characteristic of the variety shall predominate over stripes of lighter red, green, or yellow. However, an apple having color of a lighter shade than that considered as a good shade of red characteristic of the variety may be admitted to a grade, provided it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of stripes of a good red characteristic of the variety required for the grade. Faded brown stripes shall not be considered as color.

(A) Color standards USDA Visual Aid APL-CC-1 (Plates a -- e) consists of a folder containing the color requirements for apples set forth in this section and five plates illustrating minimum good shade of solid red or striped red color, minimum compensating color and shade not considered color, for the following 12 varieties: Red Delicious, Red Rome, Empire, Idared, Winesap, Jonathan, Stayman, McIntosh, Cortland, Rome Beauty, Delicious, and York.

These color standards will be available for examination and purchasing information in the Fresh Products Branch, Fruit and Vegetable Programs, AMS, U.S. Department of Agriculture, South Building, Washington, DC 20250; in any field office of the Fresh Products Branch; or upon request of any authorized inspector of the Fresh Fruit and Vegetable Inspection Service.

Table 1 \1\

[Only the varieties listed below shall be required to meet a minimum color requirement]

Variety	U.S. extra fancy (Percent)	U.S. fancy (Percent)	U.S. No. 1 (Percent)
Red Delicious.....	66	40	25
Red Rome.....	66	40	25
Empire.....	66	40	25
Idared.....	66	40	25
Winesap.....	66	40	25
Jonathan.....	66	40	25

Stayman.....	50	33	25
McIntosh.....	50	33	25
Cortland.....	50	33	25
Rome Beauty.....	50	33	25
Delicious.....	50	33	25
York.....	50	33	25

\1\ Variations on varietal designations listed above must meet or exceed those color requirements listed.

Tolerances

§51.306 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the grades in 51.300, 51.301, 51.302, 51.303, and 51.304 the following tolerances are provided as specified:

(a) *Defects:* (1) U.S. Extra Fancy, U.S. Fancy, U.S. No. 1, and U.S. No. 1 Hail grades: 10 percent of the apples in any lot may fail to meet the requirements of the grade, but not more than one-half of this amount, or 5 percent, shall be allowed for apples which are seriously damaged, including therein not more than 1 percent for apples affected by decay or internal breakdown.

(2) *U.S. Utility grade:* 10 percent of the apples in any lot may fail to meet the requirements of the grade, but not more than one-half of this amount, or 5 percent, shall be allowed for apples which are seriously damaged by insects, and including in the total tolerance not more than 1 percent for apples affected by decay or internal breakdown.

(b) When applying the foregoing tolerances to Combination grades, no part of any tolerance shall be allowed to reduce, for the lot as a whole, the 50 percent of apples of the higher grade required in the combination, but individual containers shall have not less than 40 percent of the higher grade.

(c) *Size:* When size is designated by the numerical count for a container, not more than 10 percent of packages in the lot may fail to be fairly uniform. [1] When size is designated by minimum or maximum diameter, not more than 5 percent of the apples in any lot may be smaller than the designated minimum, and not more than 10 percent may be larger than the designated maximum. For Red Delicious or Golden Delicious varieties only, a combination of minimum diameter and/or weight may be used. When this designation is used, an individual apple will be considered to have met the minimum size requirement even if the apple is smaller than the minimum diameter, provided it is equal to or greater than the weight provided in table II of this section. However, not more than 5 percent of the apples in any lot may fail to meet either the minimum diameter or minimum weight when so designated. In addition, when Red Delicious or Golden Delicious apples are designated with diameter/weight combinations, they may only be designated according to the following table:

[1]"Fairly uniform" means the size of the fruit within the container does not vary more than 1/2 inch diameter from the smallest to largest fruit.

Table II

Red delicious	Golden delicious
2\1/8\ inches or 65 grams.....	63 grams
2\1/4\ inches or 75 grams.....	70 grams
2\3/8\ inches or 84 grams.....	82 grams
2\1/2\ inches or 100 grams.....	95 grams
2\5/8\ inches or 115 grams.....	109 grams
2\3/4\ inches or 139 grams.....	134 grams

Application of Tolerances

§51.307 Application of tolerances.

The contents of individual packages in the lot, are subject to the following limitations: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade:

(a) Packages which contain more than 10 pounds:

(1) Shall have not more than one and one-half times a specified tolerance of 10 percent or more and not more than double a tolerance of less than 10 percent, except that at least one apple which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any package.

(2) [Reserved]

(b) Packages which contain 10 pounds or less:

(1) No package may have more than 3 times the tolerance specified, except that at least three defective apples may be permitted in any package: *Provided,* That not more than three apples or more than 18 percent (whichever is the larger amount) may be seriously damaged by insects or affected by decay or internal breakdown.

(2) [Reserved]

Methods of Sampling and Calculation of Percentages

§51.308 Methods of sampling and calculation of percentages.

(a) When the numerical count is marked on the container, containers are packed to weigh ten pounds or less, or in any container where the minimum diameter of the smallest apple does not vary more than 1/2 inch from the minimum diameter of the largest apple, percentages shall be calculated on the basis of count.

(b) In all other cases except those listed in paragraph (a) of this section, they shall be calculated on the basis of weight.

Condition After Storage or Transit

§51.309 Condition after storage or transit.

Decay, scald, or any other deterioration which may have developed on apples after they have been in storage or transit shall be considered as affecting condition and not the grade.

Packing Requirements

§51.310 Packing requirements.

(a) Apples tray packed or cell packed in cartons shall be arranged according to approved and recognized methods. Packs shall be at least fairly tight [2] or fairly well filled. [3]

[2]"Fairly tight" means that apples are of the proper size for molds or cell compartments in which they are packed, and that molds or cells are filled in such a way that no more than slight movement of apples within molds or cells is possible.

[3]"Fairly well filled" means that the net weight of apples in containers ranging from 2,100 to 2,900 cubic inch capacity is not less than 37 pounds for Cortland, Gravenstein, Jonathan, McIntosh and Golden Delicious varieties and not less than 40 pounds for all other varieties.

(b) Closed cartons containing apples not tray or cell packed shall be fairly well filled or the pack shall be sufficiently tight to prevent any appreciable movement of the apples.

(c) Packs in wooden boxes or baskets shall be sufficiently tight to prevent any appreciable movement of apples within containers when the packages are closed. Each wrapped apple shall be completely enclosed by its individual wrapper.

(d) Apples on the shown face of any container shall be reasonably representative in size, color and quality of the contents.

(e) Tolerances: In order to allow for variations incident to proper packing, not more than 10 percent of the containers in any lot may fail to meet these requirements.

Marking Requirements

§51.311 Marking requirements.

Variety (or varieties if more than one is packed in the container), grade, and the numerical count or minimum diameter of apples packed in a closed container shall be indicated on the container. For apple lots utilizing the combined diameter/weight designations for Red Delicious and Golden Delicious varieties, the minimum diameter and minimum weight of apples packed in a closed container shall be indicated on the container.

(a) When the numerical count is not shown, the minimum diameter or, in the case of Red Delicious or Golden Delicious lots where minimum diameter/weight designations have been chosen, the minimum diameter and weight as designated in table II, shall be plainly stamped, stenciled or otherwise marked on the container in terms of whole inches, or

whole inches and not less than eighth inch fractions thereof in the following manner: "A" inches or "B" grams, where "A" corresponds to one of the diameter measurements in terms of inches listed in table II and "B" corresponds to the weight measurement in grams as indicated in table II. Both diameter and weight must be shown using the word "or" between the given measurements.
(b) The word "minimum," or its abbreviation, when following a diameter size marking, means that the apples are of the size marked or larger. (*See* §§51.306 and 51.307.)

Definitions

§51.312 Mature.
"Mature" means that the apples have reached the stage of development which will insure the proper completion of the ripening process. Before a mature apple becomes overripe it will show varying degrees of firmness, depending upon the stage of the ripening process. The following terms are used for describing different stages of firmness of apples:
(a) *"Hard"* means apples with a tenacious flesh and starchy flavor.
(b) *"Firm"* means apples with a tenacious flesh but which are becoming crisp with a slightly starchy flavor, except the Delicious variety.
(c) *"Firm ripe"* means apples with crisp flesh except that the flesh of the Gano, Ben Davis, and Rome Beauty varieties may be slightly mealy.
(d) *"Ripe"* means apples with mealy flesh and soon to become soft for the variety.

§51.313 Overripe.
"Overripe" means apples which have progressed beyond the stage of ripe, with flesh very mealy or soft, and past commercial utility.

§51.314 Clean.
"Clean" means that the apples are free from excessive dirt, dust, spray residue, and other foreign material.

§51.315 Fairly well formed.
"Fairly well formed" means that the apple may be slightly abnormal in shape but not to an extent which detracts materially from its appearance.

§51.316 Injury.
"Injury" means any specific defect defined in this Section or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which more than slightly detract from the appearance or the edible or shipping quality of the apple. In addition, specific defect measurements are based on an apple three inches in diameter. Corresponding smaller or larger areas would be allowed on smaller or larger fruit. Any reference to *"inch"* or *"inches in diameter"* refers to that of a circle of the specified diameter. Any reference to *"aggregate area," "total area,"* or *"aggregate*

affected area" means the gathering together of separate areas into one mass for the purpose of comparison to determine the extent affected. The following specific defects shall be considered as injury:
(a) Russeting in the stem cavity or calyx basin which cannot be seen when the apple is placed stem end or calyx end down on a flat surface shall not be considered in determining whether an apple is injured by russeting. Smooth net-like russeting outside of the stem cavity or calyx basin shall be considered as injury when an aggregate area of more than 10 percent of the surface is covered, and the color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russeting when the appearance is affected to a greater extent than the amount permitted above.
(b) Sunburn or spray burn, when the discolored area does not blend into the normal color of the fruit.
(c) Dark brown or black limb rubs which affect a total area of more than one-fourth inch in diameter, except that light brown limb rubs of a russet character shall be considered under the definition of injury by russeting.
(d) Hail marks, drought spots, other similar depressions or scars:
(1) When the skin is broken, whether healed or unhealed;
(2) When there is appreciable discoloration of the surface;
(3) When any surface indentation exceeds one-sixteenth inch in depth;
(4) When any surface indentation exceeds one-eighth inch in diameter; or
(5) When the aggregate affected area of such spots exceeds one-half inch in diameter.
(e) Bruises which are not slight and incident to proper handling and packing, and which are greater than:
(1) 1/8 inch in depth;
(2) 5/8 inch in diameter;
(3) any combination of lesser bruises which detract from the appearance or edible quality of the apple to an extent greater than any one bruise described in paragraphs (e)(1) or (2) of this section.
(f) Brown surface discoloration when caused by delayed sunburn, surface scald, or any other means and affects an area greater than 1/4 inch in diameter.
(g) Disease: (1) Cedar rust infection which affects a total area of more than three-sixteenths inch in diameter.
(2) Sooty blotch or fly speck which is thinly scattered over more than 5 percent of the surface, or dark, heavily concentrated spots which affect an area of more than one-fourth inch in diameter.
(3) Red skin spots which are thinly scattered over more than one-tenth of the surface, or dark, heavily concentrated spots which affect an area of more than one-fourth inch in diameter.
(h) Insects: (1) Any healed sting or healed stings which affect a total area of more than one-eighth inch in diameter including any encircling discolored rings.
(2) Worm holes.
[67 FR 69663, Nov. 19, 2002; 67 FR 79516, Dec. 30, 2002]

§51.317 Damage.

"*Damage*" means any specific defect defined in this section or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detract from the appearance, or the edible or shipping quality of the apple. In addition, specific defect measurements are based on an apple three inches in diameter. Corresponding smaller or larger areas would be allowed on smaller or larger fruit. Any reference to "*inch*" or "*inches in diameter*" refers to that of a circle of the specified diameter. Any reference to "*aggregate area,*" "*total area,*" or "*aggregate affected area*" means the gathering together of separate areas into one mass for the purpose of comparison to determine the extent affected. The following specific defects shall be considered as damage:

(a) Russeting in the stem cavity or calyx basin which cannot be seen when the apple is placed stem end or calyx end down on a flat surface shall not be considered in determining whether an apple is damaged by russeting, except that excessively rough or bark-like russeting in the stem cavity or calyx basin shall be considered as damage when the appearance of the apple is materially affected. The following types and amounts of russeting outside of the stem cavity or calyx basin shall be considered as damage:

(1) Russeting that is excessively rough on Roxbury Russet and other similar varieties.

(2) Smooth net-like russeting, when an aggregate area of more than 15 percent of the surface is covered, and the color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russeting when the appearance is affected to a greater extent than the amount permitted above.

(3) Smooth solid russeting, when an aggregate area of more than 5 percent of the surface is covered, and the pattern and color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous solid russeting when the appearance is affected to a greater extent than the above amount permitted.

(4) Slightly rough russeting that covers an aggregate area of more than one-half inch in diameter.

(5) Rough russeting that covers an aggregate area of more than one-fourth inch in diameter.

(b) Sunburn or sprayburn which has caused blistering or cracking of the skin, or when the discolored area does not blend into the normal color of the fruit unless the injury can be classed as russeting.

(c) Limb rubs which affect a total area of more than one-half inch in diameter, except that light brown limb rubs of a russet character shall be considered under the definition of damage by russeting.

(d) Hail marks, drought spots, other similar depressions, or scars:

(1) When any unhealed mark is present;

(2) When any surface indentation exceeds one-eighth inch in depth;

(3) When the skin has not been broken and the aggregate affected area exceeds one-half inch in diameter; or

(4) When the skin has been broken and well healed, and the aggregate affected area exceeds one-fourth inch in diameter.
(e) Stem or calyx cracks which are not well healed, or well healed stem or calyx cracks which exceed an aggregate length of one-fourth inch.
(f) Invisible water core existing around the core and extending to water core in the vascular bundles, or surrounding the vascular bundles when the affected areas surrounding three or more vascular bundles meet or coalesce, or existing in more than a slight degree outside the circular area formed by the vascular bundles. *Provided,* That invisible water core shall not be scored as damage against the Fuji variety of apples under any circumstances.
(g) Bruises which are not slight and incident to proper handling and packing, and which are greater than:
(1) 3/16 inch in depth;
(2) 7/8 inch in diameter;
(3) any combination of lesser bruises which detract from the appearance or edible quality of the apple to an extent greater than any one bruise described in paragraphs (g)(1) or (2) of this section.
(h) Brown surface discoloration when caused by delayed sunburn, surface scald, or any other means and affects an area greater than 1/2 inch in diameter.
(i) Disease: (1) Scab spots which affect a total area of more than one-fourth inch in diameter.
(2) Cedar rust infection which affects a total area of more than one-fourth inch in diameter.
(3) Sooty blotch or fly speck which is thinly scattered over more than one-tenth of the surface, or dark, heavily concentrated spots which affect an area of more than one-half inch in diameter.
(4) Red skin spots which are thinly scattered over more than one-tenth of the surface, or dark, heavily concentrated spots which affect an area of more than one-half inch in diameter.
(5) Bitter pit or Jonathan spot when one or more spots affects the surface of the apple.
(j) Insects: (1) Any healed sting or healed stings which affect a total area of more than three-sixteenths inch in diameter including any encircling discolored rings.
(2) Worm holes.
[67 FR 69663, Nov. 19, 2002; 67 FR 79517, Dec. 30, 2002]

§51.318 Serious damage.

"Serious damage" means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects that seriously detract from the appearance, or the edible or shipping quality of the apple. In addition, specific defect measurements are based on an apple three inches in diameter. Corresponding smaller or larger areas would be allowed on smaller or larger fruit. Any reference to "inch" or "inches in diameter" refers to that of a circle of the specified diameter. Any reference to "aggregate area," "total area," or "aggregate affected area" means the gathering together of separate areas into one mass for the purpose of

comparison to determine the extent affected. The following specific defects shall be considered as serious damage:
(a) The following types and amounts of russeting shall be considered as serious damage:
(1) Smooth solid russeting, when more than one-half of the surface in the aggregate is covered, including any russeting in the stem cavity or calyx basin, or slightly rough, or excessively rough or bark-like russeting, which detracts from the appearance of the fruit to a greater extent than the amount of smooth solid russeting permitted: *Provided,* That any amount of russeting shall be permitted on Roxbury Russet and other similar varieties.
(2) [Reserved]
(b) Sunburn or sprayburn which seriously detracts from the appearance of the fruit.
(c) Limb rubs which affect more than one-tenth of the surface in the aggregate.
(d) Hail marks, drought spots, or scars, if they materially deform or disfigure the fruit, or if such defects affect more than one-tenth of the surface in the aggregate: *Provided,* That no hail marks which are unhealed shall be permitted and not more than an aggregate area of one-half inch shall be allowed for well healed hail marks where the skin has been broken.
(e) Stem or calyx cracks which are not well healed, or well healed stem or calyx cracks which exceed an aggregate length of one-half inch.
(f) Visible water core that affects an area of more than one-half inch in diameter.
(g) *Disease:* (1) Scab spots which affect a total area of more than three-fourths inch in diameter.
(2) Cedar rust infection which affects a total area of more than three-fourths inch in diameter.
(3) Sooty blotch or fly speck which affects more than one-third of the surface.
(4) Red skin spots which affect more than one-third of the surface.
(5) Bitter pit or Jonathan spot which is thinly scattered over more than one-tenth of the surface.
(h) *Insects:* (1) Healed stings which affect a total area of more than one-fourth inch in diameter including any encircling discolored rings.
(2) Worm holes.
(i) Bruises which are not slight and incident to proper handling and packing, and which are greater than:
(1) 3/8 inch in depth;
(2) 1 1/8 inches in diameter;
(3) any combination of lesser bruises which detract from the appearance or edible quality of the apple to an extent greater than any one bruise described in paragraph (i)(1) or (2) of this section.
(j) Brown surface discoloration when caused by delayed sunburn, surface scald, or any other means and affects an area greater than 3/4 inch in diameter.

§51.319 Seriously deformed.
"Seriously deformed" means that the apple is so badly misshapen that its appearance is seriously affected.

§51.320 Diameter.

When measuring for minimum size, "diameter" means the greatest dimension of the apple measured at right angles to a line from stem to blossom end. When measuring for maximum size, "diameter" means the smallest dimension of the apple determined by passing the apple through a round opening in any position.

U.S. Condition Standards for Export

§51.321 U.S. Condition Standards for Export. [4]

[4]These standards may be applied to domestic shipments of apples as well as export lots, and may be referred to as "U.S. Condition Standards."

(a) Not more than 5 percent of the apples in any lot shall be further advanced in maturity than firm ripe.

(b) Not more than 5 percent of the apples in any lot shall be damaged by storage scab.

(c) Not more than a total of 5 percent of the apples in any lot shall be affected by scald, internal breakdown, freezing injury, or decay; or damaged by bitter pit, Jonathan spot, water core [5] except that invisible water core shall not be scored as damage when these condition standards are applied to the Fuji variety of apples, or other condition factors: *Provided,* That:

[5]"Damage by water core" means externally invisible water core existing around the core and extending to water core in the vascular bundles, or surrounding the vascular bundles when the affected areas surrounding three or more vascular bundles meet or coalesce, or existing in more than slight degree outside the circular area formed by the vascular bundles, or any externally visible water core.

(1) Not more than a total of 2 percent shall be allowed for apples affected by decay and soft scald;

(2) Not more than 2 percent shall be allowed for apples affected by internal breakdown;

(d) Container packs shall comply with packing requirements specified in §51.310 of the United States Standards for Grades of Apples.

(e) Any lot of apples shall be considered as meeting the U.S. Condition Standards for Export if the entire lot averages within the requirements specified: *Provided,* That no package in any lot shall have more than double the percentages specified, except that for packages which contain 10 pounds or less, individual packages in any lot may have not more than three times the tolerance or three apples (whichever is the greater amount).

Metric Conversion Table

§51.322 Metric conversion table.

Inches	Millimeters (mm)
\1/16\ equals.....	1.6

\1/8\ equals	3.2
\3/16\ equals	4.8
\1/4\ equals	6.4
\3/8\ equals	9.5
\1/2\ equals	12.7
\5/8\ equals	15.9
\3/4\ equals	19.1
\7/8\ equals	22.2
1\1/8\ equals	28.6
2\1/8\ equals	54.0
2\1/4\ equals	57.2
2\3/8\ equals	60.3
2\1/2\ equals	63.5
2\3/4\ equals	69.9

Cubic Inches	Cubic Centimeters (cc)
2100 equals	34,412.7
2900 equals	47,522.3

Pounds	Grams (g)
10 equals	4,536.0
37 equals	16,783.2
40 equals	18,144.0

Subpart -- United States Standards for Grades of Apples for Processing

Source: 26 FR 3604, Apr. 27, 1961, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

Grades

§51.340 U.S. No. 1.
"U.S. No. 1" consists of apples of one variety, unless designated as mixed varieties, which are not overripe, which are free from decay, worm holes, freezing injury and internal breakdown and free from any other defect, or combination of defects, the removal of which in the usual commercial preparation for use will cause a loss of more than 5 percent, by weight, of the apple.

§51.341 U.S. No. 2.
"U.S. No. 2" consists of apples of one variety, unless designated as mixed varieties, which are not overripe, which are free from decay, worm holes, freezing injury and internal breakdown and free from any other defect, or combination of defects, the removal of which in the usual commercial preparation for use will cause a loss of more than 12 percent, by weight, of the apple.

§51.342 U.S. Cider.
"U.S. Cider" consists of apples which are free from decay, worm holes and internal breakdown.

Culls

§51.343 Culls.
"Culls" consist of apples which fail to meet the requirements of U.S. Cider Grade.

Size

§51.344 Size.
(a) The minimum and maximum sizes or range of sizes shall be determined as agreed upon by buyer and seller.
(b) Unless otherwise specified, the minimum and maximum sizes or range of sizes shall be determined by the use of an approved sizing chain of the exact dimension specified in the agreement between buyer and seller.
(c) Size is the dimension of the apples determined by the smallest opening through which it will pass.

Application of Standards

§51.345 Application of standards.
(a) When a lot of apples is required to meet a specific U.S. grade, the tolerances as set forth in §51.346 shall apply. When packed in closed packages the application of

tolerances in §51.347 shall apply. The application of tolerances shall not apply to apples in open or bulk containers.
(b) In the application of these standards to determine the percentage of the lot which meets the requirements of each of the grades, tolerances shall not apply.

Tolerances

§51.346 Tolerances.
When a lot of apples is required to meet one of the U.S. grades, the apples shall not be further advanced in maturity than generally firm ripe, and the following tolerances, by weight, shall apply:
(a) *For defects.* 10 percent for apples which fail to meet the requirements of the grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for the defects listed:
(1) 2 percent for apples which are affected by decay;
(2) 2 percent for apples which are affected by internal breakdown; and,
(3) 5 percent for apples which are affected by worm holes.
(b) *For off-size.* 5 percent for apples which are smaller than any specified minimum size, and 10 percent for apples larger than any specified maximum size.

Application of Tolerances

§51.347 Application of tolerances.
Apples in closed packages are subject to the following limitations provided the averages for the entire lot are within the tolerances specified for the grade:

(a) For a tolerance of 10 percent, individual packages shall have not more than one and one-half times the tolerance specified. For a tolerance of less than 10 percent, individual packages shall have not more than double the tolerances specified.

Definitions

§51.348 One variety.
One variety within the meaning of these standards shall include all bud sports and strains of the specified variety.

§51.349 Overripe.
Overripe means apples which are dead ripe, and with flesh very mealy or soft.

Subpart -- United States Standards for Grades of Cantaloupes [1]

[1]Packing in the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic

Act or with applicable State laws and regulations.

Source: 26 FR 2217, Mar. 16, 1961, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

Grades

§51.475 U.S. Fancy.

"U.S. Fancy" consists of cantaloupes that meet the requirements of U.S. No. 1 grade except that the cantaloupes have very good internal quality and have uniform appearance.
(a) *Tolerances.* In order to allow for variations incident to proper grading and handling the following tolerances, by count, shall be permitted, except that these tolerances shall not apply to the requirements relating to internal quality and uniformity of appearance:
(1) *At shipping point.* [2] 8 percent for cantaloupes in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than 4 percent shall be allowed for defects causing serious damage, including in this latter amount not more than one-half of 1 percent for cantaloupes which are affected by decay or mold.
[2]Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.
(2) *En route or at destination.* 12 percent for cantaloupes in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:
(i) 8 percent for cantaloupes which fail to meet the requirements of this grade because of permanent defects; or,
(ii) 6 percent for cantaloupes which are seriously damaged, including therein not more than 4 percent for cantaloupes which are seriously damaged by permanent defects and not more than 2 percent for cantaloupes which are affected by decay. (See §51.480.)

§51.476 U.S. No. 1.

"U.S. No. 1" consists of cantaloupes of one type which are mature and have good internal quality but are not overripe or soft or wilted, which are well formed, well netted, and free from decay, wet slip and sunscald, and free from damage caused by liquid in the seed cavity, sunburn, hail, dirt, surface mold or other disease, aphis or other insects, scars, cracks, sunken areas, ground spot, bruises, or mechanical or other means.
(a) *Tolerances.* In order to allow for variations incident to proper grading and handling the following tolerances, by count, shall be permitted, except that these tolerances shall not apply to the requirement relating to internal quality.
(1) *At shipping point.* [2] 8 percent for cantaloupes in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than 4 percent shall be allowed for defects causing serious damage, including in this latter

amount not more than one-half of 1 percent for cantaloupes which are affected by decay or mold.
[2]See footnote 2 to §51.475.
(2) *En route or at destination.* 12 percent for cantaloupes in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:
(i) 8 percent for cantaloupes which fail to meet the requirements of this grade because of permanent defects; or,
(ii) 6 percent for cantaloupes which are seriously damaged, including therein not more than 4 percent for cantaloupes which are seriously damaged by permanent defects and not more than 2 percent for cantaloupes which are affected by decay. (See §51.480.)

§51.477 U.S. Commercial.
"U.S. Commercial" consists of cantaloupes of one type which are mature but not overripe or soft or wilted, which are well formed and fairly well netted, and free from decay, wet slip and sunscald, and free from damage caused by liquid in the seed cavity, sunburn, hail, dirt, surface mold or other disease, aphis or other insects, scars, cracks, sunken areas, ground spot, bruises, or mechanical or other means.
(a) *Tolerances.* In order to allow for variations incident to proper grading and handling the following tolerances, by count, shall be permitted:
(1) *At shipping point.* 16 percent for cantaloupes in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:
(i) 12 percent for cantaloupes which fail to meet the requirements of this grade because of condition defects;
(ii) 4 percent for cantaloupes which are seriously damaged, including therein not more than one-half of 1 percent for cantaloupes affected by decay or mold.
(2) *En route or at destination.* 24 percent for cantaloupes in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:
(i) 16 percent for cantaloupes which fail to meet the requirements of this grade because of permanent defects;
(ii) 12 percent for cantaloupes which fail to meet the requirements of this grade because of condition defects; or,
(iii) 8 percent for cantaloupes which are seriously damaged, including therein not more than 4 percent for cantaloupes which are seriously damaged by permanent defects and not more than 2 percent for cantaloupes which are affected by decay. (See §51.480.)
[26 FR 2217, Mar. 16, 1961; 27 FR 2307, Mar. 10, 1962, as amended at 33 FR 7619, May 23, 1968. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

§51.478 U.S. No. 2.

"U.S. No. 2" consists of cantaloupes of one type which are mature but not overripe or soft or wilted, which are fairly well formed and fairly well netted, which are free from decay,

wet slip and sunscald, and free from serious damage caused by liquid in the seed cavity, sunburn, hail, dirt, surface mold or other disease, aphis or other insects, scars, cracks, sunken areas, bruises, or mechanical or other means.
(a) *Tolerances.* In order to allow for variations incident to proper grading and handling the following tolerances, by count, shall be permitted:
(1) *At shipping point.* 8 percent for cantaloupes in any lot which fail to meet the requirements of this grade including therein not more than one-half of 1 percent for cantaloupes which are affected by decay or mold.
(2) *En route or at destination.* 12 percent for cantaloupes in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for the defects listed:
(i) 8 percent for cantaloupes which fail to meet the requirements of this grade because of defects of a permanent nature; or,
(ii) 2 percent for cantaloupes which are affected by decay. (See §51.480.)

Unclassified

§51.479 Unclassified.
"Unclassified" consists of cantaloupes which have not been classified in accordance with any of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

Application of Tolerances

§51.480 Application of tolerances.
The contents of individual packages are subject to the following limitation: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade:
(a) A package may contain not more than double any specified tolerance except that at least two defective specimens may be permitted in any package.

Definitions

§51.481 Very good internal quality.
Very good internal quality means that the combined juice from the edible portion of a sample of cantaloupes selected at random contains not less than 11 percent soluble solids as determined by an approved hand refractometer.

§51.482 Uniform in appearance.

Uniform in appearance means that not more than one-tenth of the packages in any lot contain cantaloupes which show sufficient variation in shape, size, ground color or netting to materially detract from the appearance of the contents of the individual packages, or which are not packed according to the approved and recognized methods for the package.

§51.483 One type.
One type means that the cantaloupes in any container are similar in color of flesh and are not decidedly different in shape, character of netting and prominence of ribbing.

§51.484 Mature.
Mature means that the cantaloupe has reached the stage of maturity, which will insure the proper completion of the normal ripening process.

§51.485 Good internal quality.
Good internal quality means that the combined juice from the edible portion of a sample of cantaloupes selected at random contains not less than 9 percent soluble solids as determined by an approved hand refractometer.

§51.486 Soft.
Soft means that the cantaloupe yields readily to slight pressure.

§51.487 Wilted.
Wilted means that the cantaloupe lacks turgidity and is somewhat flabby, spongy and pliable under moderate pressure.

§51.488 Well formed.
Well formed means that the cantaloupe has the normal shape characteristic of the variety.

§51.489 Well netted.
Well-netted means that to an extent characteristic of the variety the cantaloupe is well covered with fully developed, well-raised netting, some portion of which is well rounded with practically no crease.

§51.490 Decay.
Decay means breakdown, disintegration or fermentation of the flesh or rind of the cantaloupe caused by bacteria or fungi; except that *dry type* decays will only be scored when penetrating the rind and extending into the edible flesh of the melon.

[63 FR 20522, Apr. 27, 1998]

§51.491 Wet slip.

Wet slip means a condition present at time of packing in which the stem scar is abnormally large, excessively wet and slippery, yields to slight pressure, and is frequently accompanied by fresh radial growth cracks at the edge of the stem scar.

§51.492 Sunscald.

Sunscald means discolored or bleached, sunken areas of the surface having tough epidermis with underlying flesh leathery and usually off-color.

§51.493 Damage.

Damage means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or shipping quality of the cantaloupe. The following specific defects shall be considered as damage:

(a) Liquid in the seed cavity under the following circumstances:

(1) At shipping point when more than a slight amount of liquid is present in the seed cavity; or,

(2) En route or at destination when an objectionably large amount of liquid is present in the seed cavity, or when the flesh of the cavity wall is mushy or noticeably discolored;

(b) Sunburn when the color of the flesh is materially changed; when the rind is hard, tough, thin, or definitely flattened; when distinct flattening of the netting or dark yellow surface discoloration affects an aggregate area exceeding 20 percent of the surface of the cantaloupe; or when brown, gray, purple or dark green surface discoloration detracts from the appearance of the cantaloupe to a greater extent than the area of dark yellow discoloration permitted;

(c) Hail when the injury is unhealed or deep;

(d) Surface mold under the following circumstances:

(1) At shipping point when any surface mold is visible; or,

(2) En route or at destination when the color, character, or location of the mold materially detracts from the appearance or marketing quality of the cantaloupe;

(e) Aphis when aphis honeydew is more than slightly sticky, or when resulting discoloration more than slightly detracts from the appearance of the cantaloupe;

(f) Scars when healed, shallow, smooth and light colored and the aggregate area affected exceeds 5 percent of the surface of the cantaloupe; or when deep, rough or dark colored and detracting from the appearance to a greater extent than the area of healed, shallow, smooth and light colored scars permitted. Smooth scarring at the blossom end and coalesced netting should not be considered in determining damage caused by scarring unless materially detracting from the appearance of the cantaloupe;

(g) Cracks when deep or not dry. Slight, dry cracks at the ends or in the sutures of the cantaloupe shall not be considered damage;

(h) Ground spot when the rind of the affected area is thin or weak, or when the size or color of the affected area or the character of netting on the area in relation to the remainder of the surface of the cantaloupe materially detracts from the appearance of the cantaloupe;

(i) Bruises when the surface of the cantaloupe is definitely flattened or indented, or when the underlying flesh is noticeably discolored; and,
(j) Mechanical means when cuts or gouges are deep or when any skin break is unhealed.

§51.494 Serious damage.
Serious damage means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or shipping quality of the cantaloupe. The following specific defects shall be considered as serious damage:
(a) Liquid in the seed cavity under the following circumstances:
(1) At shipping point when a large amount of liquid is present in the seed cavity or the flesh of the cavity wall is noticeably soft or discolored or when any fermentation is present; or,
(2) En route or at destination when there is any fermentation of the liquid in the seed cavity, or when the flesh of the cavity wall shows fermentation or is badly discolored;
(b) Sunburn when the flesh is seriously discolored, when causing cracking of the rind, or when causing flattening of the rind which seriously detracts from the appearance of the cantaloupe;
(c) Hail when the injury is unhealed;
(d) Surface mold under the following circumstances:
(1) At shipping point when any surface mold is visible; or,
(2) En route or at destination when the color, character, or location of the mold seriously detracts from the appearance or marketing quality of the cantaloupe;
(e) Cracks when fresh and deep;
(f) Bruises when the surface of the cantaloupe is seriously flattened or indented or when a material portion of the underlying flesh is broken down; and,
(g) Mechanical means when fresh cuts or gouges extend into the edible portion of the cantaloupe.

§51.494a Permanent defects.
Permanent defects means defects which are not subject to change during shipping or storage; including, but not limited to factors of shape, netting, scarring, sunscald, sunburn and injury caused by hail or insects, and mechanical injury which is so located as to indicate that it occurred prior to shipment.
[26 FR 2217, Mar. 16, 1961. Redesignated at 27 FR 2307, Mar. 10, 1962, 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

§51.494b Fairly well netted.

Fairly well netted means that to an extent characteristic of the variety the cantaloupe is fairly well covered with fairly good netting.
[26 FR 2217, Mar. 16, 1961. Redesignated at 27 FR 2307, Mar. 10, 1962, 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

§51.494c Condition defects.

Condition defects means defects which may develop or change during shipment or storage; including, but not limited to decayed or soft cantaloupes and such factors as liquid in the seed cavity, surface mold, sunken areas, fresh cracks, and bruising which is so located as to indicate that it occurred after packing.
[26 FR 2217, Mar. 16, 1961. Redesignated at 27 FR 2307, Mar. 10, 1962, 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

Subpart -- United States Standards for Grades of Grapefruit (Texas and States Other Than Florida, California, and Arizona)

Source: 34 FR 13905, Aug. 30, 1969, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

Grades

§51.620 U.S. Fancy.
"U.S. Fancy" consists of grapefruit which meet the following requirements:
(a) Basic requirements:
(1) Discoloration:
(i) Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See §51.638.)
(2) Firm;
(3) Mature;
(4) Similar varietal characteristics;
(5) Smooth texture;
(6) Well formed; and,
(7) Well colored.
(b) Free from:
(1) Ammoniation;
(2) Bruises;
(3) Buckskin;
(4) Cuts not healed;
(5) Skin breakdown;
(6) Decay;
(7) Growth cracks;
(8) Scab;
(9) Spray burn; and,
(10) Wormy fruit.
(c) Not injured by:
(1) Green spots;

(2) Oil spots;
(3) Scale;
(4) Scars; and,
(5) Thorn scratches.
(d) Not damaged by any other cause.
(e) For tolerances see §51.628.

§51.621 U.S. No. 1.
"U.S. No. 1" consists of grapefruit which meet the following requirements:
(a) Basic requirement:
(1) Discoloration:
(i) Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See §51.638.)
(2) Firm;
(3) Mature;
(4) Similar varietal characteristics;
(5) Fairly well colored;
(6) Fairly smooth texture; and,
(7) Fairly well formed.
(b) Free from:
(1) Bruises;
(2) Cuts not healed;
(3) Caked melanose;
(4) Growth cracks;
(5) Sprayburn;
(6) Decay; and,
(7) Wormy fruit.
(c) Not damaged by any other cause.
(d) For tolerances see §51.628.

§51.622 U.S. No. 1 Bright.
The requirements for this grade are the same as for U.S. No. 1 except that no fruit may have more than one-tenth of its surface, in the aggregate, affected by discoloration.
(a) For tolerances see §51.628.

§51.623 U.S. No. 1 Bronze.
The requirements for this grade are the same as for U.S. No. 1 except that all fruit must show some discoloration. Not less than the number of fruits required in §51.628, Tables I and II, shall have more than one-half of their surface, in the aggregate, affected by discoloration. The predominating discoloration on these fruits shall be of rust mite type.
(a) For tolerances see §51.628.

§51.624 U.S. Combination.
"U.S. Combination" consists of a combination of U.S. No. 1 and U.S. No. 2 grapefruit: *Provided,* That the number of U.S. No. 2 fruits specified in §51.628, Tables I and II, are not exceeded.

§51.625 U.S. No. 2.
"U.S. No. 2" consists of grapefruit which meet the following requirements:
(a) Basic requirements:
(1) Discoloration:
(i) Not more than two-thirds of the surface, in the aggregate, may be affected by discoloration. (See §51.638.)
(2) Fairly firm;
(3) Mature;
(4) Similar varietal characteristics;
(5) May be slightly colored;
(6) Not more than slightly misshapen; and,
(7) Not more than slightly rough texture.
(b) Free from:
(1) Bruises;
(2) Cuts not healed;
(3) Growth cracks;
(4) Decay; and,
(5) Wormy fruit.
(c) Not seriously damaged by any other cause.
(d) For tolerances see §51.628.

§51.626 U.S. No. 2 Russet.
The requirements for this grade are the same as for U.S. No. 2 except that not less than the number of fruits required in §51.628, Tables I and II, shall have more than two-thirds of their surface, in the aggregate, affected by discoloration.
(a) For tolerances see §51.628.

§51.627 U.S. No. 3.
"U.S. No. 3" consists of grapefruit which meet the following requirements:
(a) Basic requirements:
(1) Mature;
(2) Similar varietal characteristics;
(3) May be misshapen;
(4) May be slightly spongy;
(5) May have rough texture;
(6) Not seriously lumpy or cracked; and,

(7) May be poorly colored.
(i) Not more than 25 percent of the surface may be of a solid dark green color.
(b) Free from:
(1) Cuts not healed;
(2) Decay; and,
(3) Wormy fruit.
(c) Not very seriously damaged by any other cause.
(d) For tolerances see §51.628.

Tolerances

§51.628 Tolerances.
In order to allow for variations incident to proper grading and handling in each of the foregoing grades, based on sample inspection, the number of defective or off-size specimens in the individual sample, and the number of defective or off-size specimens in the lot, shall be within the limitations specified in Tables I and II. No tolerance shall apply to wormy fruit.

Sample for Grade or Size Determination

_ §51.629 Sample for grade or size determination.
Each sample shall consist of 33 grapefruit. When individual packages contain at least 33 grapefruit, the sample is drawn from one package; when individual packages contain less than 33 grapefruit, a sufficient number of adjoining packages are opened to form a 33-count sample. When practicable, at point of packaging, the sample may be obtained from the grading belt or bins after sorting has been completed.

Standard Pack

§51.630 Standard Pack.
(a) Fruits shall be fairly uniform in size, unless specified as uniform in size. When packed in approved containers, fruit shall be arranged according to the approved and recognized methods.
(b) "Fairly uniform in size" means that not more than the number of fruit permitted in §51.628, Tables I and II, are outside the ranges of diameters given in Table III.

Table III_\7/10\ Bushel Carton

Pack size/number of grapefruit	Diameter in inches	
	Minimum	Maximum
18	4\15/16\	5\9/16\
23	4\5/16\	5
27	4\2/16\	4\12/16\
32	3\15/16\	4\8/16\
36	3\13/16\	4\5/16\
40	3\10/16\	4\2/16\
48	3\9/16\	3\14/16\
56	3\5/16\	3\10/16\

(c) "Uniform in size" means that not more than the number of fruit permitted in §51.628, Tables I and II, vary more than the following amounts:
(1) 32 size and smaller -- not more than six-sixteenths inch in diameter; and
(2) 27 size and larger -- not more than nine-sixteenths inch in diameter.
(d) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.
[66 FR 48788, Sept. 24, 2001]

Definitions

§51.631 Mature.

Mature shall have the same meaning currently assigned that term in the laws and regulations of the State in which the grapefruit is grown; or as the definition of such term may hereafter be amended.

§51.632 Similar varietal characteristics.

Similar varietal characteristics means that the fruits in any container are similar in color and shape.

§51.633 Well colored.

Well colored means that the fruit is yellow in color with practically no trace of green color.

§51.634 Firm.
Firm means that the fruit is not soft, or noticeably wilted or flabby, and the skin is not spongy or puffy.

§51.635 Well formed.
Well formed means that the fruit has the shape characteristic of the variety.

§51.636 Smooth texture.
Smooth texture means that the skin is thin and smooth for the variety and size of the fruit.

§51.637 Injury.
Injury means any specific defect described in §51.652, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

§51.638 Discoloration.
Discoloration means russeting of light shade of golden brown caused by rust mite or other means. Lighter shades of discoloration caused by smooth or fairly smooth, superficial scars or other means may be allowed on a greater area, or darker shades may be allowed on a lesser area, provided no discoloration caused by speck type melanose or other means may detract from the appearance of the fruit to a greater extent than the shade and amount of discoloration allowed in the grade.

§51.639 Fairly well colored.
Fairly well colored means that except for a 1-inch circle in the aggregate of green color, the yellow color predominates over the green color on that part of the fruit which is not discolored.

§51.640 Fairly well formed.
Fairly well formed means that the fruit may not have the shape characteristic of the variety but is not elongated or pointed or otherwise deformed.

§51.641 Fairly smooth texture.
Fairly smooth texture means that the skin is not materially rough or coarse and that the skin is not thick for the variety.

§51.642 Damage.
Damage means any specific defect described in §51.652, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

§51.643 Fairly firm.
Fairly firm means that the fruit may be slightly soft, but not bruised, and the skin is not spongy or puffy.

§51.644 Slightly misshapen.
Slightly misshapen means that the fruit is not of the shape characteristic of the variety but is not appreciably elongated or pointed or otherwise deformed.

§51.645 Slightly rough texture.
Slightly rough texture means that the skin is not smooth or fairly smooth but is not excessively rough or excessively thick, or materially ridged, grooved or wrinkled.

§51.646 Serious damage.
Serious damage means any specific defect described in §51.652, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

§51.647 Slightly colored.
Slightly colored means that, except for a 2-inch circle in the aggregate of green color, the portion of the fruit surface which is not discolored shows some yellow color.

§51.648 Misshapen.
Misshapen means that the fruit is decidedly elongated, pointed or flat sided.

§51.649 Slightly spongy.
Slightly spongy means that the fruit is puffy or slightly wilted but not flabby.

§51.650 Very serious damage.
Very serious damage means any specific defect described in §51.652, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

§51.651 Diameter.
Diameter means the greatest dimension measured at right angles to a line from stem to blossom end.

General

§51.680 General.
The standards in this subpart apply only to the common or sweet orange group and varieties belonging to the Mandarin group except tangerines for which separate U.S. Standards are issued.

Grades

§51.681 U.S. Fancy.
"U.S. Fancy" consists of oranges which meet the following requirements:
(a) Basic requirements:
(1) Discoloration:
(i) Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See §51.700.)
(2) Firm;
(3) Mature;
(4) Similar varietal characteristics;
(5) Well colored;
(6) Well formed; and,
(7) Smooth texture.
(b) Free from:
(1) Ammoniation;
(2) Bruises;
(3) Buckskin;
(4) Caked melanose;
(5) Creasing;
(6) Cuts not healed;
(7) Decay;
(8) Growth cracks;
(9) Scab;
(10) Skin breakdown;
(11) Sprayburn;

(12) Undeveloped segments; and,
(13) Wormy fruit.
(c) Not injured by:
(1) Green spots;
(2) Oil spots;
(3) Split navels;
(4) Rough, wide or protruding navels;
(5) Scale;
(6) Scars; and,
(7) Thorn scratches.
(d) Not damaged by any other cause.
(e) For tolerances see §51.689.

§51.682 U.S. No. 1.
"U.S. No. 1" consists of oranges which meet the following requirements:
(a) Basic requirements:
(1) Discoloration:
(i) Not more than one-third of the surface, in the aggregate, may be affected by discoloration. (See §51.700.)
(2) Firm;
(3) Mature;
(4) Similar varietal characteristics;
(5) Well formed;
(6) Fairly smooth texture; and,
(7) Color:
(i) Early and midseason varieties shall be fairly well colored.
(ii) For Valencia and other late varieties, not less than 50 percent, by count, shall be fairly well colored and the remainder reasonably well colored.
(b) Free from:
(1) Bruises;
(2) Cuts not healed;
(3) Caked melanose;
(4) Decay;
(5) Growth cracks;
(6) Sprayburn;
(7) Undeveloped segments; and,
(8) Wormy fruit.
(c) Not damaged by any other cause.
(d) For tolerances see §51.689.

§51.683 U.S. No. 1 Bright.
The requirements for this grade are the same as for U.S. No. 1 except that no fruit may have more than one-tenth of its surface, in the aggregate, affected by discoloration.
(a) For tolerances see §51.689.

§51.684 U.S. No. 1 Bronze.
The requirements for this grade are the same as for U.S. No 1 except that all fruit must show some discoloration. Not less than the number of fruits required in §51.689, Tables I and II, shall have more than one-third of their surface, in the aggregate, affected by discoloration. The predominating discoloration on these fruits shall be of rust mite type.

§51.685 U.S. Combination.
"U.S. Combination" consists of a combination of U.S. No. 1 and U.S. No. 2 oranges: *Provided,* That the number of U.S. No. 2 fruits specified in §51.689, Tables I and II, are not exceeded.

§51.686 U.S. No. 2.
"U.S. No. 2" consists of oranges which meet the following requirements:
(a) Basic requirements:
(1) Discoloration:
(i) Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See §51.700.)
(2) Fairly firm;
(3) Mature;
(4) Similar varietal characteristics;
(5) Reasonably well colored;
(6) Not more than slightly misshapen, and,
(7) Not more than slightly rough.
(b) Free from:
(1) Bruises;
(2) Cuts not healed;
(3) Decay;
(4) Growth cracks; and,
(5) Wormy fruit.
(c) Not seriously damaged by any other cause.
(d) For tolerances see §51.689.

§51.687 U.S. No. 2 Russet.

The requirements for this grade are the same as for U.S. No. 2 except that not less than the number of fruits required in §51.689, Tables I and II, shall have more than one-half of their surface, in the aggregate, affected by discoloration.

§51.688 U.S. No. 3.

"U.S. No. 3" consists of oranges which meet the following requirements:
(a) Basic requirements:
(1) Mature;
(2) Similar varietal characteristics;
(3) May be misshapen;
(4) May be slightly spongy;
(5) May have rough texture;
(6) Not seriously lumpy or cracked; and,
(7) May be poorly colored.
(i) Not more than 25 percent of the surface may be of a solid dark green color.
(b) Free from:
(1) Cuts not healed;
(2) Decay; and,
(3) Wormy fruit.
(c) Not very seriously damaged by any other cause.
(d) For tolerances see §51.689.

Tolerances

§51.689 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, based on sample inspection, the number of defective or off-size specimens in the lot, shall be within the limitations specified.

Sample for Grade or Size Determination

§51.690 Sample for grade or size determination.

Each sample shall consist of 50 oranges. When individual packages contain at least 50 oranges, the sample is drawn from one package; when individual packages contain less than 50 oranges, a sufficient number of adjoining packages are opened to form a 50-count sample. When practicable, at point of packaging, the sample may be obtained from the grading belt or bins after sorting has been completed.

Standard Pack

_ §51.691 Standard pack for oranges except Temple variety.

(a) Fruit shall be fairly uniform in size. When packed in approved containers, fruit shall be arranged according to the approved and recognized methods.

(b) "Fairly uniform in size" means that not more than the number of fruit permitted in §51.689, Tables I and II, are outside the ranges of diameters given in Table III:

Table III._\7/10\ Bushel Carton

Pack size/number of oranges	Diameter in inches	
	Minimum	Maximum
24	3\12/16\	5\1/16\
32	3\6/16\	4\9/16\
36	3\4/16\	4\6/16\
40	3\2/16\	4\4/16\
48	2\15/16\	4
56	2\13/16\	3\13/16\
64	2\11/16\	3\10/16\
72	2\9/16\	3\8/16\
88	2\8/16\	3\4/16\
113	2\7/16\	3
138	2\6/16\	2\12/16\

(c) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.

[66 FR 48788, Sept. 24, 2001]

Standard Sizing

§51.692 Standard sizing.

(a) Boxes, cartons, bag packs, or bulk loads in which oranges are not packed according to a definite pattern do not meet the requirements of standard pack, but may be certified as meeting the requirements of standard sizing: *Provided,* that the ranges are fairly uniform in size as defined in §51.691.

(b) In order to allow for variations incident to proper packing, not more than 5 percent of the containers in any lot may fail to meet the requirements of standard sizing.

[34 FR 13909, Aug. 30, 1969; 34 FR 14325, Sept. 12, 1969, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981; as amended at 66 FR 48788, Sept. 24, 2001]

Definitions

§51.693 Mature.
Mature shall have the same meaning currently assigned that term in the laws and regulations of the State in which the orange is grown; or as the definition of such term may hereafter be amended.

§51.694 Similar varietal characteristics.
Similar varietal characteristics means that the fruits in any container are similar in color and shape.

§51.695 Well colored.
Well colored means that the fruit is yellow or orange in color with practically no trace of green color.

§51.696 Firm.
Firm as applied to common oranges, means that the fruit is not soft, or noticeably wilted or flabby; as applied to oranges of the Mandarin group (Satsuma, King, Mandarin), means that the fruit is not extremely puffy, although the skin may be slightly loose.

§51.697 Well formed.
Well formed means that the fruit has the shape characteristic of the variety.

§51.698 Smooth texture.
Smooth texture means that the skin is thin and smooth for the variety and size of the fruit.

§51.699 Injury.
Injury means any specific defect described in §51.713, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

§51.700 Discoloration.
Discoloration means russeting of light shade of golden brown caused by rust mite or other means. Lighter shades of discoloration caused by smooth or fairly smooth, superficial scars or other means may be allowed on a greater area, or darker shades may be allowed on a lesser area, provided no discoloration caused by melanose or other means

may affect the appearance of the fruit to a greater extent than the shade and amount of discoloration allowed for the grade.

§51.701 Fairly smooth texture.
Fairly smooth texture means that the skin is not materially rough or coarse and that the skin is not thick for the variety.

§51.702 Damage.
Damage means any specific defect described in §51.713, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

§51.703 Fairly well colored.
Fairly well colored means that except for a one inch circle in the aggregate of green color, the yellow or orange color predominates over the green color on that part of the fruit which is not discolored.

§51.704 Reasonably well colored.
Reasonably well colored means that the yellow or orange color predominates over the green color on at least two-thirds of the fruit surface in the aggregate which is not discolored.

§51.705 Fairly firm.
Fairly firm as applied to common oranges, means that the fruit may be slightly soft, but not bruised; as applied to oranges of the Mandarin group (Satsuma, King, Mandarin) means that the fruit is not extremely puffy or the skin extremely loose.

§51.706 Slightly misshapen.
Slightly misshapen means that the fruit is not of the shape characteristic of the variety but is not appreciably elongated or pointed or otherwise deformed.

§51.707 Slightly rough texture.
Slightly rough texture means that the skin is not smooth or fairly smooth but is not excessively rough or excessively thick, or materially ridged, grooved or wrinkled.

§51.708 Serious damage.
Serious damage means any specific defect described in §51.713, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

§51.709 Misshapen.
Misshapen means that the fruit is decidedly elongated, pointed or flatsided.

§51.710 Slightly spongy.
Slightly spongy means that the fruit is puffy or slightly wilted but not flabby.

§51.711 Very serious damage.
Very serious damage means any specific defect described in §51.713, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

§51.712 Diameter.
Diameter means the greatest dimension measured at right angles to a line from stem to blossom end of the fruit.

Subpart -- United States Standards for Grades of Florida Grapefruit

Grades

§51.750 U.S. Fancy.
"U.S. Fancy" consists of grapefruit which meet the following requirements:
(a) Basic requirements:
(1) Discoloration: Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See §51.770.);
(2) Firm;
(3) Mature;
(4) Similar varietal characteristics;
(5) Smooth texture;
(6) Well colored; and,
(7) Well formed.
(b) Free from:
(1) Ammoniation;

(2) Buckskin;
(3) Caked melanose;
(4) Decay;
(5) Scab;
(6) Sprayburn;
(7) Unhealed skin breaks; and,
(8) Wormy fruit.
(c) Free from injury caused by:
(1) Bruises;
(2) Green spots;
(3) Oil spots;
(4) Scale;
(5) Scars;
(6) Skin breakdown; and,
(7) Thorn scratches.
(d) Free from damage caused by:
(1) Dirt or other foreign material;
(2) Disease;
(3) Dryness or mushy condition;
(4) Hail;
(5) Insects;
(6) Sprouting;
(7) Sunburn; and,
(8) Other means.
(e) For tolerances see §51.760.

§51.751 U.S. No. 1 Bright.
The requirements for this grade are the same as for U.S. No. 1 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration. For tolerances see §51.760.

§51.752 U.S. No. 1.
"U.S. No. 1" consists of grapefruit which meet the following requirements:
(a) Basic requirements:
(1) Discoloration: Not more than one-third of the surface, in the aggregate, may be affected by discoloration. (See §51.770.);
(2) Fairly smooth texture;
(3) Fairly well colored;
(4) Firm;
(5) Mature;
(6) Similar varietal characteristics; and,
(7) Well formed.
(b) Free from:
(1) Decay;

(2) Unhealed skin breaks; and,
(3) Wormy fruit.
(c) Free from damage caused by:
(1) Ammoniation;
(2) Bruises;
(3) Buckskin;
(4) Caked melanose;
(5) Dirt or other foreign material;
(6) Disease;
(7) Dryness or mushy condition;
(8) Green spots;
(9) Hail;
(10) Insects;
(11) Oil spots;
(12) Scab;
(13) Scale;
(14) Scars;
(15) Skin breakdown;
(16) Sprayburn;
(17) Sprouting;
(18) Sunburn;
(19) Thorn scratches; and,
(20) Other means.
(d) For tolerances see §51.760.

§51.753 U.S. No. 1 Golden.
The requirements for this grade are the same as for U.S. No. 1 except that not more than 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by discoloration. For tolerances see §51.760.

§51.754 U.S. No. 1 Bronze.
The requirements for this grade are the same as for U.S. No. 1 except that at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by discoloration. The predominating discoloration on each of these fruits shall be of rust mite type. For tolerances see §51.760.

§51.755 U.S. No. 1 Russet.
The requirements for this grade are the same as for U.S. No. 1 except that at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by any type of discoloration. For tolerances see §51.760.

§51.756 U.S. No. 2 Bright.

The requirements for this grade are the same as for U.S. No. 2 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration. For tolerances see §51.760.

§51.757 U.S. No. 2.

"U.S. No. 2" consists of grapefruit which meet the following requirements:
(a) Basic requirements:
(1) Discoloration: Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See §51.770.);
(2) Fairly firm;
(3) Mature;
(4) Similar varietal characteristics;
(5) Slightly colored;
(6) Not more than slightly misshapen; and,
(7) Not more than slightly rough texture.
(b) Free from:
(1) Decay;
(2) Unhealed skin breaks; and,
(3) Wormy fruit.
(c) Free from serious damage caused by:
(1) Ammoniation;
(2) Bruises;
(3) Buckskin;
(4) Caked melanose;
(5) Dirt or other foreign material;
(6) Disease;
(7) Dryness or mushy condition;
(8) Green spots;
(9) Hail;
(10) Insects;
(11) Oil spots;
(12) Scab;
(13) Scale;
(14) Scars;
(15) Skin breakdown;
(16) Sprayburn;
(17) Sprouting;
(18) Sunburn;
(19) Thorn scratches; and,
(20) Other means.
(d) For tolerances see §51.760.

§51.758 U.S. No. 2 Russet.

The requirements for this grade are the same as for U.S. No. 2 except that at least 10 percent of the fruit shall have more than one-half of their surface, in the aggregate, affected by any type of discoloration. For tolerances see §51.760.

§51.759 U.S. No. 3.

"U.S. No. 3" consists of grapefruit which meet the following requirements:
(a) Basic requirements:
(1) Mature;
(2) Misshapen;
(3) Poorly colored;
(4) Rough texture, not seriously bumpy;
(5) Similar varietal characteristics; and,
(6) Slightly spongy.
(b) Free from:
(1) Decay;
(2) Unhealed skin breaks; and,
(3) Wormy fruit.
(c) Free from very serious damage caused by:
(1) Ammoniation;
(2) Bruises;
(3) Buckskin;
(4) Caked melanose;
(5) Disease;
(6) Dryness or mushy condition;
(7) Hail;
(8) Insects;
(9) Oil spotting;
(10) Scab;
(11) Scale;
(12) Scars;
(13) Skin breakdown;
(14) Sprayburn;
(15) Sprouting;
(16) Sunburn; and,
(17) Other means.
(d) For tolerances see §51.760.

Tolerances

§51.760 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified:

(a) *Defects.* (1) U.S. Fancy, U.S. No. 1 Bright, U.S. No. 1, U.S. No. 1 Golden, U.S. No. 1 Bronze, U.S. No. 1 Russet, U.S. No. 2 Bright, U.S. No. 2, and U.S. No. 2 Russet.

(i) *For defects at shipping point.* [1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided,* that included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay or wormy fruit.

[1]Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the specified grade: *Provided,* that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or,

(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay or wormy fruit.

(2) U.S. No. 3.

(i) *For defects at shipping point*. [1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided,* that included in this amount not more than 1 percent shall be for decay or wormy fruit.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the grade: *Provided,* that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or,

(B) 3 percent for decay or wormy fruit.

(b) *Discoloration* -- (1) *U.S. No. 1 Bright, U.S. No. 1, U.S. No. 2 Bright, and U.S. No. 2.* Not more than 10 percent of the fruit in any lot may fail to meet the requirements relating to discoloration as specified in each grade. No sample may have more than 20 percent of the fruit with excessive discoloration: *And provided further,* that the entire lot averages within percentage specified.

(2) *U.S. No. 1 Golden.* Not more than 30 percent of the fruit shall have in excess of one-third of their surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to increase this percentage. No sample may have more than 40 percent of the fruit with excessive discoloration: *And provided further,* that the entire lot averages within the percentage specified.

(3) *U.S. No. 1 Bronze, and U.S. No. 1 Russet.* At least 30 percent of the fruit shall have in excess of one-third of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage. No sample may have less

than 20 percent of the fruit with required discoloration: *And provided further,* that the entire lot averages within the percentage specified.
(4) *U.S. No. 2 Russet.* At least 10 percent of the fruit shall have in excess of one-half of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage: *And provided further,* that the entire lot averages within the percentage specified.
[61 FR 20703, May 8, 1996, as amended at 61 FR 40290, Aug. 2, 1996; 62 FR 2897, Jan. 21, 1997]

Application of Tolerances

§51.761 Application of tolerances.

Individual samples are subject to the following limitations, unless otherwise specified in §51.760. Individual samples shall have not more than one and one-half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent: *Provided,* that at least one decayed or wormy fruit may be permitted in any sample: *And provided further,* that the averages for the entire lot are within the tolerances specified for the grade.

[62 FR 2897, Jan. 21, 1997]

Size

§51.762 Size.

(a) Fruits shall be fairly uniform in size and shall be packed in containers according to approved and recognized methods.
(b) "Fairly uniform in size" means that not more than 10 percent of the grapefruit per sample may vary more than one-half inch in diameter.
(c) In order to allow for variations incident to proper sizing, not more than 10 percent of the samples in any lot may fail to meet the requirements of size.

Definitions

§51.763 Similar varietal characteristics.

Similar varietal characteristics means that the fruits in any container are similar in color and shape.

§51.764 Well colored.
Well colored means that the fruit has characteristic color for the variety with practically no trace of green color.

§51.765 Firm.
Firm means that the fruit is not soft, or noticeably wilted or flabby, and the skin is not spongy or puffy.

§51.766 Well formed.
Well formed means that the fruit has the shape characteristic of the variety.

§51.767 Mature.
Mature shall have the same meaning assigned the term in the Florida Citrus Code, Chapter 601, 1995 Edition, and the Official Rules Affecting the Florida Citrus Industry, in effect as of February 12, 1995. These grapefruit maturity requirements are contained in the Florida Citrus Code, Chapter 601, Florida Statutes, Sections 601.16, 601.17, and 601.18, 1995 Edition, and the State of Florida Department of Citrus Official Rules Affecting the Florida Citrus Industry, Part 1, Chapter 20-13 Market Classification, Maturity Standards and Processing or Packing Restrictions for Hybrids in effect as of February 12, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from, Florida Department of Citrus, Post Office Box 148, Lakeland, Florida 33802 or copies of both regulations may be inspected at USDA, AMS, F&VD, FPB, Standardization Section, Room 2065-S, 14th and Independence Ave., Washington, DC 20250 or at the Office of the Federal Register, Suite 700, 800 North Capitol Street, Washington, DC.

§51.768 Smooth texture.
Smooth texture means that the skin is thin and smooth for the variety and size of the fruit. "Thin" means that the skin thickness does not average more than 3/8 inch (9.5 mm), on a central cross section, on grapefruit 4 1/8 inches (104.8 mm) in diameter.

§51.769 Injury.
Injury means any specific defect described in §51.784, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

§51.770 Discoloration.
Discoloration means russeting of a light shade of golden brown caused by rust mite or other means. Lighter shades of discoloration caused by smooth or fairly smooth superficial scars or other means may be allowed on a greater area, or darker shades may be allowed on a lesser area, provided no discoloration caused by speck-type melanose or other means may detract from the appearance of the fruit to a greater extent than the shade and amount of discoloration allowed in the grade.

§51.771 Fairly well colored.
Fairly well colored means that except for an aggregate area of green color which does not exceed the area of a circle 1 inch (25.4 mm) in diameter, the characteristic color predominates over the green color.

§51.772 Fairly smooth texture.
Fairly smooth texture means that the skin is fairly thin and not coarse for the variety and size of the fruit. "Fairly thin" means that the skin thickness does not average more than 1/2 inch (12.7 mm), on a grapefruit 4 1/8 inches (104.8 mm) in diameter.

§51.773 Damage.
Damage means any specific defect described in §51.784, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

§51.774 Fairly firm.
Fairly firm means that the fruit may be slightly soft, but not bruised, and the skin is not spongy or puffy.

§51.775 Slightly misshapen.
Slightly misshapen means that the fruit has fairly good shape characteristic of the variety and is not more than slightly elongated or pointed or otherwise deformed.

§51.776 Slightly rough texture.
Slightly rough texture means that the skin may be slightly thick but not excessively thick, materially ridged or grooved. "Slightly thick" means that the skin thickness does not average more than 5/8 inch (15.9 mm), on a central cross section, on a grapefruit 4 1/8 inches (104.8 mm) in diameter.

§51.777 Serious damage.
Serious damage means any specific defect described in §51.784, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

§51.778 Slightly colored.
Slightly colored means that except for an aggregate area of green color which does not exceed the area of a circle 2 inches (50.8 mm) in diameter, the fruit surface shows some characteristic color.

§51.779 Poorly colored.
Poorly colored means that not more than 25 percent of the surface may be of a solid dark green color.

§51.780 Misshapen.
Misshapen means that the fruit is decidedly elongated, pointed, or flatsided.

§51.781 Slightly spongy.
Slightly spongy means that the fruit is puffy or slightly wilted but not flabby.

§51.782 Very serious damage.
Very serious damage means any specific defect described in §51.784, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

§51.783 Diameter.
Diameter means the greatest dimension measured at right angles to a line from stem to blossom end.

Subpart -- United States Standards for Grades of Table Grapes (European or Vinifera Type) [1]

[1]Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

Grades

§51.880 U.S. Extra Fancy Table.

"U.S. Extra Fancy Table" consists of bunches of well developed grapes of one variety, except when designated as assorted varieties, which are uniform in appearance, well colored, and which meet the following requirements:

(a) Basic requirements for berries:
(1) Mature;
(2) Firm;
(3) Firmly attached to capstem;
(4) Not weak;
(5) Not shriveled at capstem;
(6) Not shattered;
(7) Not split or crushed;
(8) Not wet.
(b) Basic requirements for bunches:
(1) Fairly well filled;
(2) Not excessively tight for the variety.
(c) Basic requirements for stems:
(1) Well developed and strong;
(2) Not dry and brittle;
(3) At least yellowish-green in color except for Cardinal, Robin, Exotic, and Beauty Seedless varieties.
(d) Berries free from:
(1) Decay;
(2) Waterberry;
(3) Sunburn;
(4) Almeria Spot.
(e) Stems free from:
(1) Mold;
(2) Decay.
(f) Berries not damaged by:
(1) Any other cause.
(g) Bunches not damaged by:
(1) Shot berries;
(2) Dried berries;
(3) Other defective berries;

(4) Trimming away of defective berries;
(5) Any other cause.
(h) Stems not damaged by:
(1) Freezing;
(2) Any other cause.
(i) Size:
(1) For berries: Exclusive of shot berries and dried berries, not less than 90 percent, by count, of the berries on each bunch shall have the minimum diameters indicated for varieties as follows:
(i) Ribier, Cardinal, Robin, Exotic, Queen, Italia Muscat, and other similar varieties thirteen-sixteenths of an inch.
(ii) Other varieties eleven-sixteenths of an inch.
(2) For bunches:
(i) Not less than one-half pound.
(j) For tolerances see §51.886.
[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 56 FR 15802, Apr. 18, 1991]

§51.881 U.S. Extra Fancy Export.
"U.S. Extra Fancy Export" consists of grapes which meet the requirements for U.S. Extra Fancy Table and, in addition, meet the packaging requirements set forth in §51.911.
[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

§51.882 U.S. Fancy Table.

"U.S. Fancy Table" consists of bunches of well developed grapes of one variety, except when designated as assorted varieties, which are at least reasonably well colored, uniform in appearance when so specified in connection with the grade, and which meet the following requirements:
(a) Basic requirements for berries:
(1) Mature;
(2) Firm;
(3) Firmly attached to capstem;
(4) Not weak;
(5) Not shriveled at capstem;
(6) Not shattered;
(7) Not split or crushed;
(8) Not wet.
(b) Basic requirements for bunches:
(1) Fairly well filled;
(2) Not excessively tight for the variety.
(c) Basic requirements for stems:
(1) Well developed and strong;

(2) Not dry and brittle.
(d) Berries free from:
(1) Decay;
(2) Waterberry;
(3) Sunburn;
(4) Almeria Spot.
(e) Stems free from:
(1) Mold;
(2) Decay.
(f) Berries not damaged by:
(1) Any other cause.
(g) Bunches not damaged by:
(1) Shot berries;
(2) Dried berries;
(3) Other defective berries;
(4) Trimming away of defective berries;
(5) Any other cause.
(h) Stems not damaged by:
(1) Freezing;
(2) Any other cause.
(i) Size:
(1) For berries: Exclusive of shot berries and dried berries, the following percentages, by count, of the berries on each bunch shall have the minimum diameters indicated for varieties as follows:
(i) For Ribier, Cardinal, Robin, Exotic, Queen, Italia Muscat, and other similar varieties, 90 percent shall be at least twelve-sixteenths of an inch;
(ii) For Thompson Seedless, Perlette, Delight, Beauty Seedless, Sugraone, Flame Seedless and other seedless varieties, 75 percent shall be at least ten-sixteenths of an inch; and,
(iii) For other varieties 90 percent shall be at least ten-sixteenths of an inch.
(2) For bunches:
(i) Not less than one-fourth pound.
(j) For tolerances see §51.886.
[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 48 FR 19350, Apr. 29, 1983; 56 FR 15802, Apr. 18, 1991; 64 FR 14576, Mar. 26, 1999]

§51.883 U.S. Fancy Export.

"U.S. Fancy Export" consists of grapes which meet the requirements for U.S. Fancy Table, except that bunches shall weigh not less than one-half pound, and in addition meet the packaging requirements set forth in §51.912.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 56 FR 15802, Apr. 18, 1991]

§51.884 U.S. No. 1 Table.

"U.S. No. 1 Table" consists of bunches of well developed grapes of one variety, except when designated as assorted varieties, which are at least fairly well colored, uniform in appearance when so specified in connection with the grade, and which meet the following requirements:

(a) Basic requirements for berries:
(1) Mature;
(2) Firm;
(3) Firmly attached to capstem;
(4) Not weak;
(5) Not materially shriveled at capstem;
(6) Not shattered;
(7) Not split or crushed;
(8) Not wet.
(b) Basic requirements for bunches:
(1) Not straggly.
(c) Basic requirements for stems:
(1) Not weak, or dry and brittle.
(d) Berries free from:
(1) Decay;
(2) Waterberry;
(3) Sunburn.
(e) Stems free from:
(1) Mold;
(2) Decay.
(f) Berries not damaged by:
(1) Any other cause.
(g) Bunches not damaged by:
(1) Shot berries;
(2) Dried berries;
(3) Other defective berries;
(4) Trimming away of defective berries;
(5) Any other cause.
(h) Stems not damaged by:
(1) Freezing;
(2) Any other cause.
(i) Size:

(1) For berries: Exclusive of shot berries and dried berries, 75 percent, by count, of the berries on each bunch shall have the minimum diameters indicated for varieties as follows:
(i) Thompson Seedless, Perlette, Delight, Beauty Seedless, Sugraone, Flame Seedless and other seedless varieties nine-sixteenths of an inch.
(ii) Other varieties ten-sixteenths of an inch.
(2) For bunches:
(i) Not less than one-fourth pound.
(j) For tolerances see §51.886.
[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 48 FR 19350, Apr. 29, 1983; 56 FR 15802, Apr. 18, 1991; 64 FR 14576, Mar. 26, 1999]

§51.885 U.S. No. 1 Institutional.

"U.S. No. 1 Institutional" grapes must have no less than 95 percent of the containers in the lot legibly marked "Institutional Pack." Further requirements for this grade include grapes which consist of clusters and/or bunches of well developed grapes of one variety, except when designated as assorted varieties, which are at least fairly well colored, uniform in appearance when so specified in connection with the grade, and which meet the following requirements:
(a) Basic requirements for berries:
(1) Mature;
(2) Firm;
(3) Firmly attached to capstem;
(4) Not weak;
(5) Not materially shriveled at capstem;
(6) Not shattered;
(7) Not split or crushed;
(8) Not wet.
(b) Basic requirements for stems: Not weak, or dry and brittle.
(c) Berries free from:
(1) Decay;
(2) Waterberry;
(3) Sunburn.
(d) Stems free from:
(1) Mold;
(2) Decay.
(e) Berries not damaged by: Any other cause.
(f) Bunches not damaged by:
(1) Shot berries;
(2) Dried berries;
(3) Other defective berries;
(4) Any other cause.
(g) Stems not damaged by:
(1) Freezing;

(2) Any other cause.
(h) Size:
(1) For berries: Exclusive of shot berries and dried berries, 75 percent, by count, of the berries on each bunch shall have the minimum diameters indicated for varieties as follows:
(i) Thompson Seedless, Perlette, Delight, Beauty Seedless, Sugraone, Flame Seedless and other seedless varieties nine-sixteenths of an inch.
(ii) Other varieties ten-sixteenths of an inch.
(2) For clusters/bunches: In this grade grapes shall consist of at least a two berry cluster ranging to clusters and/or bunches of grapes not greater than five ounces in weight. See Section 51.913.
(i) For tolerances see Section 51.886.
[61 FR 11126, Mar. 19, 1996, as amended at 64 FR 14576, Mar. 26, 1999]

Tolerances

§51.886 Tolerances.

(a) No tolerances are provided in these standards for grapes which fail to meet the applicable maturity requirements other than the allowances specified in §51.888 or in the sampling and testing procedures of State maturity regulations.
(b) In order to allow for variations incident to proper grading and handling in each of the foregoing grades except U.S. No. 1 Institutional, tolerances, by weight, other than for maturity, are provided

§51.892 Color terms.

The color terms *well colored*, *reasonably well colored*, and *fairly well colored* are defined

§51.904 Shot berries.

Shot berries means very small berries resulting from insufficient pollination, usually seedless in those varieties which normally develop seeds.
[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

§51.905 Dried berries.

Dried berries means berries that are dry and shriveled to the extent that practically no moisture is present.
[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

§51.906 Well developed and strong.

Well developed and strong means that the main and lateral stems are firm, fibrous, and pliable; not distinctly immature or spindly or threadlike at time of packing.
[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

§51.907 Diameter.

Diameter means the greatest dimension of the berry taken at right angles to a line running from the stem to the blossom end.
[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

§51.908 Serious damage.

Serious damage means any defect or any combination of defects which seriously detracts from the appearance, or the edible or marketing quality of the grapes and includes berries which are split, crushed, wet, affected by decay or waterberry, or affected by heat or freezing. Grapes that show healed cracks at the blossom and shall not be considered as seriously damaged.
[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

51.909 Materially shriveled at capstem.
Materially shriveled at capstem means that the skin of the berry is definitely wrinkled adjacent to the capstem and the surface is materially sunken.
[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

§51.910 Straggly.

Straggly means that the berries are so widely spaced on main and laterial stems that the bunch is distinctly open or very stemmy or stringy in structure.
[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

§51.911 Container.

Container as used in these standards shall, for the purposes of determining maturity and other factors of grade of grapes in packages containing 5 pounds or less, mean the master container in which the individual packages are packed for shipment.
[52 FR 22437, June 12, 1987. Redesignated at 56 FR 15802, Apr. 18, 1991]

§51.912 Export.

When designated as Export, grapes shall be packed with any of the customary protective materials such as cushions, liners, or wraps, or properly packed in sawdust or granulated cork. The so-called "semi-sawdust packs" which are cushioned and/or covered with sawdust are not approved as protective packaging for export.
[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

§51.913 Clusters.

Clusters as used in these standards in reference to the U.S. No. 1 Institutional grade only shall be defined as two or more berries sharing a common point of attachment.
[61 FR 11127, Mar. 19, 1996]

Standard Pack

§51.1005 Standard pack.

(a) Fruit shall be fairly uniform in size, and when place packed in crates or cartons, the fruit shall be arranged according to the approved and recognized methods.
(b) All packages shall be well filled but the contents shall not show excessive or unnecessary bruising because of over-filled packages.
(c) "Fairly uniform in size" means that not more than 10 percent, by count of the fruit in any container may vary more than four-sixteenths of an inch in diameter.
(d) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.

Definitions

§51.1006 Firm.
Firm means that the fruit is not soft or flabby.

§51.1007 Fairly well formed.
Fairly well formed means that the fruit shows normal characteristic shape for the Persian variety and is not materially flattened on one side.

§51.1008 Fairly smooth texture.
Fairly smooth texture means that the fruit is comparatively free from lumpiness and that pebbling is not abnormally coarse. Coarse pebbling is not objectionable as it is indicative of good keeping quality and is characteristic of the fruit, especially that from young trees.

§51.1009 Stylar end breakdown.
Stylar end breakdown is a physiological breakdown starting at the base of the nipple as a grayish tan water-soaked spot. A brownish discoloration develops in the rind. As it progresses the color of the affected area becomes darker and usually sinks below the healthy surface, but the area remains firm unless infected with secondary organisms that cause soft decay.

§51.1010 Damage.
Damage means any defect which materially affects the appearance, or the edible or shipping quality of the fruit. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:
(a) Dryness or mushy condition which extends into all segments more than one-eighth of an inch at the stem end, or more than the equivalent of this amount, by volume, when occurring in other portions of the fruit;
(b) Sprayburn which changes the color to such an extent that the appearance of the fruit is materially affected, or which causes scarring that in the aggregate exceeds the area of a circle one-fourth inch in diameter;
(c) Exanthema (ammoniation) which materially detracts from the appearance of the fruit, or which occurs as small, thinly scattered spots over more than 10 percent of the fruit surface, or as solid scarring (not cracked) or depressions which in the aggregate exceed the area of a circle one-half inch in diameter;
(d) Scars which are dark, rough, or deep and in the aggregate exceed the area of a circle one-fourth inch in diameter, or scars which are fairly light in color, slightly rough, or of slight depth and in the aggregate exceed the area of a circle one-half inch in diameter, or scars which are light colored, fairly smooth, with no depth and aggregate more than 10 percent of the fruit surface;

(e) Thorn scratches when the injury is not well healed, or when dark colored, rough or deep and in the aggregate exceeds the area of a circle one-fourth inch in diameter, or when light colored, fairly smooth and concentrated and in the aggregate exceeds the area of a circle one-half inch in diameter, or light colored and scattered thorn injury which detracts from the appearance of the fruit to a greater extent than the aggregate area of one-half inch permitted for light colored concentrated injury;
(f) Scale when the appearance of the fruit is affected to a greater extent than that of a lime which has 10 medium to large California red or purple scale attached;
(g) Sunburn which causes appreciable flattening of the fruit, drying of the skin, material change in the color of the skin, appreciable drying of the flesh underneath the affected area, or which affects more than 5 percent of the fruit surface;
(h) Scab which materially affects the shape or texture;
(i) Blanching when more than 25 percent, in the aggregate, of the fruit surface shows a whitish to yellowish green area or areas because of shading, resting on the surface of the ground, or contact with other fruit on the tree. Such areas are not to be confused with limes which are turning yellow due to the ripening process;
(j) Yellow color when plainly visible and caused by the ripening process;
(k) Discoloration caused by rust mite, melanose or other means, when fairly smooth and more than 10 percent of the fruit surface is affected, or when slightly rough and in the aggregate exceeds the area of a circle one-half inch in diameter; and,
(l) Buckskin when more unsightly than the maximum discoloration allowed, or the fruit texture is materially affected.

§51.1011 Good green color.
Good green color means that the skin of the lime is of a good green color characteristic of the Persian variety.

§51.1012 Fairly firm.
Fairly firm means that the fruit is not soft or excessively flabby.

§51.1013 Badly deformed.
Badly deformed means that the fruit is seriously misshapen from any cause.

§51.1014 Excessively rough texture.
Excessively rough texture means that the skin is badly ridged or very decidedly lumpy.

§51.1015 Serious damage.
Serious damage means any defect which seriously affects the appearance, or the edible or shipping quality of the fruit. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(a) Dryness or mushy condition which extends into all segments more than one-fourth of an inch at the stem end, or more than the equivalent of this amount, by volume, when occurring in other portions of the fruit;
(b) Sprayburn which changes the color to such an extent that the appearance of the fruit is seriously injured or which causes scarring that in the aggregate exceeds the area of a circle one-half inch in diameter;
(c) Exanthema (ammoniation) which occurs as small spots over more than 25 percent of the fruit surface, or as solid scarring (not cracked) or depressions which aggregate more than 10 percent of the fruit surface;
(d) Scars which are dark, rough, or deep and aggregate more than 5 percent of the fruit surface, or scars which are fairly light in color, slightly rough, or of slight depth and aggregate more than 10 percent of the fruit surface, or scars which are light colored, fairly smooth, with no depth and aggregate more than 25 percent of the fruit surface;
(e) Thorn scratches when the injury is not well healed, or when dark colored, rough or deep and aggregates more than 5 percent of the fruit surface, or when light colored, fairly smooth and concentrated and aggregates more than 10 percent of the fruit surface, or light colored and scattered thorn injury which detracts from the appearance of the fruit to a greater extent than the 10 percent light colored concentrated injury;
(f) Scale when the appearance of the fruit is affected to a greater extent than that of a lime which has a blotch the area of a circle one-half inch in diameter;
(g) Sunburn which causes decided flattening of the fruit, marked drying or dark discoloration of the skin, material drying of the flesh underneath the affected area, or which affects more than 10 percent of the fruit surface;
(h) Scab which seriously affects shape or texture;
(i) Blanching when more than 50 percent, in the aggregate, of the fruit surface shows a whitish to yellowish green area or areas because of shading, resting on the surface of the ground, or contact with other fruit on the tree. Such areas are not to be confused with limes which are turning yellow due to the ripening process;
(j) Yellow color when plainly visible and caused by the ripening process;
(k) Discoloration caused by rust mite, melanose or other means, when fairly smooth and more than 50 percent of the fruit surface is affected, or when slightly rough and more than 25 percent of the fruit surface is affected; and,
(l) Buckskin when more unsightly than the maximum discoloration allowed, or the fruit texture is seriously affected.

§51.1016 Diameter.
Diameter means the greatest dimension measured at right angles to a line from stem to blossom end of the fruit.

Subpart -- United States Standards for Grades of Florida Oranges and Tangelos

Source: 61 FR 20708, May 8, 1996, unless otherwise noted.

General

§51.1140 General.
The standards contained in this subpart apply only to the common or sweet orange group and varieties and hybrids of varieties belonging to the Mandarin group, except tangerines, and to the citrus fruit commonly known as "tangelo" -- a hybrid between tangerine or mandarin orange (citrus reticulata) with either the grapefruit or pomelo (C. paradisi and C. grandis). Separate U.S. standards apply to tangerines. The standards for internal quality contained in §§51.1176 through 51.1179 apply only to common sweet oranges (citrus sinensis (L) Osbeck).

Grades

§51.1141 U.S. Fancy.
"U.S. Fancy" consists of oranges which meet the following requirements:
(a) Basic requirements:
(1) Discoloration: Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See §51.1161.);
(2) Firm;
(3) Mature;
(4) Similar varietal characteristics;
(5) Smooth texture;
(6) Well colored; and,
(7) Well formed.
(b) Free from:
(1) Ammoniation;
(2) Buckskin;
(3) Caked melanose;
(4) Creasing;
(5) Decay;
(6) Scab;
(7) Split navels;
(8) Sprayburn;
(9) Undeveloped segments;
(10) Unhealed skin breaks; and,
(11) Wormy fruit.
(c) Free from injury caused by:

(1) Bruises;
(2) Green spots;
(3) Oil spots;
(4) Rough, wide or protruding navels;
(5) Scale;
(6) Scars;
(7) Skin breakdown; and,
(8) Thorn scratches.
(d) Free from damage caused by:
(1) Dirt or other foreign material;
(2) Disease;
(3) Dryness or mushy condition;
(4) Hail;
(5) Insects;
(6) Riciness or woodiness;
(7) Sunburn; and,
(8) Other means.
(e) For tolerances see §51.1151.
(f) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§51.1176-51.1179.)

§51.1142 U.S. No. 1 Bright.
The requirements for this grade are the same as for U.S. No. 1 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration.
(a) For tolerances see §51.1151.
(b) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§51.1176-51.1179.)

§51.1143 U.S. No. 1.
"U.S. No. 1" consists of oranges which meet the following requirements:
(a) Basic requirements:
(1) Color;
(i) Early and midseason varieties shall be fairly well colored.
(ii) For Valencia and other late varieties, not less than 50 percent, by count, shall be fairly well colored and the remainder reasonably well colored.
(2) Discoloration: Not more than one-third of the surface, in the aggregate, may be affected by discoloration. (See §51.1161.);
(3) Fairly smooth texture;
(4) Firm;
(5) Mature;
(6) Similar varietal characteristics; and,
(7) Well formed.

(b) Free from:
(1) Decay;
(2) Unhealed skin breaks; and,
(3) Wormy fruit.
(c) Free from damage caused by:
(1) Ammoniation;
(2) Bruises;
(3) Buckskin;
(4) Caked melanose;
(5) Creasing;
(6) Dirt or other foreign material;
(7) Disease;
(8) Dryness or mushy condition;
(9) Green spots;
(10) Hail;
(11) Insects;
(12) Oil spots;
(13) Riciness or woodiness;
(14) Scab;
(15) Scale;
(16) Scars;
(17) Skin breakdown;
(18) Split, rough or protruding navels;
(19) Sprayburn;
(20) Sunburn;
(21) Thorn scratches; and,
(22) Other means.
(d) For tolerances see §51.1151.
(e) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§51.1176-51.1179.)

§51.1144 U.S. No. 1 Golden.
The requirements for this grade are the same as for U.S. No. 1 except that not more than 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by discoloration.
(a) For tolerances see §51.1151.
(b) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§51.1176-51.1179.)

§51.1145 U.S. No. 1 Bronze.
The requirements for this grade are the same as for U.S. No. 1 except at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate,

affected by discoloration. The predominating discoloration on each fruit shall be of rust mite type.
(a) For tolerances see §51.1151.
(b) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§51.1176-51.1179.)

§51.1146 U.S. No. 1 Russet.
The requirements for this grade are the same as for U.S. No. 1 except that at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by any type of discoloration.
(a) For tolerances see §51.1151.
(b) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§51.1176-51.1179.)

§51.1147 U.S. No. 2 Bright.
The requirements for this grade are the same as for U.S. No. 2 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration.
(a) For tolerances see §51.1151.
(b) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§51.1176-51.1179.)

§51.1148 U.S. No. 2.
"U.S. No. 2" consists of oranges which meet the following requirements:
(a) Basic requirements:
(1) Discoloration: Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See §51.1161.)
(2) Fairly firm;
(3) Mature;
(4) Reasonably well colored;
(5) Similar varietal characteristics;
(6) Not more than slightly misshapen; and
(7) Not more than slightly rough texture.
(b) Free from:
(1) Decay;
(2) Unhealed skin breaks; and
(3) Wormy fruit.
(c) Free from serious damage caused by:
(1) Ammoniation;
(2) Bruises;
(3) Buckskin;

(4) Caked melanose;
(5) Creasing;
(6) Dirt or other foreign material;
(7) Disease;
(8) Dryness or mushy condition;
(9) Green spots;
(10) Hail;
(11) Insects;
(12) Oil spots;
(13) Riciness or woodiness;
(14) Scab;
(15) Scale;
(16) Scars;
(17) Skin breakdown;
(18) Split, rough or protruding navels;
(19) Sprayburn;
(20) Sunburn;
(21) Thorn scratches; and
(22) Other means.
(d) For tolerances see §51.1151.
(e) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§51.1176-51.1179.)

§51.1149 U.S. No. 2 Russet.
The requirements for this grade are the same as for U.S. No. 2 except that at least 10 percent of the fruit shall have more than one-half of their surface, in the aggregate, affected by any type of discoloration.
(a) For tolerances see §51.1151.
(b) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§51.1176-51.1179.)

§51.1150 U.S. No. 3.
"U.S. No. 3" consists of oranges which meet the following requirements:
(a) Basic requirements:
(1) Mature;
(2) Misshapen;
(3) Poorly colored;
(4) Rough texture, not seriously lumpy;
(5) Similar varietal characteristics; and
(6) Slightly spongy.
(b) Free from:
(1) Decay;

(2) Unhealed skin breaks; and
(3) Wormy fruit.
(c) Free from very serious damage caused by:
(1) Ammoniation;
(2) Bruises;
(3) Buckskin;
(4) Caked melanose;
(5) Creasing;
(6) Disease;
(7) Dryness or mushy condition;
(8) Hail;
(9) Insects;
(10) Riciness or woodiness;
(11) Scab;
(12) Scale;
(13) Scars;
(14) Skin breakdown;
(15) Split navels;
(16) Sprayburn;
(17) Sunburn; and
(18) Other means.
(d) For tolerances see §51.1151.
(e) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade.
(See §§51.1176 -- 51.1179.)

Tolerances

§51.1151 Tolerances.
In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified:
(a) *Defects.* (1) U.S. Fancy, U.S. No. 1 Bright, U.S. No. 1, U.S. No. 1 Golden, U.S. No. 1 Bronze, U.S. No. 1 Russet, U.S. No. 2 Bright, U.S. No. 2, and U.S. No. 2 Russet grades.
(i) *For defects at shipping point.*[1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided,* that included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay or wormy fruit.
[1]Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.
(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the specified grade: *Provided,* that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or,
(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay or wormy fruit.
(2) U.S. No. 3.
(i) *For defects at shipping point.*[1]. Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided,* that included in this amount not more than 1 percent shall be for decay or wormy fruit.
(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the grade: *Provided,* that included in this amount not more than the following percentages shall be allowed for defects listed:
(A) 10 percent for fruit having permanent defects; or,
(B) 3 percent for decay or wormy fruit.
(b) *Discoloration* -- (1) *U.S. No. 1 Bright, U.S. No. 1, U.S. No. 2 Bright, and U.S. No. 2.* Not more than 10 percent of the fruit in any lot may fail to meet the requirements relating to discoloration as specified in each grade. No sample may have more than 20 percent of the fruit with excessive discoloration: *And provided further,* that the entire lot averages within the percentage specified.
(2) *U.S. No. 1 Golden.* Not more than 30 percent of the fruit shall have in excess of one-third of their surface, in the aggregate, and no part of any tolerance shall be allowed to increase this percentage. No sample may have more than 40 percent of the fruit with excessive discoloration: *And provided further,* that the entire lot averages within the percentage specified.
(3) *U.S. No. 1 Bronze, and U.S. No. 1 Russet.* At least 30 percent of the fruit shall have in excess of one-third of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage. No sample may have less than 20 percent of the fruit with required discoloration: *And provided further,* that the entire lot averages within the percentage specified.
(4) *U.S. No. 2 Russet.* At least 10 percent of the fruit shall have in excess of one-half of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage: *And provided further,* that the entire lot averages within the percentage specified.
[61 FR 20708, May 8, 1996, as amended at 61 FR 40290, Aug. 2, 1996; 62 FR 2897, Jan. 21, 1997]

Application of Tolerances

§51.1152 Application of tolerances.

Individual samples are subject to the following limitations, unless otherwise specified in §51.1151. Individual samples shall have not more than one and one-half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent: *Provided,* that at least one decayed or wormy fruit may be permitted in any sample: *And provided further,* that the averages for the entire lot are within the tolerances specified for the grade.

Size

§51.1153 Size.
(a) Fruits shall be fairly uniform in size and shall be packed in containers according to approved and recognized methods.
(b) "Fairly uniform in size" means that not more than 10 percent of the oranges per sample may vary more than one-half inch in diameter.

(b) In order to allow for variations incident to proper sizing, not more than 10 percent of the samples in any lot may fail to meet the requirements of size.

Definitions

§51.1154 Similar varietal characteristics.
Similar varietal characteristics means that the fruits in any container are similar in color and shape.

§51.1155 Well colored.
Well colored as applied to common oranges and tangelos means that the fruit has characteristic color for the variety with practically no trace of green color.

§51.1156 Firm.
Firm as applied to common oranges and tangelos means that the fruit is not soft, or noticeably wilted or flabby; as applied to oranges of the Mandarin group (Satsumas, King, Mandarin), "firm" means that the fruit is not extremely puffy, although the skin may be slightly loose.

§51.1157 Well formed.
Well formed means that the fruit has the shape characteristic of the variety.

§51.1158 Mature.
Mature shall have the same meaning assigned the term in the Florida Citrus Code, Chapter 601, 1995 Edition, and the Official Rules Affecting the Florida Citrus Industry, in effect as of February 12, 1995. These orange maturity requirements are contained in the Florida Citrus Code, Chapter 601, Florida Statutes, Sections 601.19, and 601.20, 1995 Edition, and the State of Florida Department of Citrus Official Rules Affecting the Florida Citrus Industry, Part 1, Chapter 20-13 Market Classification, Maturity Standards and Processing or Packing Restrictions for Hybrids in effect as of February 12, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from,

Florida Department of Citrus, Post Office Box 148, Lakeland, Florida 33802 or copies of both regulations may be inspected at USDA, AMS, F&VD, FPB, Standardization Section, Room 2065-S, 14th and Independence Ave., Washington, DC 20250 or at the Office of the Federal Register, Suite 700, 800 North Capitol Street, Washington, DC.

§51.1159 Smooth texture.
Smooth texture means that the skin is thin and smooth for the variety and size of the fruit.

§51.1160 Injury.
Injury means any specific defect described in §51.1175, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

§51.1161 Discoloration.
Discoloration means russeting of a light shade of golden brown caused by rust mite or other means. Lighter shades of discoloration caused by smooth or fairly smooth superficial scars or other means may be allowed on a greater area, or darker shades may be allowed on a lesser area, provided no discoloration caused by speck type melanose or other means may detract from the appearance of the fruit to a greater extent than the shade and amount of discoloration allowed for the grade.

§51.1162 Fairly smooth texture.
Fairly smooth texture means that the skin is fairly thin and not coarse for the variety and size of the fruit.

§51.1163 Damage.
Damage means any specific defect described in §51.1175, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

§51.1164 Fairly well colored.
Fairly well colored as applied to common oranges and tangelos means that except for an aggregate area of green color which does not exceed the area of a circle 1 inch (25.4 mm) in diameter, the characteristic color predominates over the green color.

§51.1165 Reasonably well colored.
Reasonably well colored as applied to common oranges means that the characteristic color predominate over the green color on at least two-thirds of the fruit surface, in the aggregate.

§51.1166 Poorly colored.
Poorly colored as applied to common oranges means that not more than 25 percent of the surface may be solid dark green color.

§51.1167 Fairly firm.
Fairly firm as applied to common oranges and tangelos, means that the fruit may be slightly soft, but not bruised; as applied to oranges of the Mandarin group (Satsumas, King, Mandarin), means that the skin of the fruit is not extremely puffy or extremely loose.

§51.1168 Slightly misshapen.
Slightly misshapen means that the fruit is not of the shape characteristic of the variety but is not appreciably elongated or pointed or otherwise deformed.

§51.1169 Slightly rough texture.
Slightly rough texture means that the skin is not of smooth texture but is not materially ridged, grooved, or wrinkled.

§51.1170 Serious damage.
Serious damage means any specific defect described in §51.1175, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

§51.1171 Misshapen.
Misshapen means that the fruit is decidedly elongated, pointed or flatsided.

§51.1172 Slightly spongy.
Slightly spongy means that the fruit is puffy or slightly wilted but not flabby.

§51.1173 Very serious damage.
Very serious damage means any specific defect described in §51.1175, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

§51.1174 Diameter.
Diameter means the greatest dimension measured at right angles to a line from stem to blossom end.

§51.1211 U.S. Extra No. 1.
Any lot of peaches may be designated "U.S. Extra No. 1" when the peaches meet the requirements of U.S. No. 1 grade: *Provided,* That in addition to these requirements, 50 percent, by count, of the peaches in any lot shall have not less than one-fourth of the surface showing blushed, pink or red color.
(a) In order to allow for variations incident to proper grading and handling, not more than 10 percent, by count, of the peaches in any lot may fail to meet the requirements of U.S. No. 1 grade, but not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, and not more than one-fifth of this amount, or 1 percent, shall be allowed for decay at shipping point: *Provided,* That an additional tolerance of 2 percent shall be allowed for soft, over-ripe or decayed peaches en route or at destination. No part of any tolerance shall be used to reduce for the lot as a whole the 50 percent of peaches required to have not less than one-fourth of the surface showing blushed, pink or red color, but individual packages may contain not less than 40 percent of peaches having this amount of color: *Provided,* That the entire lot averages not less than 50 percent.

§51.1212 U.S. No. 1.
U.S. No. 1 consists of peaches of one variety which are mature but not soft or overripe, well formed, and which are free from decay, growth cracks, cuts which are not healed, worms, worm holes, and free from damage caused by bruises, dirt, or other foreign material, bacterial spot, scab, scale, hail injury, leaf or limb rubs, split pits, other disease, insects or mechanical or other means.
(a) In order to allow for variations incident to proper grading and handling, not more than 10 percent, by count, of the peaches in any lot may fail to meet the requirements of this grade, but not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, and not more than one-fifth of this amount, or 1 percent, shall be allowed for decay at shipping point: *Provided,* That an additional tolerance of 2 percent shall be allowed for soft, overripe, or decayed peaches en route, or at destination.

§51.1213 U.S. No. 2.

U.S. No. 2 consists of peaches of one variety which are mature but not soft or overripe, not badly misshapen, and which are free from decay, cuts which are not healed, worms, worm holes, and free from serious damage caused by bruises, dirt or other foreign material, bacterial spot, scab, scale, growth cracks, hail injury, leaf or limb rubs, split pits, other disease, insects, or mechanical or other means.

(a) In order to allow for variations incident to proper grading and handling, not more than 10 percent, by count, of the peaches in any lot may fail to meet the requirements of this grade, but not more than one-tenth of this amount, or 1 percent, shall be allowed for decay at shipping point: *Provided,* That an additional tolerance of 2 percent shall be allowed for soft, overripe, or decayed peaches en route or at destination.

Unclassified

§51.1214 Unclassified.

Unclassified consists of peaches which have not been classified in accordance with any of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no definite grade has been applied to the lot.

Application of Tolerances

§51.1215 Application of tolerances to individual packages.

(a) The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations, provided the averages for the entire lot are within the tolerances specified for the grade:

(1) For packages which contain more than 10 pounds, and a tolerance of 10 percent or more is provided (as in the case of oversize, where a tolerance of 15 percent is provided), individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 10 pounds and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified, except that at least one peach which is seriously damaged by insects or affected by decay may be permitted in any package.

(2) For packages which contain 10 pounds or less, individual packages in any lot are not restricted as to the percentage of defects: *Provided,* That not more than one peach which is seriously damaged by insects or affected by decay may be permitted in any package.

Size

§51.1216 Size requirements.
(a) The numerical count or the minimum diameter of the peaches packed in a closed container shall be indicated on the container.
(b) When the numerical count is not shown the minimum diameter shall be plainly stamped, stenciled, or otherwise marked on the container in terms of whole inches, whole and half inches, whole and quarter inches, or whole and eight inches, as 2 inches minimum, 2 1/4 inches minimum, 1 7/8 inches minimum, in accordance with the facts. The minimum and maximum diameters may both be stated, as 1 7/8 to 2 inches, or 2 to 2 1/4 inches, in accordance with the facts.
(c) *Diameter* means the greatest dimension measured at right angles to a line from stem to blossom end of the fruit.
(d) In order to allow for variations incident to proper sizing, not more than 10 percent, by count, of peaches in any lot may be below the specified minimum size and not more than 15 percent may be above any specified maximum size.
[18 FR 7116, Nov. 11, 1953. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 60 FR 39242, Aug. 2, 1995]

Standard Pack

§51.1217 Standard pack.
(a) Each package shall be packed so that the peaches in the shown face shall be reasonably representative in size, color and quality of the contents of the package.
(b) Peaches packed in U.S. Standard bushel baskets, or half-bushel baskets shall be ring faced and tightly packed with sufficient bulge to prevent any appreciable movement of the peaches within the packages when lidded.
(c) Peaches packed in standard western boxes shall be reasonably uniform in size and arranged in the packages according to the approved and recognized methods. Each wrapped peach shall be fairly well enclosed by its individual wrapper. All packages shall be well filled and tightly packed but the contents shall not show excessive or unnecessary bruising because of over-filled packages. The number of peaches in the box shall not vary more than 4 from the number indicated on the box.
(d) Peaches packed in other type boxes such as wire-bound boxes and fibre-board boxes may be place packed, or jumble packed faced, and all packs shall be well filled.
(e) Peaches packed in boxes equipped with cell compartments or molded trays shall be of the proper size for the cells or the molds in which they are packed.
(f) Peaches placed in individual paper cups and packed in boxes shall be in cups of the proper size for the peaches.
(g) In order to allow for variations incident to proper packing, not more than 10 percent of the packages in any lot may not meet these requirements.

Definitions

§51.1218 Mature.
Mature means that the peach has reached the stage of growth which will insure a proper completion of the ripening process.

§51.1219 Well formed.
Well formed means that the shape of the peach may be slightly irregular but not to the extent that its appearance is materially affected.

§51.1220 Leaf or limb rub injury.
Leaf or limb rub injury means that the scarring is not smooth, not light colored, or aggregates more than 1/4 inch in diameter.

§51.1221 Damage.
Damage means any injury or defect which materially affects the appearance, or the edible or shipping quality of the peach. Any one of the following defects, or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:
(a) Bacterial spot, when cracked, or when aggregating more than 3/8 inch in diameter;
(b) Scab spots, when cracked, or when aggregating more than 3/8 inch in diameter;
(c) Scale, when concentrated, or when scattered and aggregating more than 1/4 inch in diameter;
(d) Hail injury which is unhealed, or deep, or when aggregating more than 1/4 inch in diameter;
(e) Leaf or limb rubs, when not smooth, or when not light colored, or when aggregating more than 1/2 inch in diameter;
(f) Split pit, when causing any unhealed crack, or when causing any crack which is readily apparent, or when affecting shape to the extent that the fruit is not well formed.

§51.1222 Serious damage.
Serious damage means any injury or defect which seriously affects the appearance, or the edible or shipping quality of the peach. Any one of the following defects, or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:
(a) Bacterial spot, when any cracks are not well healed, or when aggregating more than 3/4 inch in diameter;
(b) Scab spots, when cracked, or when healed and aggregating more than one inch in diameter;
(c) Scale, when aggregating more than 1/2 inch in diameter;
(d) Growth cracks, when unhealed, or more than 1/2 inch in length;

(e) Hail injury, when unhealed, or shallow hail injury when aggregating more than 3/4 inch in diameter, or deep hail injury which seriously deforms the fruit or which aggregates more than 1/2 inch in diameter;
(f) Leaf or limb rubs, when smooth and light colored and aggregating more than 1 1/2 inches in diameter, or dark or slightly rough and barklike scars aggregating more than 3/4 inch in diameter;
(g) Split pit, when causing any unhealed crack, or when healed and aggregating more than 1/2 inch in length including any part of the crack which may be covered by the stem;
(h) Soft or overripe peaches;
(i) Wormy fruit or worm holes.

§51.1223 Badly misshapen.
Badly misshapen means that the peach is so decidedly deformed that its appearance is seriously affected.

Subpart -- United States Standards for Grades of Honey Dew and Honey Ball Type Melons

Source: 32 FR 3213, Feb. 24, 1967, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

Grades

§51.3740 U.S. No. 1.
"U.S. No. 1" consists of honey dew or honey ball type melons which are mature, firm, well formed, which are free from decay, and free from damage caused by dirt, aphis stain, rust spots, bruises, cracks, broken skin, sunscald, sunburn, hail, moisture, insects, disease, or other means. (See §51.3744.)

§51.3741 U.S. Commercial.
"U.S. Commercial" consists of honey dew or honey ball type melons which meet the requirements of U.S. No. 1 grade except for the increased tolerances for defects. (See §51.3744.)

§51.3742 U.S. No. 2.
"U.S. No. 2" consists of honey dew or honey ball type melons which are mature, firm, fairly well formed, free from decay and free from serious damage by any cause. (See §51.3744.)

Unclassified

§51.3743 Unclassified.

"Unclassified" consists of melons which have not been classified in accordance with any of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

Tolerances

§51.3744 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:

(a) *U.S. No. 1.* 10 percent for melons in any lot which fail to meet the requirements of the grade: *Provided,* That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including in this latter amount not more than 1 percent for melons affected by decay.

(b) *U.S. Commercial.* 20 percent for melons in any lot which fail to meet the requirements of this grade: *Provided,* That not more than one-fourth of this amount, or 5 percent, shall be allowed for defects causing serious damage, including in this latter amount not more than 1 percent for melons affected by decay.

(c) *U.S. No. 2.* 10 percent for melons in any lot which fail to meet the requirements of this grade including not more than 1 percent for melons affected by decay.

Application of Tolerances

§51.3745 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations:

(a) For a tolerance of 10 percent or more, individual packages shall have not more than 1 1/2 times the tolerance specified: *Provided,* That when the package contains 15 specimens or less, any individual package shall have not more than double the tolerance specified, except that at least one defective specimen may be permitted in any package: *And provided further,* That the averages for the entire lot are within the tolerances specified for the grade.

(b) For a tolerance of less than 10 percent, individual packages in any lot shall have not more than double the tolerance specified, except that at least one defective specimen may be permitted in any package: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade.

Definitions

§51.3746 Mature.
Mature means that the melon has reached the stage of maturity which will insure the proper completion of the normal ripening process.

§51.3747 Well formed.
Well formed means that the melon has the normal shape characteristic of the variety.

§51.3748 Damage.
Damage means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the melon.
(a) The following specific defects shall be considered as damage:
(1) Sunburn which causes the rind to become brownish in color, hard, tough, or thin; and,
(2) Bruising when the size or color of the affected area materially detracts from the appearance.
(b) The following blemishes shall not be considered as damage:
(1) Slight bruising caused by light pressure of the weight of other melons or from lidding of the crate;
(2) Yellow spots;
(3) Superficial hail spots;
(4) Slight surface scratches caused by picking or packing; or,
(5) Netting, either raised or occurring as very shallow cracks in the skin.

§51.3749 Serious damage.
Serious damage means any defect or any combination of defects which seriously detracts from the appearance, or the edible or marketing quality of the melon.

Regulation 37: Pastures/Feeds/Organic Agriculture

ORGANIC FOODS PRODUCTION ACT PROVISIONS

PART 205 -- NATIONAL ORGANIC PROGRAM

Subpart A -- Definitions

Sec.

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INSPECTION AND TESTING, REPORTING, AND EXCLUSION FROM SALE

ADVERSE ACTION APPEAL PROCESS

MISCELLANEOUS

Authority: 7 U.S.C. 6501-6522.

Source: 65 FR 80637, Dec. 21, 2001, unless otherwise noted.

Subpart A -- Definitions

§205.1 Meaning of words.

For the purpose of the regulations in this subpart, words in the singular form shall be deemed to impart the plural and vice versa, as the case may demand.

§205.2 Terms defined.

Accreditation. A determination made by the Secretary that authorizes a private, foreign, or State entity to conduct certification activities as a certifying agent under this part.
Act. The Organic Foods Production Act of 1990, as amended (7 U.S.C. 6501 et seq.).
Action level. The limit at or above which the Food and Drug Administration will take legal action against a product to remove it from the market. Action levels are based on unavoidability of the poisonous or deleterious substances and do not represent permissible levels of contamination where it is avoidable.
Administrator. The Administrator for the Agricultural Marketing Service, United States Departure of Agriculture, or the representative to whom authority has been delegated to act in the stead of the Administrator.

Agricultural inputs. All substances or materials used in the production or handling of organic agricultural products.
Agricultural product. Any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock, that is marketed in the United States for human or livestock consumption.
Agricultural Marketing Service (AMS). The Agricultural Marketing Service of the United States Department of Agriculture.
Allowed synthetic. A substance that is included on the National List of synthetic substances allowed for use in organic production or handling.
Animal drug. Any drug as defined in section 201 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 321), that is intended for use in livestock, including any drug intended for use in livestock feed but not including such livestock feed.
Annual seedling. A plant grown from seed that will complete its life cycle or produce a harvestable yield within the same crop year or season in which it was planted.
Area of operation. The types of operations: crops, livestock, wild-crop harvesting or handling, or any combination thereof that a certifying agent may be accredited to certify under this part.
Audit trail. Documentation that is sufficient to determine the source, transfer of ownership, and transportation of any agricultural product labeled as "100 percent organic," the organic ingredients of any agricultural product labeled as "organic" or "made with organic (specified ingredients)" or the organic ingredients of any agricultural product containing less than 70 percent organic ingredients identified as organic in an ingredients statement.
Biodegradable. Subject to biological decomposition into simpler biochemical or chemical components.
Biologics. All viruses, serums, toxins, and analogous products of natural or synthetic origin, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms, and the antigenic or immunizing components of microorganisms intended for use in the diagnosis, treatment, or prevention of diseases of animals.
Breeder stock. Female livestock whose offspring may be incorporated into an organic operation at the time of their birth.
Buffer zone. An area located between a certified production operation or portion of a production operation and an adjacent land area that is not maintained under organic management. A buffer zone must be sufficient in size or other features (e.g., windbreaks or a diversion ditch) to prevent the possibility of unintended contact by prohibited substances applied to adjacent land areas with an area that is part of a certified operation.
Bulk. The presentation to consumers at retail sale of an agricultural product in unpackaged, loose form, enabling the consumer to determine the individual pieces, amount, or volume of the product purchased.
Certification or certified. A determination made by a certifying agent that a production or handling operation is in compliance with the Act and the regulations in this part, which is documented by a certificate of organic operation.
Certified operation. A crop or livestock production, wild-crop harvesting or handling operation, or portion of such operation that is certified by an accredited certifying agent

as utilizing a system of organic production or handling as described by the Act and the regulations in this part.
Certifying agent. Any entity accredited by the Secretary as a certifying agent for the purpose of certifying a production or handling operation as a certified production or handling operation.
Certifying agent's operation. All sites, facilities, personnel, and records used by a certifying agent to conduct certification activities under the Act and the regulations in this part.
Claims. Oral, written, implied, or symbolic representations, statements, or advertising or other forms of communication presented to the public or buyers of agricultural products that relate to the organic certification process or the term, "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))," or, in the case of agricultural products containing less than 70 percent organic ingredients, the term, "organic," on the ingredients panel.
Commercially available. The ability to obtain a production input in an appropriate form, quality, or quantity to fulfill an essential function in a system of organic production or handling, as determined by the certifying agent in the course of reviewing the organic plan.
Commingling. Physical contact between unpackaged organically produced and non-organically produced agricultural products during production, processing, transportation, storage or handling, other than during the manufacture of a multi-ingredient product containing both types of ingredients.
Compost. The product of a managed process through which microorganisms break down plant and animal materials into more available forms suitable for application to the soil. Compost must be produced through a process that combines plant and animal materials with an initial C:N ratio of between 25:1 and 40:1. Producers using an in-vessel or static aerated pile system must maintain the composting materials at a temperature between 131 °F and 170 °F for 3 days. Producers using a windrow system must maintain the composting materials at a temperature between 131 °F and 170 °F for 15 days, during which time, the materials must be turned a minimum of five times.
Control. Any method that reduces or limits damage by populations of pests, weeds, or diseases to levels that do not significantly reduce productivity.
Crop. A plant or part of a plant intended to be marketed as an agricultural product or fed to livestock.
Crop residues. The plant parts remaining in a field after the harvest of a crop, which include stalks, stems, leaves, roots, and weeds.
Crop rotation. The practice of alternating the annual crops grown on a specific field in a planned pattern or sequence in successive crop years so that crops of the same species or family are not grown repeatedly without interruption on the same field. Perennial cropping systems employ means such as alley cropping, intercropping, and hedgerows to introduce biological diversity in lieu of crop rotation.
Crop year. That normal growing season for a crop as determined by the Secretary.
Cultivation. Digging up or cutting the soil to prepare a seed bed; control weeds; aerate the soil; or work organic matter, crop residues, or fertilizers into the soil.
Cultural methods. Methods used to enhance crop health and prevent weed, pest, or disease problems without the use of substances; examples include the selection of

appropriate varieties and planting sites; proper timing and density of plantings; irrigation; and extending a growing season by manipulating the microclimate with green houses, cold frames, or wind breaks.

Detectable residue. The amount or presence of chemical residue or sample component that can be reliably observed or found in the sample matrix by current approved analytical methodology.

Disease vectors. Plants or animals that harbor or transmit disease organisms or pathogens which may attack crops or livestock.

Drift. The physical movement of prohibited substances from the intended target site onto an organic operation or portion thereof.

Emergency pest or disease treatment program. A mandatory program authorized by a Federal, State, or local agency for the purpose of controlling or eradicating a pest or disease.

Employee. Any person providing paid or volunteer services for a certifying agent.

Excluded methods. A variety of methods used to genetically modify organisms or influence their growth and development by means that are not possible under natural conditions or processes and are not considered compatible with organic production. Such methods include cell fusion, micro-encapsulation and macro-encapsulation, and recombinant DNA technology (including gene deletion, gene doubling, introducing a foreign gene, and changing the positions of genes when achieved by recombinant DNA technology). Such methods do not include the use of traditional breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture.

Feed. Edible materials that are consumed by livestock for their nutritional value. Feed may be concentrates (grains) or roughages (hay, silage, fodder). The term, "feed," encompasses all agricultural commodities, including pasture ingested by livestock for nutritional purposes.

Feed additive. A substance added to feed in micro quantities to fulfill a specific nutritional need; i.e., essential nutrients in the form of amino acids, vitamins, and minerals.

Feed supplement. A combination of feed nutrients added to livestock feed to improve the nutrient balance or performance of the total ration and intended to be:

(1) Diluted with other feeds when fed to livestock;

(2) Offered free choice with other parts of the ration if separately available; or

(3) Further diluted and mixed to produce a complete feed.

Fertilizer. A single or blended substance containing one or more recognized plant nutrient(s) which is used primarily for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth.

Field. An area of land identified as a discrete unit within a production operation.

Forage. Vegetative material in a fresh, dried, or ensiled state (pasture, hay, or silage), which is fed to livestock.

Governmental entity. Any domestic government, tribal government, or foreign governmental subdivision providing certification services.

Handle. To sell, process, or package agricultural products, except such term shall not include the sale, transportation, or delivery of crops or livestock by the producer thereof to a handler.

Handler. Any person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production, except such term shall not include final retailers of agricultural products that do not process agricultural products.
Handling operation. Any operation or portion of an operation (except final retailers of agricultural products that do not process agricultural products) that receives or otherwise acquires agricultural products and processes, packages, or stores such products.
Immediate family. The spouse, minor children, or blood relatives who reside in the immediate household of a certifying agent or an employee, inspector, contractor, or other personnel of the certifying agent. For the purpose of this part, the interest of a spouse, minor child, or blood relative who is a resident of the immediate household of a certifying agent or an employee, inspector, contractor, or other personnel of the certifying agent shall be considered to be an interest of the certifying agent or an employee, inspector, contractor, or other personnel of the certifying agent.
Inert ingredient. Any substance (or group of substances with similar chemical structures if designated by the Environmental Protection Agency) other than an active ingredient that is intentionally included in any pesticide product (40 CFR 152.3(m)).
Information panel. That part of the label of a packaged product that is immediately contiguous to and to the right of the principal display panel as observed by an individual facing the principal display panel, unless another section of the label is designated as the information panel because of package size or other package attributes (e.g., irregular shape with one usable surface).
Ingredient. Any substance used in the preparation of an agricultural product that is still present in the final commercial product as consumed.
Ingredients statement. The list of ingredients contained in a product shown in their common and usual names in the descending order of predominance.
Inspection. The act of examining and evaluating the production or handling operation of an applicant for certification or certified operation to determine compliance with the Act and the regulations in this part.
Inspector. Any person retained or used by a certifying agent to conduct inspections of certification applicants or certified production or handling operations.
Label. A display of written, printed, or graphic material on the immediate container of an agricultural product or any such material affixed to any agricultural product or affixed to a bulk container containing an agricultural product, except for package liners or a display of written, printed, or graphic material which contains only information about the weight of the product.
Labeling. All written, printed, or graphic material accompanying an agricultural product at any time or written, printed, or graphic material about the agricultural product displayed at retail stores about the product.
Livestock. Any cattle, sheep, goat, swine, poultry, or equine animals used for food or in the production of food, fiber, feed, or other agricultural-based consumer products; wild or domesticated game; or other non-plant life, except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products.

Lot. Any number of containers which contain an agricultural product of the same kind located in the same conveyance, warehouse, or packing house and which are available for inspection at the same time.
Manure. Feces, urine, other excrement, and bedding produced by livestock that has not been composted.
Market information. Any written, printed, audiovisual, or graphic information, including advertising, pamphlets, flyers, catalogues, posters, and signs, distributed, broadcast, or made available outside of retail outlets that are used to assist in the sale or promotion of a product.
Mulch. Any non-synthetic material, such as wood chips, leaves, or straw, or any synthetic material included on the National List for such use, such as newspaper or plastic that serves to suppress weed growth, moderate soil temperature, or conserve soil moisture.
Narrow range oils. Petroleum derivatives, predominately of paraffinic and napthenic fractions with 50 percent boiling point (10 mm Hg) between 415 °F and 440 °F.
National List. A list of allowed and prohibited substances as provided for in the Act.
National Organic Program (NOP). The program authorized by the Act for the purpose of implementing its provisions.
National Organic Standards Board (NOSB). A board established by the Secretary under 7 U.S.C. 6518 to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of the National Organic Program.
Natural resources of the operation. The physical, hydrological, and biological features of a production operation, including soil, water, wetlands, woodlands, and wildlife.
Nonagricultural substance. A substance that is not a product of agriculture, such as a mineral or a bacterial culture, that is used as an ingredient in an agricultural product. For the purposes of this part, a nonagricultural ingredient also includes any substance, such as gums, citric acid, or pectin, that is extracted from, isolated from, or a fraction of an agricultural product so that the identity of the agricultural product is unrecognizable in the extract, isolate, or fraction.
Non-synthetic (natural). A substance that is derived from mineral, plant, or animal matter and does not undergo a synthetic process as defined in section 6502(21) of the Act (7 U.S.C. 6502(21)). For the purposes of this part, non-synthetic is used as a synonym for natural as the term is used in the Act.
Non-retail container. Any container used for shipping or storage of an agricultural product that is not used in the retail display or sale of the product.
Nontoxic. Not known to cause any adverse physiological effects in animals, plants, humans, or the environment.
Organic. A labeling term that refers to an agricultural product produced in accordance with the Act and the regulations in this part.
Organic matter. The remains, residues, or waste products of any organism.
Organic production. A production system that is managed in accordance with the Act and regulations in this part to respond to site-specific conditions by integrating cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance, and conserve biodiversity.
Organic system plan. A plan of management of an organic production or handling operation that has been agreed to by the producer or handler and the certifying agent and

that includes written plans concerning all aspects of agricultural production or handling described in the Act and the regulations in subpart C of this part.
Pasture. Land used for livestock grazing that is managed to provide feed value and maintain or improve soil, water, and vegetative resources.
Peer review panel. A panel of individuals who have expertise in organic production and handling methods and certification procedures and who are appointed by the Administrator to assist in evaluating applicants for accreditation as certifying agents.
Person. An individual, partnership, corporation, association, cooperative, or other entity.
Pesticide. Any substance which alone, in chemical combination, or in any formulation with one or more substances is defined as a pesticide in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(u) *et seq*).
Petition. A request to amend the National List that is submitted by any person in accordance with this part.
Planting stock. Any plant or plant tissue other than annual seedlings but including rhizomes, shoots, leaf or stem cuttings, roots, or tubers, used in plant production or propagation.
Practice standard. The guidelines and requirements through which a production or handling operation implements a required component of its production or handling organic system plan. A practice standard includes a series of allowed and prohibited actions, materials, and conditions to establish a minimum level performance for planning, conducting, and maintaining a function, such as livestock health care or facility pest management, essential to an organic operation.
Principal display panel. That part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for sale.
Private entity. Any domestic or foreign nongovernmental for-profit or not-for-profit organization providing certification services.
Processing. Cooking, baking, curing, heating, drying, mixing, grinding, churning, separating, extracting, slaughtering, cutting, fermenting, distilling, eviscerating, preserving, dehydrating, freezing, chilling, or otherwise manufacturing and includes the packaging, canning, jarring, or otherwise enclosing food in a container.
Processing aid. (1) Substance that is added to a food during the processing of such food but is removed in some manner from the food before it is packaged in its finished form;
(2) a substance that is added to a food during processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; and
(3) a substance that is added to a food for its technical or functional effect in the processing but is present in the finished food at insignificant levels and does not have any technical or functional effect in that food.
Producer. A person who engages in the business of growing or producing food, fiber, feed, and other agricultural-based consumer products.
Production lot number/identifier. Identification of a product based on the production sequence of the product showing the date, time, and place of production used for quality control purposes.
Prohibited substance. A substance the use of which in any aspect of organic production or handling is prohibited or not provided for in the Act or the regulations of this part.

Records. Any information in written, visual, or electronic form that documents the activities undertaken by a producer, handler, or certifying agent to comply with the Act and regulations in this part.
Residue testing. An official or validated analytical procedure that detects, identifies, and measures the presence of chemical substances, their metabolites, or degradations products in or on raw or processed agricultural products.
Responsibly connected. Any person who is a partner, officer, director, holder, manager, or owner of 10 percent or more of the voting stock of an applicant or a recipient of certification or accreditation.
Retail food establishment. A restaurant; delicatessen; bakery; grocery store; or any retail outlet with an in-store restaurant, delicatessen, bakery, salad bar, or other eat-in or carry-out service of processed or prepared raw and ready-to-eat-food.
Routine use of parasiticide. The regular, planned, or periodic use of parasiticides.
Secretary. The Secretary of Agriculture or a representative to whom authority has been delegated to act in the Secretary's stead.
Sewage sludge. A solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes but is not limited to: domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.
Slaughter stock. Any animal that is intended to be slaughtered for consumption by humans or other animals.
Soil and water quality. Observable indicators of the physical, chemical, or biological condition of soil and water, including the presence of environmental contaminants.
Split operation. An operation that produces or handles both organic and non-organic agricultural products.
State. Any of the several States of the United States of America, its territories, the District of Columbia, and the Commonwealth of Puerto Rico.
State certifying agent. A certifying agent accredited by the Secretary under the National Organic Program and operated by the State for the purposes of certifying organic production and handling operations in the State.
State organic program (SOP). A State program that meets the requirements of section 6506 of the Act, is approved by the Secretary, and is designed to ensure that a product that is sold or labeled as organically produced under the Act is produced and handled using organic methods.
State organic program's governing State official. The chief executive official of a State or, in the case of a State that provides for the statewide election of an official to be responsible solely for the administration of the agricultural operations of the State, such official who administers a State organic certification program.
Synthetic. A substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.

Tolerance. The maximum legal level of a pesticide chemical residue in or on a raw or processed agricultural commodity or processed food.
Transplant. A seedling which has been removed from its original place of production, transported, and replanted.
Unavoidable residual environmental contamination (UREC). Background levels of naturally occurring or synthetic chemicals that are present in the soil or present in organically produced agricultural products that are below established tolerances.
Wild crop. Any plant or portion of a plant that is collected or harvested from a site that is not maintained under cultivation or other agricultural management.

Subpart B -- Applicability

§205.100 What has to be certified.

(a) Except for operations exempt or excluded in §205.101, each production or handling operation or specified portion of a production or handling operation that produces or handles crops, livestock, livestock products, or other agricultural products that are intended to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" must be certified according to the provisions of subpart E of this part and must meet all other applicable requirements of this part.
(b) Any production or handling operation or specified portion of a production or handling operation that has been already certified by a certifying agent on the date that the certifying agent receives its accreditation under this part shall be deemed to be certified under the Act until the operation's next anniversary date of certification. Such recognition shall only be available to those operations certified by a certifying agent that receives its accreditation within 18 months from February 20, 2001.
(c) Any operation that:
(1) Knowingly sells or labels a product as organic, except in accordance with the Act, shall be subject to a civil penalty of not more than $10,000 per violation.
(2) Makes a false statement under the Act to the Secretary, a governing State official, or an accredited certifying agent shall be subject to the provisions of section 1001 of title 18, United States Code.

§205.101 Exemptions and exclusions from certification.

(a) *Exemptions.* (1) A production or handling operation that sells agricultural products as "organic" but whose gross agricultural income from organic sales totals $5,000 or less annually is exempt from certification under subpart E of this part and from submitting an organic system plan for acceptance or approval under §205.201 but must comply with the applicable organic production and handling requirements of subpart C of this part and the labeling requirements of §205.310. The products from such operations shall not be used as ingredients identified as organic in processed products produced by another handling operation.
(2) A handling operation that is a retail food establishment or portion of a retail food establishment that handles organically produced agricultural products but does not process them is exempt from the requirements in this part.

(3) A handling operation or portion of a handling operation that only handles agricultural products that contain less than 70 percent organic ingredients by total weight of the finished product (excluding water and salt) is exempt from the requirements in this part, except:
(i) The provisions for prevention of contact of organic products with prohibited substances set forth in §205.272 with respect to any organically produced ingredients used in an agricultural product;
(ii) The labeling provisions of §§205.305 and 205.310; and
(iii) The recordkeeping provisions in paragraph (c) of this section.
(4) A handling operation or portion of a handling operation that only identifies organic ingredients on the information panel is exempt from the requirements in this part, except:
(i) The provisions for prevention of contact of organic products with prohibited substances set forth in §205.272 with respect to any organically produced ingredients used in an agricultural product;
(ii) The labeling provisions of §§205.305 and 205.310; and
(iii) The recordkeeping provisions in paragraph (c) of this section.
(b) *Exclusions.* (1) A handling operation or portion of a handling operation is excluded from the requirements of this part, except for the requirements for the prevention of commingling and contact with prohibited substances as set forth in §205.272 with respect to any organically produced products, if such operation or portion of the operation only sells organic agricultural products labeled as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" that:
(i) Are packaged or otherwise enclosed in a container prior to being received or acquired by the operation; and
(ii) Remain in the same package or container and are not otherwise processed while in the control of the handling operation.
(2) A handling operation that is a retail food establishment or portion of a retail food establishment that processes, on the premises of the retail food establishment, raw and ready-to-eat food from agricultural products that were previously labeled as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" is excluded from the requirements in this part, except:
(i) The requirements for the prevention of contact with prohibited substances as set forth in §205.272; and
(ii) The labeling provisions of §205.310.
(c) *Records to be maintained by exempt operations.* (1) Any handling operation exempt from certification pursuant to paragraph (a)(3) or (a)(4) of this section must maintain records sufficient to:
(i) Prove that ingredients identified as organic were organically produced and handled; and
(ii) Verify quantities produced from such ingredients.
(2) Records must be maintained for no less than 3 years beyond their creation and the operations must allow representatives of the Secretary and the applicable State organic programs' governing State official access to these records for inspection and copying during normal business hours to determine compliance with the applicable regulations set forth in this part.

§205.102 Use of the term, "organic."
Any agricultural product that is sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" must be:
(a) Produced in accordance with the requirements specified in §205.101 or §§205.202 through 205.207 or §§205.236 through 205.239 and all other applicable requirements of part 205; and
(b) Handled in accordance with the requirements specified in §205.101 or §§205.270 through 205.272 and all other applicable requirements of this part 205.

§205.103 Recordkeeping by certified operations.
(a) A certified operation must maintain records concerning the production, harvesting, and handling of agricultural products that are or that are intended to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))."
(b) Such records must:
(1) Be adapted to the particular business that the certified operation is conducting;
(2) Fully disclose all activities and transactions of the certified operation in sufficient detail as to be readily understood and audited;
(3) Be maintained for not less than 5 years beyond their creation; and
(4) Be sufficient to demonstrate compliance with the Act and the regulations in this part.
(c) The certified operation must make such records available for inspection and copying during normal business hours by authorized representatives of the Secretary, the applicable State program's governing State official, and the certifying agent.

§205.104 [Reserved]

§205.105 Allowed and prohibited substances, methods, and ingredients in organic production and handling.
To be sold or labeled as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))," the product must be produced and handled without the use of:
(a) Synthetic substances and ingredients, except as provided in §205.601 or §205.603;
(b) Non-synthetic substances prohibited in §205.602 or §205.604;
(c) Nonagricultural substances used in or on processed products, except as otherwise provided in §205.605;
(d) Non-organic agricultural substances used in or on processed products, except as otherwise provided in §205.606;
(e) Excluded methods, except for vaccines: *Provided,* That, the vaccines are approved in accordance with §205.600(a);
(f) Ionizing radiation, as described in Food and Drug Administration regulation, 21 CFR 179.26; and

(g) Sewage sludge.

§§205.106-205.199 [Reserved]

Subpart C -- Organic Production and Handling Requirements

§205.200 General.

The producer or handler of a production or handling operation intending to sell, label, or represent agricultural products as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" must comply with the applicable provisions of this subpart. Production practices implemented in accordance with this subpart must maintain or improve the natural resources of the operation, including soil and water quality.

§205.201 Organic production and handling system plan.

(a) The producer or handler of a production or handling operation, except as exempt or excluded under §205.101, intending to sell, label, or represent agricultural products as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" must develop an organic production or handling system plan that is agreed to by the producer or handler and an accredited certifying agent. An organic system plan must meet the requirements set forth in this section for organic production or handling. An organic production or handling system plan must include:

(1) A description of practices and procedures to be performed and maintained, including the frequency with which they will be performed;

(2) A list of each substance to be used as a production or handling input, indicating its composition, source, location(s) where it will be used, and documentation of commercial availability, as applicable;

(3) A description of the monitoring practices and procedures to be performed and maintained, including the frequency with which they will be performed, to verify that the plan is effectively implemented;

(4) A description of the recordkeeping system implemented to comply with the requirements established in §205.103;

(5) A description of the management practices and physical barriers established to prevent commingling of organic and non-organic products on a split operation and to prevent contact of organic production and handling operations and products with prohibited substances; and

(6) Additional information deemed necessary by the certifying agent to evaluate compliance with the regulations.

(b) A producer may substitute a plan prepared to meet the requirements of another Federal, State, or local government regulatory program for the organic system plan: *Provided,* That, the submitted plan meets all the requirements of this subpart.

§205.202 Land requirements.

Any field or farm parcel from which harvested crops are intended to be sold, labeled, or represented as "organic," must:
(a) Have been managed in accordance with the provisions of §§205.203 through 205.206;
(b) Have had no prohibited substances, as listed in §205.105, applied to it for a period of 3 years immediately preceding harvest of the crop; and
(c) Have distinct, defined boundaries and buffer zones such as runoff diversions to prevent the unintended application of a prohibited substance to the crop or contact with a prohibited substance applied to adjoining land that is not under organic management.

§205.203 Soil fertility and crop nutrient management practice standard.
(a) The producer must select and implement tillage and cultivation practices that maintain or improve the physical, chemical, and biological condition of soil and minimize soil erosion.
(b) The producer must manage crop nutrients and soil fertility through rotations, cover crops, and the application of plant and animal materials.
(c) The producer must manage plant and animal materials to maintain or improve soil organic matter content in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances. Animal and plant materials include:
(1) Raw animal manure, which must be composted unless it is:
(i) Applied to land used for a crop not intended for human consumption;
(ii) Incorporated into the soil not less than 120 days prior to the harvest of a product whose edible portion has direct contact with the soil surface or soil particles; or
(iii) Incorporated into the soil not less than 90 days prior to the harvest of a product whose edible portion does not have direct contact with the soil surface or soil particles;
(2) Composted plant and animal materials produced though a process that:
(i) Established an initial C:N ratio of between 25:1 and 40:1; and
(ii) Maintained a temperature of between 131 °F and 170 °F for 3 days using an in-vessel or static aerated pile system; or
(iii) Maintained a temperature of between 131 °F and 170 °F for 15 days using a windrow composting system, during which period, the materials must be turned a minimum of five times.
(3) Un-composted plant materials.
(d) A producer may manage crop nutrients and soil fertility to maintain or improve soil organic matter content in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances by applying:
(1) A crop nutrient or soil amendment included on the National List of synthetic substances allowed for use in organic crop production;
(2) A mined substance of low solubility;
(3) A mined substance of high solubility: *Provided,* That, the substance is used in compliance with the conditions established on the National List of non-synthetic materials prohibited for crop production;
(4) Ash obtained from the burning of a plant or animal material, except as prohibited in paragraph (e) of this section: *Provided,* That, the material burned has not been treated or

combined with a prohibited substance or the ash is not included on the National List of non-synthetic substances prohibited for use in organic crop production; and
(5) A plant or animal material that has been chemically altered by a manufacturing process: *Provided,* That, the material is included on the National List of synthetic substances allowed for use in organic crop production established in §205.601.
(e) The producer must not use:
(1) Any fertilizer or composted plant and animal material that contains a synthetic substance not included on the National List of synthetic substances allowed for use in organic crop production;
(2) Sewage sludge (bio-solids) as defined in 40 CFR part 503; and (3) Burning as a means of disposal for crop residues produced on the operation: *Except,* That, burning may be used to suppress the spread of disease or to stimulate seed germination.

§205.204 Seeds and planting stock practice standard.
(a) The producer must use organically grown seeds, annual seedlings, and planting stock: *Except,* That,
(1) Non-organically produced, untreated seeds and planting stock may be used to produce an organic crop when an equivalent organically produced variety is not commercially available: *Except,* That, organically produced seed must be used for the production of edible sprouts;
(2) Non-organically produced seeds and planting stock that have been treated with a substance included on the National List of synthetic substances allowed for use in organic crop production may be used to produce an organic crop when an equivalent organically produced or untreated variety is not commercially available;
(3) Non-organically produced annual seedlings may be used to produce an organic crop when a temporary variance has been granted in accordance with §205.290(a)(2);
(4) Non-organically produced planting stock to be used to produce a perennial crop may be sold, labeled, or represented as organically produced only after the planting stock has been maintained under a system of organic management for a period of no less than 1 year; and
(5) Seeds, annual seedlings, and planting stock treated with prohibited substances may be used to produce an organic crop when the application of the materials is a requirement of Federal or State Phytosanitary regulations.
(b) [Reserved]

§205.205 Crop rotation practice standard.
The producer must implement a crop rotation including but not limited to sod, cover crops, green manure crops, and catch crops that provide the following functions that are applicable to the operation:
(a) Maintain or improve soil organic matter content;
(b) Provide for pest management in annual and perennial crops;
(c) Manage deficient or excess plant nutrients; and
(d) Provide erosion control.

§205.206 Crop pest, weed, and disease management practice standard.

(a) The producer must use management practices to prevent crop pests, weeds, and diseases including but not limited to:

(1) Crop rotation and soil and crop nutrient management practices, as provided for in §§205.203 and 205.205;

(2) Sanitation measures to remove disease vectors, weed seeds, and habitat for pest organisms; and

(3) Cultural practices that enhance crop health, including selection of plant species and varieties with regard to suitability to site-specific conditions and resistance to prevalent pests, weeds, and diseases.

(b) Pest problems may be controlled through mechanical or physical methods including but not limited to:

(1) Augmentation or introduction of predators or parasites of the pest species;

(2) Development of habitat for natural enemies of pests;

(3) Non-synthetic controls such as lures, traps, and repellents.

(c) Weed problems may be controlled through:

(1) Mulching with fully biodegradable materials;

(2) Mowing;

(3) Livestock grazing;

(4) Hand weeding and mechanical cultivation;

(5) Flame, heat, or electrical means; or

(6) Plastic or other synthetic mulches: *Provided,* That, they are removed from the field at the end of the growing or harvest season.

(d) Disease problems may be controlled through:

(1) Management practices which suppress the spread of disease organisms; or

(2) Application of non-synthetic biological, botanical, or mineral inputs.

(e) When the practices provided for in paragraphs (a) through (d) of this section are insufficient to prevent or control crop pests, weeds, and diseases, a biological or botanical substance or a substance included on the National List of synthetic substances allowed for use in organic crop production may be applied to prevent, suppress, or control pests, weeds, or diseases: *Provided,* That, the conditions for using the substance are documented in the organic system plan.

(f) The producer must not use lumber treated with arsenate or other prohibited materials for new installations or replacement purposes in contact with soil or livestock.

§205.207 Wild-crop harvesting practice standard.

(a) A wild crop that is intended to be sold, labeled, or represented as organic must be harvested from a designated area that has had no prohibited substance, as set forth in §205.105, applied to it for a period of 3 years immediately preceding the harvest of the wild crop.

(b) A wild crop must be harvested in a manner that ensures that such harvesting or gathering will not be destructive to the environment and will sustain the growth and production of the wild crop.

§§205.208 -- 205.235 [Reserved]

§205.236 Origin of livestock.

(a) Livestock products that are to be sold, labeled, or represented as organic must be from livestock under continuous organic management from the last third of gestation or hatching: *Except*, That:

(1) *Poultry.* Poultry or edible poultry products must be from poultry that has been under continuous organic management beginning no later than the second day of life;

(2) *Dairy animals.* Milk or milk products must be from animals that have been under continuous organic management beginning no later than 1 year prior to the production of the milk or milk products that are to be sold, labeled, or represented as organic: *Except*, That, when an entire, distinct herd is converted to organic production, the producer may:

(i) For the first 9 months of the year, provide a minimum of 80-percent feed that is either organic or raised from land included in the organic system plan and managed in compliance with organic crop requirements; and

(ii) Provide feed in compliance with §205.237 for the final 3 months.

(iii) Once an entire, distinct herd has been converted to organic production, all dairy animals shall be under organic management from the last third of gestation.

(3) *Breeder stock.* Livestock used as breeder stock may be brought from a non-organic operation onto an organic operation at any time: *Provided*, That, if such livestock are gestating and the offspring are to be raised as organic livestock, the breeder stock must be brought onto the facility no later than the last third of gestation.

(b) The following are prohibited:

(1) Livestock or edible livestock products that are removed from an organic operation and subsequently managed on a non-organic operation may be not sold, labeled, or represented as organically produced.

(2) Breeder or dairy stock that has not been under continuous organic management since the last third of gestation may not be sold, labeled, or represented as organic slaughter stock.

(c) The producer of an organic livestock operation must maintain records sufficient to preserve the identity of all organically managed animals and edible and non-edible animal products produced on the operation.

§205.237 Livestock feed.

(a) The producer of an organic livestock operation must provide livestock with a total feed ration composed of agricultural products, including pasture and forage, that are organically produced and, if applicable, organically handled: *Except*, That, non-synthetic substances and synthetic substances allowed under §205.603 may be used as feed additives and supplements.

(b) The producer of an organic operation must not:

(1) Use animal drugs, including hormones, to promote growth;

(2) Provide feed supplements or additives in amounts above those needed for adequate nutrition and health maintenance for the species at its specific stage of life;
(3) Feed plastic pellets for roughage;
(4) Feed formulas containing urea or manure;
(5) Feed mammalian or poultry slaughter by-products to mammals or poultry; or
(6) Use feed, feed additives, and feed supplements in violation of the Federal Food, Drug, and Cosmetic Act.

§205.238 Livestock health care practice standard.
(a) The producer must establish and maintain preventive livestock health care practices, including:
(1) Selection of species and types of livestock with regard to suitability for site-specific conditions and resistance to prevalent diseases and parasites;
(2) Provision of a feed ration sufficient to meet nutritional requirements, including vitamins, minerals, protein and/or amino acids, fatty acids, energy sources, and fiber (ruminants);
(3) Establishment of appropriate housing, pasture conditions, and sanitation practices to minimize the occurrence and spread of diseases and parasites;
(4) Provision of conditions which allow for exercise, freedom of movement, and reduction of stress appropriate to the species;
(5) Performance of physical alterations as needed to promote the animal's welfare and in a manner that minimizes pain and stress; and
(6) Administration of vaccines and other veterinary biologics.
(b) When preventive practices and veterinary biologics are inadequate to prevent sickness, a producer may administer synthetic medications: *Provided,* That, such medications are allowed under §205.603. Parasiticides allowed under §205.603 may be used on:
(1) Breeder stock, when used prior to the last third of gestation but not during lactation for progeny that are to be sold, labeled, or represented as organically produced; and
(2) Dairy stock, when used a minimum of 90 days prior to the production of milk or milk products that are to be sold, labeled, or represented as organic.
(c) The producer of an organic livestock operation must not:
(1) Sell, label, or represent as organic any animal or edible product derived from any animal treated with antibiotics, any substance that contains a synthetic substance not allowed under §205.603, or any substance that contains a non-synthetic substance prohibited in §205.604.
(2) Administer any animal drug, other than vaccinations, in the absence of illness;
(3) Administer hormones for growth promotion;
(4) Administer synthetic parasiticides on a routine basis;
(5) Administer synthetic parasiticides to slaughter stock;
(6) Administer animal drugs in violation of the Federal Food, Drug, and Cosmetic Act; or
(7) Withhold medical treatment from a sick animal in an effort to preserve its organic status. All appropriate medications must be used to restore an animal to health when methods acceptable to organic production fail. Livestock treated with a prohibited

substance must be clearly identified and shall not be sold, labeled, or represented as organically produced.

§205.239 Livestock living conditions.

(a) The producer of an organic livestock operation must establish and maintain livestock living conditions which accommodate the health and natural behavior of animals, including:

(1) Access to the outdoors, shade, shelter, exercise areas, fresh air, and direct sunlight suitable to the species, its stage of production, the climate, and the environment;

(2) Access to pasture for ruminants;

(3) Appropriate clean, dry bedding. If the bedding is typically consumed by the animal species, it must comply with the feed requirements of §205.237;

(4) Shelter designed to allow for:

(i) Natural maintenance, comfort behaviors, and opportunity to exercise;

(ii) Temperature level, ventilation, and air circulation suitable to the species; and

(iii) Reduction of potential for livestock injury;

(b) The producer of an organic livestock operation may provide temporary confinement for an animal because of:

(1) Inclement weather;

(2) The animal's stage of production;

(3) Conditions under which the health, safety, or well being of the animal could be jeopardized; or

(4) Risk to soil or water quality.

(c) The producer of an organic livestock operation must manage manure in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, heavy metals, or pathogenic organisms and optimizes recycling of nutrients.

§§205.240 -- 205.269 [Reserved]

§205.270 Organic handling requirements.

(a) Mechanical or biological methods, including but not limited to cooking, baking, curing, heating, drying, mixing, grinding, churning, separating, distilling, extracting, slaughtering, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, chilling, or otherwise manufacturing, and the packaging, canning, jarring, or otherwise enclosing food in a container may be used to process an organically produced agricultural product for the purpose of retarding spoilage or otherwise preparing the agricultural product for market.

(b) Nonagricultural substances allowed under §205.605 and non-organically produced agricultural products allowed under §205.606 may be used:

(1) In or on a processed agricultural product intended to be sold, labeled, or represented as "organic," pursuant to §205.301(b), if not commercially available in organic form.

(2) In or on a processed agricultural product intended to be sold, labeled, or represented as "made with organic (specified ingredients or food group(s))," pursuant to §205.301(c).

(c) The handler of an organic handling operation must not use in or on agricultural products intended to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))," or in or on any ingredients labeled as organic:

(1) Practices prohibited under paragraphs (e) and (f) of §205.105.

(2) A volatile synthetic solvent or other synthetic processing aid not allowed under §205.605: *Except,* That, non-organic ingredients in products labeled "made with organic (specified ingredients or food group(s))" are not subject to this requirement.

§205.271 Facility pest management practice standard.

(a) The producer or handler of an organic facility must use management practices to prevent pests, including but not limited to:

(1) Removal of pest habitat, food sources, and breeding areas;

(2) Prevention of access to handling facilities; and

(3) Management of environmental factors, such as temperature, light, humidity, atmosphere, and air circulation, to prevent pest reproduction.

(b) Pests may be controlled through:

(1) Mechanical or physical controls including but not limited to traps, light, or sound; or

(2) Lures and repellents using non-synthetic or synthetic substances consistent with the National List.

(c) If the practices provided for in paragraphs (a) and (b) of this section are not effective to prevent or control pests, a non-synthetic or synthetic substance consistent with the National List may be applied.

(d) If the practices provided for in paragraphs (a), (b), and (c) of this section are not effective to prevent or control facility pests, a synthetic substance not on the National List may be applied: *Provided,* That, the handler and certifying agent agree on the substance, method of application, and measures to be taken to prevent contact of the organically produced products or ingredients with the substance used.

(e) The handler of an organic handling operation who applies a non-synthetic or synthetic substance to prevent or control pests must update the operation's organic handling plan to reflect the use of such substances and methods of application. The updated organic plan must include a list of all measures taken to prevent contact of the organically produced products or ingredients with the substance used.
(f) Notwithstanding the practices provided for in paragraphs (a), (b), (c), and (d) of this section, a handler may otherwise use substances to prevent or control pests as required by Federal, State, or local laws and regulations: *Provided,* That, measures are taken to prevent contact of the organically produced products or ingredients with the substance used.

§205.272 Commingling and contact with prohibited substance prevention practice standard.
(a) The handler of an organic handling operation must implement measures necessary to prevent the commingling of organic and non-organic products and protect organic products from contact with prohibited substances.
(b) The following are prohibited for use in the handling of any organically produced agricultural product or ingredient labeled in accordance with subpart D of this part:
(1) Packaging materials, and storage containers, or bins that contain a synthetic fungicide, preservative, or fumigant;
(2) The use or reuse of any bag or container that has been in contact with any substance in such a manner as to compromise the organic integrity of any organically produced product or ingredient placed in those containers, unless such reusable bag or container has been thoroughly cleaned and poses no risk of contact of the organically produced product or ingredient with the substance used.

§§205.273 -- 205.289 [Reserved]

§205.290 Temporary variances.
(a) Temporary variances from the requirements in §§205.203 through 205.207, 205.236 through 205.239, and 205.270 through 205.272 may be established by the Administrator for the following reasons:
(1) Natural disasters declared by the Secretary;
(2) Damage caused by drought, wind, flood, excessive moisture, hail, tornado, earthquake, fire, or other business interruption; and
(3) Practices used for the purpose of conducting research or trials of techniques, varieties, or ingredients used in organic production or handling.
(b) A State organic program's governing State official or certifying agent may recommend in writing to the Administrator that a temporary variance from a standard set forth in subpart C of this part for organic production or handling operations be established: *Provided,* That, such variance is based on one or more of the reasons listed in paragraph (a) of this section.

(c) The Administrator will provide written notification to certifying agents upon establishment of a temporary variance applicable to the certifying agent's certified production or handling operations and specify the period of time it shall remain in effect, subject to extension as the Administrator deems necessary.
(d) A certifying agent, upon notification from the Administrator of the establishment of a temporary variance, must notify each production or handling operation it certifies to which the temporary variance applies.
(e) Temporary variances will not be granted for any practice, material, or procedure prohibited under §205.105.

§§205.291-205.299 [Reserved]

Subpart D -- Labels, Labeling, and Market Information

§205.300 Use of the term, "organic."
(a) The term, "organic," may only be used on labels and in labeling of raw or processed agricultural products, including ingredients, that have been produced and handled in accordance with the regulations in this part. The term, "organic," may not be used in a product name to modify a non-organic ingredient in the product.
(b) Products for export, produced and certified to foreign national organic standards or foreign contract buyer requirements, may be labeled in accordance with the organic labeling requirements of the receiving country or contract buyer: *Provided,* That, the shipping containers and shipping documents meet the labeling requirements specified in §205.307(c).
(c) Products produced in a foreign country and exported for sale in the United States must be certified pursuant to subpart E of this part and labeled pursuant to this subpart D.
(d) Livestock feeds produced in accordance with the requirements of this part must be labeled in accordance with the requirements of §205.306.

§205.301 Product composition.
(a) *Products sold, labeled, or represented as "100 percent organic."* A raw or processed agricultural product sold, labeled, or represented as "100 percent organic" must contain (by weight or fluid volume, excluding water and salt) 100 percent organically produced ingredients. If labeled as organically produced, such product must be labeled pursuant to §205.303.
(b) *Products sold, labeled, or represented as "organic."* A raw or processed agricultural product sold, labeled, or represented as "organic" must contain (by weight or fluid volume, excluding water and salt) not less than 95 percent organically produced raw or processed agricultural products. Any remaining product ingredients must be organically produced, unless not commercially available in organic form, or must be nonagricultural substances or non-organically produced agricultural products produced consistent with the National List in subpart G of this part. If labeled as organically produced, such product must be labeled pursuant to §205.303.

(c) *Products sold, labeled, or represented as "made with organic (specified ingredients or food group(s))."* Multi-ingredient agricultural product sold, labeled, or represented as "made with organic (specified ingredients or food group(s))" must contain (by weight or fluid volume, excluding water and salt) at least 70 percent organically produced ingredients which are produced and handled pursuant to requirements in subpart C of this part. No ingredients may be produced using prohibited practices specified in paragraphs (f)(1), (2), and (3) of §205.301. Non-organic ingredients may be produced without regard to paragraphs (f)(4), (5), (6), and (7) of §205.301. If labeled as containing organically produced ingredients or food groups, such product must be labeled pursuant to §205.304.
(d) *Products with less than 70 percent organically produced ingredients.* The organic ingredients in multi-ingredient agricultural product containing less than 70 percent organically produced ingredients (by weight or fluid volume, excluding water and salt) must be produced and handled pursuant to requirements in subpart C of this part. The non-organic ingredients may be produced and handled without regard to the requirements of this part. Multi-ingredient agricultural product containing less than 70 percent organically produced ingredients may represent the organic nature of the product only as provided in §205.305.
(e) *Livestock feed.* (1) A raw or processed livestock feed product sold, labeled, or represented as "100 percent organic" must contain (by weight or fluid volume, excluding water and salt) not less than 100 percent organically produced raw or processed agricultural product.
(2) A raw or processed livestock feed product sold, labeled, or represented as "organic" must be produced in conformance with §205.237.
(f) All products labeled as "100 percent organic" or "organic" and all ingredients identified as "organic" in the ingredient statement of any product must not:
(1) Be produced using excluded methods, pursuant to §201.105(e) of this chapter;
(2) Be produced using sewage sludge, pursuant to §201.105(f) of this chapter;
(3) Be processed using ionizing radiation, pursuant to §201.105(g) of this chapter;
(4) Be processed using processing aids not approved on the National List of Allowed and Prohibited Substances in subpart G of this part: Except, That, products labeled as "100 percent organic," if processed, must be processed using organically produced processing aids;
(5) Contain sulfites, nitrates, or nitrites added during the production or handling process, Except, that, wine containing added sulfites may be labeled "made with organic grapes";
(6) Be produced using non-organic ingredients when organic ingredients are available; or
(7) Include organic and non-organic forms of the same ingredient.

§205.302 Calculating the percentage of organically produced ingredients.
(a) The percentage of all organically produced ingredients in an agricultural product sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))," or that include organic ingredients must be calculated by:
(1) Dividing the total net weight (excluding water and salt) of combined organic ingredients at formulation by the total weight (excluding water and salt) of the finished product.

(2) Dividing the fluid volume of all organic ingredients (excluding water and salt) by the fluid volume of the finished product (excluding water and salt) if the product and ingredients are liquid. If the liquid product is identified on the principal display panel or information panel as being reconstituted from concentrates, the calculation should be made on the basis of single-strength concentrations of the ingredients and finished product.
(3) For products containing organically produced ingredients in both solid and liquid form, dividing the combined weight of the solid ingredients and the weight of the liquid ingredients (excluding water and salt) by the total weight (excluding water and salt) of the finished product.
(b) The percentage of all organically produced ingredients in an agricultural product must be rounded down to the nearest whole number.
(c) The percentage must be determined by the handler who affixes the label on the consumer package and verified by the certifying agent of the handler. The handler may use information provided by the certified operation in determining the percentage.

§205.303 Packaged products labeled "100 percent organic" or "organic."
(a) Agricultural products in packages described in §205.301(a) and (b) may display, on the principal display panel, information panel, and any other panel of the package and on any labeling or market information concerning the product, the following:
(1) The term, "100 percent organic" or "organic," as applicable, to modify the name of the product;
(2) For products labeled "organic," the percentage of organic ingredients in the product; (The size of the percentage statement must not exceed one-half the size of the largest type size on the panel on which the statement is displayed and must appear in its entirety in the same type size, style, and color without highlighting.)
(3) The term, "organic," to identify the organic ingredients in multi-ingredient products labeled "100 percent organic";
(4) The USDA seal; and/or
(5) The seal, logo, or other identifying mark of the certifying agent which certified the production or handling operation producing the finished product and any other certifying agent which certified production or handling operations producing raw organic product or organic ingredients used in the finished product: *Provided,* That, the handler producing the finished product maintain records, pursuant to this part, verifying organic certification of the operations producing such ingredients, and: *Provided further*, That, such seals or marks are not individually displayed more prominently than the USDA seal.
(b) Agricultural products in packages described in §205.301(a) and (b) must:
(1) For products labeled "organic," identify each organic ingredient in the ingredient statement with the word, "organic," or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced. Water or salt included as ingredients cannot be identified as organic.
(2) On the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, "Certified organic by * * *," or similar phrase, identify the name of the certifying agent that certified the handler of the finished

product and may display the business address, Internet address, or telephone number of the certifying agent in such label.

§205.304 Packaged products labeled "made with organic (specified ingredients or food group(s))."

(a) Agricultural products in packages described in §205.301(c) may display on the principal display panel, information panel, and any other panel and on any labeling or market information concerning the product:

(1) The statement:

(i) "Made with organic (specified ingredients)": *Provided,* That, the statement does not list more than three organically produced ingredients; or

(ii) "Made with organic (specified food groups)": *Provided,* That, the statement does not list more than three of the following food groups: beans, fish, fruits, grains, herbs, meats, nuts, oils, poultry, seeds, spices, sweeteners, and vegetables or processed milk products; and, *Provided further,* That, all ingredients of each listed food group in the product must be organically produced; and

(iii) Which appears in letters that do not exceed one-half the size of the largest type size on the panel and which appears in its entirety in the same type size, style, and color without highlighting.

(2) The percentage of organic ingredients in the product. The size of the percentage statement must not exceed one-half the size of the largest type size on the panel on which the statement is displayed and must appear in its entirety in the same type size, style, and color without highlighting.

(3) The seal, logo, or other identifying mark of the certifying agent that certified the handler of the finished product.

(b) Agricultural products in packages described in §205.301(c) must:

(1) In the ingredient statement, identify each organic ingredient with the word, "organic," or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced. Water or salt included as ingredients cannot be identified as organic.

(2) On the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, "Certified organic by * * *," or similar phrase, identify the name of the certifying agent that certified the handler of the finished product: *Except,* That, the business address, Internet address, or telephone number of the certifying agent may be included in such label.

(c) Agricultural products in packages described in §205.301(c) must not display the USDA seal.

§205.305 Multi-ingredient packaged products with less than 70 percent organically produced ingredients.

(a) An agricultural product with less than 70 percent organically produced ingredients may only identify the organic content of the product by:

(1) Identifying each organically produced ingredient in the ingredient statement with the word, "organic," or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced, and
(2) If the organically produced ingredients are identified in the ingredient statement, displaying the product's percentage of organic contents on the information panel.
(b) Agricultural products with less than 70 percent organically produced ingredients must not display:
(1) The USDA seal; and
(2) Any certifying agent seal, logo, or other identifying mark which represents organic certification of a product or product ingredients.

§205.306 Labeling of livestock feed.
(a) Livestock feed products described in §205.301(e)(1) and (e)(2) may display on any package panel the following terms:
(1) The statement, "100 percent organic" or "organic," as applicable, to modify the name of the feed product;
(2) The USDA seal;
(3) The seal, logo, or other identifying mark of the certifying agent which certified the production or handling operation producing the raw or processed organic ingredients used in the finished product, *Provided*, That, such seals or marks are not displayed more prominently than the USDA seal;
(4) The word, "organic," or an asterisk or other reference mark which is defined on the package to identify ingredients that are organically produced. Water or salt included as ingredients cannot be identified as organic.
(b) Livestock feed products described in §205.301(e)(1) and (e)(2) must:
(1) On the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, "Certified organic by * * *," or similar phrase, display the name of the certifying agent that certified the handler of the finished product. The business address, Internet address, or telephone number of the certifying agent may be included in such label.
(2) Comply with other Federal agency or State feed labeling requirements as applicable.

§205.307 Labeling of non-retail containers used for only shipping or storage of raw or processed agricultural products labeled as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))."
(a) Non-retail containers used only to ship or store raw or processed agricultural product labeled as containing organic ingredients may display the following terms or marks:
(1) The name and contact information of the certifying agent which certified the handler which assembled the final product;
(2) Identification of the product as organic;
(3) Special handling instructions needed to maintain the organic integrity of the product;
(4) The USDA seal;
(5) The seal, logo, or other identifying mark of the certifying agent that certified the organic production or handling operation that produced or handled the finished product.

(b) Non-retail containers used to ship or store raw or processed agricultural product labeled as containing organic ingredients must display the production lot number of the product if applicable.
(c) Shipping containers of domestically produced product labeled as organic intended for export to international markets may be labeled in accordance with any shipping container labeling requirements of the foreign country of destination or the container labeling specifications of a foreign contract buyer: *Provided,* That, the shipping containers and shipping documents accompanying such organic products are clearly marked "For Export Only" and: *Provided further,* That, proof of such container marking and export must be maintained by the handler in accordance with recordkeeping requirements for exempt and excluded operations under §205.101.

§205.308 Agricultural products in other than packaged form at the point of retail sale that are sold, labeled, or represented as "100 percent organic" or "organic."
(a) Agricultural products in other than packaged form may use the term, "100 percent organic" or "organic," as applicable, to modify the name of the product in retail display, labeling, and display containers: *Provided,* That, the term, "organic," is used to identify the organic ingredients listed in the ingredient statement.
(b) If the product is prepared in a certified facility, the retail display, labeling, and display containers may use:
(1) The USDA seal; and
(2) The seal, logo, or other identifying mark of the certifying agent that certified the production or handling operation producing the finished product and any other certifying agent which certified operations producing raw organic product or organic ingredients used in the finished product: *Provided,* That, such seals or marks are not individually displayed more prominently than the USDA seal.

§205.309 Agricultural products in other than packaged form at the point of retail sale that are sold, labeled, or represented as "made with organic (specified ingredients or food group(s))."
(a) Agricultural products in other than packaged form containing between 70 and 95 percent organically produced ingredients may use the phrase, "made with organic (specified ingredients or food group(s))," to modify the name of the product in retail display, labeling, and display containers.
(1) Such statement must not list more than three organic ingredients or food groups, and
(2) In any such display of the product's ingredient statement, the organic ingredients are identified as "organic."
(b) If prepared in a certified facility, such agricultural products labeled as "made with organic (specified ingredients or food group(s))" in retail displays, display containers, and market information may display the certifying agent's seal, logo, or other identifying mark.

§205.310 Agricultural products produced on an exempt or excluded operation.

(a) An agricultural product organically produced or handled on an exempt or excluded operation must not:
(1) Display the USDA seal or any certifying agent's seal or other identifying mark which represents the exempt or excluded operation as a certified organic operation, or
(2) Be represented as a certified organic product or certified organic ingredient to any buyer.
(b) An agricultural product organically produced or handled on an exempt or excluded operation may be identified as an organic product or organic ingredient in a multi-ingredient product produced by the exempt or excluded operation. Such product or ingredient must not be identified or represented as "organic" in a product processed by others.
(c) Such product is subject to requirements specified in paragraph (a) of §205.300, and paragraphs (f)(1) through (f)(7) of §205.301.

§205.311 USDA Seal.
(a) The USDA seal described in paragraphs (b) and (c) of this section may be used only for raw or processed agricultural products described in paragraphs (a), (b), (e)(1), and (e)(2) of §205.301.
(b) The USDA seal must replicate the form and design of the example in figure 1 and must be printed legibly and conspicuously:
(1) On a white background with a brown outer circle and with the term, "USDA," in green overlaying a white upper semicircle and with the term, "organic," in white overlaying the green lower half circle; or
(2) On a white or transparent background with black outer circle and black "USDA" on a white or transparent upper half of the circle with a contrasting white or transparent "organic" on the black lower half circle.
(3) The green or black lower half circle may have four light lines running from left to right and disappearing at the point on the right horizon to resemble a cultivated field.

Figure 1

§§205.312-205.399 [Reserved]

Subpart E -- Certification

§205.400 General requirements for certification.
A person seeking to receive or maintain organic certification under the regulations in this part must:

(a) Comply with the Act and applicable organic production and handling regulations of this part;
(b) Establish, implement, and update annually an organic production or handling system plan that is submitted to an accredited certifying agent as provided for in §205.200;
(c) Permit on-site inspections with complete access to the production or handling operation, including non-certified production and handling areas, structures, and offices by the certifying agent as provided for in §205.403;
(d) Maintain all records applicable to the organic operation for not less than 5 years beyond their creation and allow authorized representatives of the Secretary, the applicable State organic program's governing State official, and the certifying agent access to such records during normal business hours for review and copying to determine compliance with the Act and the regulations in this part, as provided for in §205.104;
(e) Submit the applicable fees charged by the certifying agent; and
(f) Immediately notify the certifying agent concerning any:
(1) Application, including drift, of a prohibited substance to any field, production unit, site, facility, livestock, or product that is part of an operation; and
(2) Change in a certified operation or any portion of a certified operation that may affect its compliance with the Act and the regulations in this part.

§205.401 Application for certification.
A person seeking certification of a production or handling operation under this subpart must submit an application for certification to a certifying agent. The application must include the following information:
(a) An organic production or handling system plan, as required in §205.200;
(b) The name of the person completing the application; the applicant's business name, address, and telephone number; and, when the applicant is a corporation, the name, address, and telephone number of the person authorized to act on the applicant's behalf;
(c) The name(s) of any organic certifying agent(s) to which application has previously been made; the year(s) of application; the outcome of the application(s) submission, including, when available, a copy of any notification of noncompliance or denial of certification issued to the applicant for certification; and a description of the actions taken by the applicant to correct the non-compliances noted in the notification of noncompliance, including evidence of such correction; and
(d) Other information necessary to determine compliance with the Act and the regulations in this part.

§205.402 Review of application.
(a) Upon acceptance of an application for certification, a certifying agent must:
(1) Review the application to ensure completeness pursuant to §205.401;
(2) Determine by a review of the application materials whether the applicant appears to comply or may be able to comply with the applicable requirements of subpart C of this part;
(3) Verify that an applicant who previously applied to another certifying agent and received a notification of noncompliance or denial of certification, pursuant to §205.405,

has submitted documentation to support the correction of any non-compliances identified in the notification of noncompliance or denial of certification, as required in §205.405(e); and
(4) Schedule an on-site inspection of the operation to determine whether the applicant qualifies for certification if the review of application materials reveals that the production or handling operation may be in compliance with the applicable requirements of subpart C of this part.
(b) The certifying agent shall within a reasonable time:
(1) Review the application materials received and communicate its findings to the applicant;
(2) Provide the applicant with a copy of the on-site inspection report, as approved by the certifying agent, for any on-site inspection performed; and
(3) Provide the applicant with a copy of the test results for any samples taken by an inspector.
(c) The applicant may withdraw its application at any time. An applicant who withdraws its application shall be liable for the costs of services provided up to the time of withdrawal of its application. An applicant that voluntarily withdrew its application prior to the issuance of a notice of noncompliance will not be issued a notice of noncompliance. Similarly, an applicant that voluntarily withdrew its application prior to the issuance of a notice of certification denial will not be issued a notice of certification denial.

§205.403 On-site inspections.
(a) *On-site inspections.* (1) A certifying agent must conduct an initial on-site inspection of each production unit, facility, and site that produces or handles organic products and that is included in an operation for which certification is requested. An on-site inspection shall be conducted annually thereafter for each certified operation that produces or handles organic products for the purpose of determining whether to approve the request for certification or whether the certification of the operation should continue.
(2) (i) A certifying agent may conduct additional on-site inspections of applicants for certification and certified operations to determine compliance with the Act and the regulations in this part.
(ii) The Administrator or State organic program's governing State official may require that additional inspections be performed by the certifying agent for the purpose of determining compliance with the Act and the regulations in this part.
(iii) Additional inspections may be announced or unannounced at the discretion of the certifying agent or as required by the Administrator or State organic program's governing State official.
(b) *Scheduling.* (1) The initial on-site inspection must be conducted within a reasonable time following a determination that the applicant appears to comply or may be able to comply with the requirements of subpart C of this part: *Except,* That, the initial inspection may be delayed for up to 6 months to comply with the requirement that the inspection be conducted when the land, facilities, and activities that demonstrate compliance or capacity to comply can be observed.

(2) All on-site inspections must be conducted when an authorized representative of the operation who is knowledgeable about the operation is present and at a time when land, facilities, and activities that demonstrate the operation's compliance with or capability to comply with the applicable provisions of subpart C of this part can be observed, except that this requirement does not apply to unannounced on-site inspections.
(c) *Verification of information.* The on-site inspection of an operation must verify:
(1) The operation's compliance or capability to comply with the Act and the regulations in this part;
(2) That the information, including the organic production or handling system plan, provided in accordance with §§205.401, 205.406, and 205.200, accurately reflects the practices used or to be used by the applicant for certification or by the certified operation;
(3) That prohibited substances have not been and are not being applied to the operation through means which, at the discretion of the certifying agent, may include the collection and testing of soil; water; waste; seeds; plant tissue; and plant, animal, and processed products samples.
(d) *Exit interview.* The inspector must conduct an exit interview with an authorized representative of the operation who is knowledgeable about the inspected operation to confirm the accuracy and completeness of inspection observations and information gathered during the on-site inspection. The inspector must also address the need for any additional information as well as any issues of concern.
(e) *Documents to the inspected operation.* (1) At the time of the inspection, the inspector shall provide the operation's authorized representative with a receipt for any samples taken by the inspector. There shall be no charge to the inspector for the samples taken.
(2) A copy of the on-site inspection report and any test results will be sent to the inspected operation by the certifying agent.

§205.404 Granting certification.
(a) Within a reasonable time after completion of the initial on-site inspection, a certifying agent must review the on-site inspection report, the results of any analyses for substances conducted, and any additional information requested from or supplied by the applicant. If the certifying agent determines that the organic system plan and all procedures and activities of the applicant's operation are in compliance with the requirements of this part and that the applicant is able to conduct operations in accordance with the plan, the agent shall grant certification. The certification may include requirements for the correction of minor non-compliances within a specified time period as a condition of continued certification.
(b) The certifying agent must issue a certificate of organic operation which specifies the:
(1) Name and address of the certified operation;
(2) Effective date of certification;
(3) Categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation; and
(4) Name, address, and telephone number of the certifying agent.
(c) Once certified, a production or handling operation's organic certification continues in effect until surrendered by the organic operation or suspended or revoked by the

certifying agent, the State organic program's governing State official, or the Administrator.

§205.405 Denial of certification.

(a) When the certifying agent has reason to believe, based on a review of the information specified in §205.402 or §205.404, that an applicant for certification is not able to comply or is not in compliance with the requirements of this part, the certifying agent must provide a written notification of noncompliance to the applicant. When correction of a noncompliance is not possible, a notification of noncompliance and a notification of denial of certification may be combined in one notification. The notification of noncompliance shall provide:

(1) A description of each noncompliance;

(2) The facts upon which the notification of noncompliance is based; and

(3) The date by which the applicant must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible.

(b) Upon receipt of such notification of noncompliance, the applicant may:

(1) Correct non-compliances and submit a description of the corrective actions taken with supporting documentation to the certifying agent;

(2) Correct non-compliances and submit a new application to another certifying agent: *Provided*, That, the applicant must include a complete application, the notification of noncompliance received from the first certifying agent, and a description of the corrective actions taken with supporting documentation; or

(3) Submit written information to the issuing certifying agent to rebut the noncompliance described in the notification of noncompliance.

(c) After issuance of a notification of noncompliance, the certifying agent must:

(1) Evaluate the applicant's corrective actions taken and supporting documentation submitted or the written rebuttal, conduct an on-site inspection if necessary, and

(i) When the corrective action or rebuttal is sufficient for the applicant to qualify for certification, issue the applicant an approval of certification pursuant to §205.404; or

(ii) When the corrective action or rebuttal is not sufficient for the applicant to qualify for certification, issue the applicant a written notice of denial of certification.

(2) Issue a written notice of denial of certification to an applicant who fails to respond to the notification of noncompliance.

(3) Provide notice of approval or denial to the Administrator, pursuant to §205.501(a)(14).

(d) A notice of denial of certification must state the reason(s) for denial and the applicant's right to:

(1) Reapply for certification pursuant to §§205.401 and 205.405(e);

(2) Request mediation pursuant to §205.663 or, if applicable, pursuant to a State organic program; or

(3) File an appeal of the denial of certification pursuant to §205.681 or, if applicable, pursuant to a State organic program.

(e) An applicant for certification who has received a written notification of noncompliance or a written notice of denial of certification may apply for certification again at any time with any certifying agent, in accordance with §§205.401 and

205.405(e). When such applicant submits a new application to a certifying agent other than the agent who issued the notification of noncompliance or notice of denial of certification, the applicant for certification must include a copy of the notification of noncompliance or notice of denial of certification and a description of the actions taken, with supporting documentation, to correct the non-compliances noted in the notification of noncompliance.
(f) A certifying agent who receives a new application for certification, which includes a notification of noncompliance or a notice of denial of certification, must treat the application as a new application and begin a new application process pursuant to §205.402.
(g) Notwithstanding paragraph (a) of this section, if a certifying agent has reason to believe that an applicant for certification has willfully made a false statement or otherwise purposefully misrepresented the applicant's operation or its compliance with the certification requirements pursuant to this part, the certifying agent may deny certification pursuant to paragraph (c)(1)(ii) of this section without first issuing a notification of noncompliance.

§205.406 Continuation of certification.
(a) To continue certification, a certified operation must annually pay the certification fees and submit the following information, as applicable, to the certifying agent:
(1) An updated organic production or handling system plan which includes:
(i) A summary statement, supported by documentation, detailing any deviations from, changes to, modifications to, or other amendments made to the previous year's organic system plan during the previous year; and
(ii) Any additions or deletions to the previous year's organic system plan, intended to be undertaken in the coming year, detailed pursuant to §205.200;
(2) Any additions to or deletions from the information required pursuant to §205.401(b);
(3) An update on the correction of minor non-compliances previously identified by the certifying agent as requiring correction for continued certification; and
(4) Other information as deemed necessary by the certifying agent to determine compliance with the Act and the regulations in this part.
(b) Following the receipt of the information specified in paragraph (a) of this section, the certifying agent shall within a reasonable time arrange and conduct an on-site inspection of the certified operation pursuant to §205.403: *Except,* That, when it is impossible for the certifying agent to conduct the annual on-site inspection following receipt of the certified operation's annual update of information, the certifying agent may allow continuation of certification and issue an updated certificate of organic operation on the basis of the information submitted and the most recent on-site inspection conducted during the previous 12 months: *Provided,* That, the annual on-site inspection, required pursuant to §205.403, is conducted within the first 6 months following the certified operation's scheduled date of annual update.
(c) If the certifying agent has reason to believe, based on the on-site inspection and a review of the information specified in §205.404, that a certified operation is not complying with the requirements of the Act and the regulations in this part, the certifying

agent shall provide a written notification of noncompliance to the operation in accordance with §205.662.
(d) If the certifying agent determines that the certified operation is complying with the Act and the regulations in this part and that any of the information specified on the certificate of organic operation has changed, the certifying agent must issue an updated certificate of organic operation pursuant to §205.404(b).

§§205.407-205.499 [Reserved]

Subpart F -- Accreditation of Certifying Agents

§205.500 Areas and duration of accreditation.
(a) The Administrator shall accredit a qualified domestic or foreign applicant in the areas of crops, livestock, wild crops, or handling or any combination thereof to certify a domestic or foreign production or handling operation as a certified operation.
(b) Accreditation shall be for a period of 5 years from the date of approval of accreditation pursuant to §205.506.
(c) In lieu of accreditation under paragraph (a) of this section, USDA will accept a foreign certifying agent's accreditation to certify organic production or handling operations if:
(1) USDA determines, upon the request of a foreign government, that the standards under which the foreign government authority accredited the foreign certifying agent meet the requirements of this part; or
(2) The foreign government authority that accredited the foreign certifying agent acted under an equivalency agreement negotiated between the United States and the foreign government.

§205.501 General requirements for accreditation.
(a) A private or governmental entity accredited as a certifying agent under this subpart must:
(1) Have sufficient expertise in organic production or handling techniques to fully comply with and implement the terms and conditions of the organic certification program established under the Act and the regulations in this part;
(2) Demonstrate the ability to fully comply with the requirements for accreditation set forth in this subpart;
(3) Carry out the provisions of the Act and the regulations in this part, including the provisions of §§205.402 through 205.406 and §205.670;
(4) Use a sufficient number of adequately trained personnel, including inspectors and certification review personnel, to comply with and implement the organic certification program established under the Act and the regulations in subpart E of this part;
(5) Ensure that its responsibly connected persons, employees, and contractors with inspection, analysis, and decision-making responsibilities have sufficient expertise in organic production or handling techniques to successfully perform the duties assigned.
(6) Conduct an annual performance evaluation of all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate

qualifications for certification, make recommendations concerning certification, or make certification decisions and implement measures to correct any deficiencies in certification services;
(7) Have an annual program review of its certification activities conducted by the certifying agent's staff, an outside auditor, or a consultant who has expertise to conduct such reviews and implement measures to correct any non-compliances with the Act and the regulations in this part that are identified in the evaluation;
(8) Provide sufficient information to persons seeking certification to enable them to comply with the applicable requirements of the Act and the regulations in this part;
(9) Maintain all records pursuant to §205.510(b) and make all such records available for inspection and copying during normal business hours by authorized representatives of the Secretary and the applicable State organic program's governing State official;
(10) Maintain strict confidentiality with respect to its clients under the applicable organic certification program and not disclose to third parties (with the exception of the Secretary or the applicable State organic program's governing State official or their authorized representatives) any business-related information concerning any client obtained while implementing the regulations in this part, except as provided for in §205.504(b)(5);
(11) Prevent conflicts of interest by:
(i) Not certifying a production or handling operation if the certifying agent or a responsibly connected party of such certifying agent has or has held a commercial interest in the production or handling operation, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;
(ii) Excluding any person, including contractors, with conflicts of interest from work, discussions, and decisions in all stages of the certification process and the monitoring of certified production or handling operations for all entities in which such person has or has held a commercial interest, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;
(iii) Not permitting any employee, inspector, contractor, or other personnel to accept payment, gifts, or favors of any kind, other than prescribed fees, from any business inspected: *Except*, That, a certifying agent that is a not-for-profit organization with an Internal Revenue Code tax exemption or, in the case of a foreign certifying agent, a comparable recognition of not-for-profit status from its government, may accept voluntary labor from certified operations;
(iv) Not giving advice or providing consultancy services, to certification applicants or certified operations, for overcoming identified barriers to certification;
(v) Requiring all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent to complete an annual conflict of interest disclosure report; and
(vi) Ensuring that the decision to certify an operation is made by a person different from those who conducted the review of documents and on-site inspection.
(12)(i) Reconsider a certified operation's application for certification and, if necessary, perform a new on-site inspection when it is determined, within 12 months of certifying the operation, that any person participating in the certification process and covered under

§205.501(a)(11)(ii) has or had a conflict of interest involving the applicant. All costs associated with a reconsideration of application, including onsite inspection costs, shall be borne by the certifying agent.
(ii) Refer a certified operation to a different accredited certifying agent for recertification and reimburse the operation for the cost of the recertification when it is determined that any person covered under §205.501(a)(11)(i) at the time of certification of the applicant had a conflict of interest involving the applicant.
(13) Accept the certification decisions made by another certifying agent accredited or accepted by USDA pursuant to §205.500;
(14) Refrain from making false or misleading claims about its accreditation status, the USDA accreditation program for certifying agents, or the nature or qualities of products labeled as organically produced;
(15) Submit to the Administrator a copy of:
(i) Any notice of denial of certification issued pursuant to §205.405, notification of noncompliance, notification of noncompliance correction, notification of proposed suspension or revocation, and notification of suspension or revocation sent pursuant to §205.662 simultaneously with its issuance; and
(ii) A list, on January 2 of each year, including the name, address, and telephone number of each operation granted certification during the preceding year;
(16) Charge applicants for certification and certified production and handling operations only those fees and charges for certification activities that it has filed with the Administrator;
(17) Pay and submit fees to AMS in accordance with §205.640;
(18) Provide the inspector, prior to each on-site inspection, with previous on-site inspection reports and notify the inspector of its decision regarding certification of the production or handling operation site inspected by the inspector and of any requirements for the correction of minor non-compliances;
(19) Accept all production or handling applications that fall within its area(s) of accreditation and certify all qualified applicants, to the extent of its administrative capacity to do so without regard to size or membership in any association or group; and
(20) Demonstrate its ability to comply with a State's organic program to certify organic production or handling operations within the State.
(21) Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary.
(b) A private or governmental entity accredited as a certifying agent under this subpart may establish a seal, logo, or other identifying mark to be used by production and handling operations certified by the certifying agent to indicate affiliation with the certifying agent: *Provided,* That, the certifying agent:
(1) Does not require use of its seal, logo, or other identifying mark on any product sold, labeled, or represented as organically produced as a condition of certification and
(2) Does not require compliance with any production or handling practices other than those provided for in the Act and the regulations in this part as a condition of use of its identifying mark: *Provided,* That, certifying agents certifying production or handling operations within a State with more restrictive requirements, approved by the Secretary, shall require compliance with such requirements as a condition of use of their identifying mark by such operations.

(c) A private entity accredited as a certifying agent must:
(1) Hold the Secretary harmless for any failure on the part of the certifying agent to carry out the provisions of the Act and the regulations in this part;
(2) Furnish reasonable security, in an amount and according to such terms as the Administrator may by regulation prescribe, for the purpose of protecting the rights of production and handling operations certified by such certifying agent under the Act and the regulations in this part; and
(3) Transfer to the Administrator and make available to any applicable State organic program's governing State official all records or copies of records concerning the person's certification activities in the event that the certifying agent dissolves or loses its accreditation; *Provided,* That, such transfer shall not apply to a merger, sale, or other transfer of ownership of a certifying agent.
(d) No private or governmental entity accredited as a certifying agent under this subpart shall exclude from participation in or deny the benefits of the National Organic Program to any person due to discrimination because of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status.

§205.502 Applying for accreditation.
(a) A private or governmental entity seeking accreditation as a certifying agent under this subpart must submit an application for accreditation which contains the applicable information and documents set forth in §§205.503 through 205.505 and the fees required in §205.640 to: Program Manager, USDA-AMS-TMP-NOP, Room 2945 -- South Building, P.O. Box 96456, Washington, DC 20090-6456.
(b) Following the receipt of the information and documents, the Administrator will determine, pursuant to §205.506, whether the applicant for accreditation should be accredited as a certifying agent.

§205.503 Applicant information.
A private or governmental entity seeking accreditation as a certifying agent must submit the following information:
(a) The business name, primary office location, mailing address, name of the person(s) responsible for the certifying agent's day-to-day operations, contact numbers (telephone, facsimile, and Internet address) of the applicant, and, for an applicant who is a private person, the entity's taxpayer identification number;
(b) The name, office location, mailing address, and contact numbers (telephone, facsimile, and Internet address) for each of its organizational units, such as chapters or subsidiary offices, and the name of a contact person for each unit;
(c) Each area of operation (crops, wild crops, livestock, or handling) for which accreditation is requested and the estimated number of each type of operation anticipated to be certified annually by the applicant along with a copy of the applicant's schedule of fees for all services to be provided under these regulations by the applicant;
(d) The type of entity the applicant is (e.g., government agricultural office, for-profit business, not-for-profit membership association) and for:

(1) A governmental entity, a copy of the official's authority to conduct certification activities under the Act and the regulations in this part,
(2) A private entity, documentation showing the entity's status and organizational purpose, such as articles of incorporation and by-laws or ownership or membership provisions, and its date of establishment; and
(e) A list of each State or foreign country in which the applicant currently certifies production and handling operations and a list of each State or foreign country in which the applicant intends to certify production or handling operations.

§205.504 Evidence of expertise and ability.
A private or governmental entity seeking accreditation as a certifying agent must submit the following documents and information to demonstrate its expertise in organic production or handling techniques; its ability to fully comply with and implement the organic certification program established in §§205.100 and 205.101, §§205.201 through 205.203, §§205.300 through 205.303, §§205.400 through 205.406, and §§205.661 and 205.662; and its ability to comply with the requirements for accreditation set forth in §205.501:
(a) *Personnel.* (1) A copy of the applicant's policies and procedures for training, evaluating, and supervising personnel;
(2) The name and position description of all personnel to be used in the certification operation, including administrative staff, certification inspectors, members of any certification review and evaluation committees, contractors, and all parties responsibly connected to the certifying agent;
(3) A description of the qualifications, including experience, training, and education in agriculture, organic production, and organic handling, for:
(i) Each inspector to be used by the applicant and
(ii) Each person to be designated by the applicant to review or evaluate applications for certification; and
(4) A description of any training that the applicant has provided or intends to provide to personnel to ensure that they comply with and implement the requirements of the Act and the regulations in this part.
(b) *Administrative policies and procedures.* (1) A copy of the procedures to be used to evaluate certification applicants, make certification decisions, and issue certification certificates;
(2) A copy of the procedures to be used for reviewing and investigating certified operation compliance with the Act and the regulations in this part and the reporting of violations of the Act and the regulations in this part to the Administrator;
(3) A copy of the procedures to be used for complying with the recordkeeping requirements set forth in §205.501(a)(9);
(4) A copy of the procedures to be used for maintaining the confidentiality of any business-related information as set forth in §205.501(a)(10);
(5) A copy of the procedures to be used, including any fees to be assessed, for making the following information available to any member of the public upon request:
(i) Certification certificates issued during the current and 3 preceding calendar years;

(ii) A list of producers and handlers whose operations it has certified, including for each the name of the operation, type(s) of operation, products produced, and the effective date of the certification, during the current and 3 preceding calendar years;
(iii) The results of laboratory analyses for residues of pesticides and other prohibited substances conducted during the current and 3 preceding calendar years; and
(iv) Other business information as permitted in writing by the producer or handler; and
(6) A copy of the procedures to be used for sampling and residue testing pursuant to §205.670.
(c) *Conflicts of interest.* (1) A copy of procedures intended to be implemented to prevent the occurrence of conflicts of interest, as described in §205.501(a)(11).
(2) For all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent, a conflict of interest disclosure report, identifying any food- or agriculture-related business interests, including business interests of immediate family members, that cause a conflict of interest.
(d) *Current certification activities.* An applicant who currently certifies production or handling operations must submit: (1) A list of all production and handling operations currently certified by the applicant;
(2) Copies of at least 3 different inspection reports and certification evaluation documents for production or handling operations certified by the applicant during the previous year for each area of operation for which accreditation is requested; and
(3) The results of any accreditation process of the applicant's operation by an accrediting body during the previous year for the purpose of evaluating its certification activities.
(e) *Other information.* Any other information the applicant believes may assist in the Administrator's evaluation of the applicant's expertise and ability.

§205.505 Statement of agreement.
(a) A private or governmental entity seeking accreditation under this subpart must sign and return a statement of agreement prepared by the Administrator which affirms that, if granted accreditation as a certifying agent under this subpart, the applicant will carry out the provisions of the Act and the regulations in this part, including:
(1) Accept the certification decisions made by another certifying agent accredited or accepted by USDA pursuant to §205.500;
(2) Refrain from making false or misleading claims about its accreditation status, the USDA accreditation program for certifying agents, or the nature or qualities of products labeled as organically produced;
(3) Conduct an annual performance evaluation of all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and implement measures to correct any deficiencies in certification services;
(4) Have an annual internal program review conducted of its certification activities by certifying agent staff, an outside auditor, or a consultant who has the expertise to conduct

such reviews and implement measures to correct any non-compliances with the Act and the regulations in this part;
(5) Pay and submit fees to AMS in accordance with §205.640; and
(6) Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary.
(b) A private entity seeking accreditation, as a certifying agent under this subpart must additionally agree to:
(1) Hold the Secretary harmless for any failure on the part of the certifying agent to carry out the provisions of the Act and the regulations in this part;
(2) Furnish reasonable security, in an amount and according to such terms as the Administrator may by regulation prescribe, for the purpose of protecting the rights of production and handling operations certified by such certifying agent under the Act and the regulations in this part; and
(3) Transfer to the Administrator and make available to the applicable State organic program's governing State official all records or copies of records concerning the certifying agent's certification activities in the event that the certifying agent dissolves or loses its accreditation; *Provided,* That such transfer shall not apply to a merger, sale, or other transfer of ownership of a certifying agent.

§205.506 Granting accreditation.
(a) Accreditation will be granted when:
(1) The accreditation applicant has submitted the information required by §§205.503 through 205.505;
(2) The accreditation applicant pays the required fee in accordance with §205.640(c); and
(3) The Administrator determines that the applicant for accreditation meets the requirements for accreditation as stated in §205.501, as determined by a review of the information submitted in accordance with §§205.503 through 205.505 and, if necessary, a review of the information obtained from a site evaluation as provided for in §205.508.
(b) On making a determination to approve an application for accreditation, the Administrator will notify the applicant of the granting of accreditation in writing, stating:
(1) The area(s) for which accreditation is given;
(2) The effective date of the accreditation;
(3) Any terms and conditions for the correction of minor non-compliances; and
(4) For a certifying agent who is a private entity, the amount and type of security that must be established to protect the rights of production and handling operations certified by such certifying agent.
(c) The accreditation of a certifying agent shall continue in effect until such time as the certifying agent fails to renew accreditation as provided in §205.510(c), the certifying agent voluntarily ceases its certification activities, or accreditation is suspended or revoked pursuant to §205.665.

§205.507 Denial of accreditation.
(a) If the Program Manager has reason to believe, based on a review of the information specified in §§205.503 through 205.505 or after a site evaluation as specified in

§205.508, that an applicant for accreditation is not able to comply or is not in compliance with the requirements of the Act and the regulations in this part, the Program Manager shall provide a written notification of noncompliance to the applicant. Such notification shall provide:
(1) A description of each noncompliance;
(2) The facts upon which the notification of noncompliance is based; and
(3) The date by which the applicant must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible.
(b) When each noncompliance has been resolved, the Program Manager will send the applicant a written notification of noncompliance resolution and proceed with further processing of the application.
(c) If an applicant fails to correct the non-compliances, fails to report the corrections by the date specified in the notification of noncompliance, fails to file a rebuttal of the notification of noncompliance by the date specified, or is unsuccessful in its rebuttal, the Program Manager will provide the applicant with written notification of accreditation denial. An applicant who has received written notification of accreditation denial may apply for accreditation again at any time in accordance with §205.502, or appeal the denial of accreditation in accordance with §205.681 by the date specified in the notification of accreditation denial.
(d) If the certifying agent was accredited prior to the site evaluation and the certifying agent fails to correct the non-compliances, fails to report the corrections by the date specified in the notification of noncompliance, or fails to file a rebuttal of the notification of noncompliance by the date specified, the Administrator will begin proceedings to suspend or revoke the certifying agent's accreditation. A certifying agent who has had its accreditation suspended may at any time, unless otherwise stated in the notification of suspension, submit a request to the Secretary for reinstatement of its accreditation. The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the Act and the regulations in this part. A certifying agent whose accreditation is revoked will be ineligible for accreditation for a period of not less than 3 years following the date of such determination.

§205.508 Site evaluations.
(a) Site evaluations of accredited certifying agents shall be conducted for the purpose of examining the certifying agent's operations and evaluating its compliance with the Act and the regulations of this part. Site evaluations shall include an on-site review of the certifying agent's certification procedures, decisions, facilities, administrative and management systems, and production or handling operations certified by the certifying agent. Site evaluations shall be conducted by a representative(s) of the Administrator.
(b) An initial site evaluation of an accreditation applicant shall be conducted before or within a reasonable period of time after issuance of the applicant's "notification of accreditation." A site evaluation shall be conducted after application for renewal of accreditation but prior to the issuance of a notice of renewal of accreditation. One or more site evaluations will be conducted during the period of accreditation to determine

whether an accredited certifying agent is complying with the general requirements set forth in §205.501.

§205.509 Peer review panel.

The Administrator shall establish a peer review panel pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2 et seq.). The peer review panel shall be composed of not less than 3 members who shall annually evaluate the National Organic Program's adherence to the accreditation procedures in this subpart F and ISO/IEC Guide 61, General requirements for assessment and accreditation of certification/registration bodies, and the National Organic Program's accreditation decisions. This shall be accomplished through the review of accreditation procedures, document review and site evaluation reports, and accreditation decision documents or documentation. The peer review panel shall report its finding, in writing, to the National Organic Program's Program Manager.

§205.510 Annual report, recordkeeping, and renewal of accreditation.

(a) *Annual report and fees.* An accredited certifying agent must submit annually to the Administrator, on or before the anniversary date of the issuance of the notification of accreditation, the following reports and fees:

(1) A complete and accurate update of information submitted pursuant to §§205.503 and 205.504;

(2) Information supporting any changes being requested in the areas of accreditation described in §205.500;

(3) A description of the measures implemented in the previous year and any measures to be implemented in the coming year to satisfy any terms and conditions determined by the Administrator to be necessary, as specified in the most recent notification of accreditation or notice of renewal of accreditation;

(4) The results of the most recent performance evaluations and annual program review and a description of adjustments to the certifying agent's operation and procedures implemented or to be implemented in response to the performance evaluations and program review; and

(5) The fees required in §205.640(a).

(b) *Recordkeeping.* Certifying agents must maintain records according to the following schedule:

(1) Records obtained from applicants for certification and certified operations must be maintained for not less than 5 years beyond their receipt;

(2) Records created by the certifying agent regarding applicants for certification and certified operations must be maintained for not less than 10 years beyond their creation; and

(3) Records created or received by the certifying agent pursuant to the accreditation requirements of this subpart F, excluding any records covered by §§205.510(b)(2), must be maintained for not less than 5 years beyond their creation or receipt.

(c) *Renewal of accreditation.* (1) The Administrator shall send the accredited certifying agent a notice of pending expiration of accreditation approximately 1 year prior to the scheduled date of expiration.
(2) An accredited certifying agent's application for accreditation renewal must be received at least 6 months prior to the fifth anniversary of issuance of the notification of accreditation and each subsequent renewal of accreditation. The accreditation of certifying agents who make timely application for renewal of accreditation will not expire during the renewal process. The accreditation of certifying agents who fail to make timely application for renewal of accreditation will expire as scheduled unless renewed prior to the scheduled expiration date. Certifying agents with an expired accreditation must not perform certification activities under the Act and the regulations of this part.
(3) Following receipt of the information submitted by the certifying agent in accordance with paragraph (a) of this section and the results of a site evaluation, the Administrator will determine whether the certifying agent remains in compliance with the Act and the regulations of this part and should have its accreditation renewed.
(d) *Notice of renewal of accreditation.* Upon a determination that the certifying agent is in compliance with the Act and the regulations of this part, the Administrator will issue a notice of renewal of accreditation. The notice of renewal will specify any terms and conditions that must be addressed by the certifying agent and the time within which those terms and conditions must be satisfied.
(e) *Noncompliance.* Upon a determination that the certifying agent is not in compliance with the Act and the regulations of this part, the Administrator will initiate proceedings to suspend or revoke the certifying agent's accreditation.
(f) *Amending accreditation.* Amendment to scope of an accreditation may be requested at any time. The application for amendment shall be sent to the Administrator and shall contain information applicable to the requested change in accreditation, a complete and accurate update of the information submitted pursuant to §§205.503 and 205.504, and the applicable fees required in §205.640.

§§205.511-205.599 [Reserved]

Subpart G -- Administrative

The National List of Allowed and Prohibited Substances

§205.600 Evaluation criteria for allowed and prohibited substances, methods, and ingredients.
The following criteria will be utilized in the evaluation of substances or ingredients for the organic production and handling sections of the National List:

(a) Synthetic and non-synthetic substances considered for inclusion on or deletion from the National List of allowed and prohibited substances will be evaluated using the criteria specified in the Act (7 U.S.C. 6517 and 6518).
(b) In addition to the criteria set forth in the Act, any synthetic substance used as a processing aid or adjuvant will be evaluated against the following criteria:
(1) The substance cannot be produced from a natural source and there are no organic substitutes;
(2) The substance's manufacture, use, and disposal do not have adverse effects on the environment and are done in a manner compatible with organic handling;
(3) The nutritional quality of the food is maintained when the substance is used, and the substance, itself, or its breakdown products do not have an adverse effect on human health as defined by applicable Federal regulations;
(4) The substance's primary use is not as a preservative or to recreate or improve flavors, colors, textures, or nutritive value lost during processing, except where the replacement of nutrients is required by law;
(5) The substance is listed as generally recognized as safe (GRAS) by Food and Drug Administration (FDA) when used in accordance with FDA's good manufacturing practices (GMP) and contains no residues of heavy metals or other contaminants in excess of tolerances set by FDA; and
(6) The substance is essential for the handling of organically produced agricultural products.
(c) Non-synthetics used in organic processing will be evaluated using the criteria specified in the Act (7 U.S.C. 6517 and 6518).

§205.601 Synthetic substances allowed for use in organic crop production.
In accordance with restrictions specified in this section, the following synthetic substances may be used in organic crop production:
(a) As algicide, disinfectants, and sanitizer, including irrigation system cleaning systems.
(1) Alcohols.
(i) Ethanol.
(ii) Isopropanol.
(2) Chlorine materials -- *Except,* That, residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.
(i) Calcium hypochlorite.
(ii) Chlorine dioxide.
(iii) Sodium hypochlorite.
(3) Hydrogen peroxide.
(4) Soap-based algicide/demisters.
(b) As herbicides, weed barriers, as applicable.
(1) Herbicides, soap-based -- for use in farmstead maintenance (roadways, ditches, right of ways, building perimeters) and ornamental crops.
(2) Mulches.
(i) Newspaper or other recycled paper, without glossy or colored inks.
(ii) Plastic mulch and covers (petroleum-based other than polyvinyl chloride (PVC)).

(c) As compost feedstocks -- Newspapers or other recycled paper, without glossy or colored inks.
(d) As animal repellents -- Soaps, ammonium -- for use as a large animal repellant only, no contact with soil or edible portion of crop.
(e) As insecticides (including acaricides or mite control).
(1) Ammonium carbonate -- for use as bait in insect traps only, no direct contact with crop or soil.
(2) Boric acid -- structural pest control, no direct contact with organic food or crops.
(3) Elemental sulfur.
(4) Lime sulfur -- including calcium polysulfide.
(5) Oils, horticultural -- narrow range oils as dormant, suffocating, and summer oils.
(6) Soaps, insecticidal.
(7) Sticky traps/barriers.
(f) As insect attractants -- Pheromones.
(g) As rodenticides.
(1) Sulfur dioxide -- underground rodent control only (smoke bombs).
(2) Vitamin D3.
(h) As slug or snail bait -- None.
(i) As plant disease control.
(1) Coppers, fixed -- copper hydroxide, copper oxide, copper oxychloride, includes products exempted from EPA tolerance, *Provided,* That, copper-based materials must be used in a manner that minimizes accumulation in the soil and shall not be used as herbicides.
(2) Copper sulfate -- Substance must be used in a manner that minimizes accumulation of copper in the soil.
(3) Hydrated lime -- must be used in a manner that minimizes copper accumulation in the soil.
(4) Hydrogen peroxide.
(5) Lime sulfur.
(6) Oils, horticultural, narrow range oils as dormant, suffocating, and summer oils.
(7) Potassium bicarbonate.
(8) Elemental sulfur.
(9) Streptomycin, for fire blight control in apples and pears only.
(10) Tetracycline (oxytetracycline calcium complex), for fire blight control only.
(j) As plant or soil amendments.
(1) Aquatic plant extracts (other than hydrolyzed) -- Extraction process is limited to the use of potassium hydroxide or sodium hydroxide; solvent amount used is limited to that amount necessary for extraction.
(2) Elemental sulfur.
(3) Humic acids -- naturally occurring deposits, water and alkali extracts only.
(4) Lignin sulfonate -- chelating agent, dust suppressant, floatation agent.
(5) Magnesium sulfate -- allowed with a documented soil deficiency.
(6) Micronutrients -- not to be used as a defoliant, herbicide, or desiccant. Those made from nitrates or chlorides are not allowed. Soil deficiency must be documented by testing.
(i) Soluble boron products.

(ii) Sulfates, carbonates, oxides, or silicates of zinc, copper, iron, manganese, molybdenum, selenium, and cobalt.
(7) Liquid fish products -- can be pH adjusted with sulfuric, citric or phosphoric acid. The amount of acid used shall not exceed the minimum needed to lower the pH to 3.5.
(8) Vitamins, B1, C, and E.
(k) As plant growth regulators -- Ethylene -- for regulation of pineapple flowering.
(l) As floating agents in post harvest handling.
(1) Lignin sulfonate.
(2) Sodium silicate -- for tree fruit and fiber processing.
(m) As synthetic inert ingredients as classified by the Environmental Protection Agency (EPA), for use with non-synthetic substances or synthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances.
(1) EPA List 4 -- Inerts of Minimal Concern.
(n)-(z) [Reserved]

§205.602 Non-synthetic substances prohibited for use in organic crop production.
The following non-synthetic substances may not be used in organic crop production:
(a) Ash from manure burning.
(b) Arsenic.
(c) Lead salts.
(d) Sodium fluoaluminate (mined).
(e) Strychnine.
(f) Tobacco dust (nicotine sulfate).
(g) Potassium chloride -- unless derived from a mined source and applied in a manner that minimizes chloride accumulation in the soil.
(h) Sodium nitrate -- unless use is restricted to no more than 20% of the crop's total nitrogen requirement.
(i)-(z) [Reserved]

§205.603 Synthetic substances allowed for use in organic livestock production.
In accordance with restrictions specified in this section the following synthetic substances may be used in organic livestock production:
(a) As disinfectants, sanitizer, and medical treatments as applicable.
(1) Alcohols.
(i) Ethanol -- disinfectant and sanitizer only, prohibited as a feed additive.
(ii) Isopropanol -- disinfectant only.
(2) Aspirin -- approved for health care use to reduce inflammation
(3) Chlorine materials -- disinfecting and sanitizing facilities and equipment. Residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.
(i) Calcium hypochlorite.
(ii) Chlorine dioxide.

(iii) Sodium hypochlorite.
(4) Chlorohexidine -- Allowed for surgical procedures conducted by a veterinarian. Allowed for use as a teat dip when alternative germicidal agents and/or physical barriers have lost their effectiveness.
(5) Electrolytes -- without antibiotics.
(6) Glucose.
(7) Glycerin -- Allowed as a livestock teat dip, must be produced through the hydrolysis of fats or oils.
(8) Iodine.
(9) Hydrogen peroxide.
(10) Magnesium sulfate.
(11) Oxytocin -- use in postparturition therapeutic applications.
(12) Parasiticides -- Ivermectin -- prohibited in slaughter stock, allowed in emergency treatment for dairy and breeder stock when organic system plan-approved preventive management does not prevent infestation. Milk or milk products from a treated animal cannot be labeled as provided for in subpart D of this part for 90 days following treatment. In breeder stock, treatment cannot occur during the last third of gestation if the progeny will be sold as organic and must not be used during the lactation period of breeding stock.
(13) Phosphoric acid -- allowed as an equipment cleaner, *Provided,* That, no direct contact with organically managed livestock or land occurs.
(14) Biologics -- Vaccines.
(b) As topical treatment, external parasiticide or local anesthetic as applicable.
(1) Iodine.
(2) Lidocaine -- as a local anesthetic. Use requires a withdrawal period of 90 days after administering to livestock intended for slaughter and 7 days after administering to dairy animals.
(3) Lime, hydrated -- (bordeaux mixes), not permitted to cauterize physical alterations or deodorize animal wastes.
(4) Mineral oil -- for topical use and as a lubricant.
(5) Procaine -- as a local anesthetic, use requires a withdrawal period of 90 days after administering to livestock intended for slaughter and 7 days after administering to dairy animals.
(6) Copper sulfate.
(c) As feed supplements -- Milk replacers without antibiotics, as emergency use only, no non-milk products or products from BST treated animals.
(d) As feed additives.
(1) Trace minerals, used for enrichment or fortification when FDA approved, including:
(i) Copper sulfate.
(ii) Magnesium sulfate.
(2) Vitamins, used for enrichment or fortification when FDA approved.
(e) As synthetic inert ingredients as classified by the Environmental Protection Agency (EPA), for use with non-synthetic substances or a synthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances.
(f) EPA List 4 -- Inerts of Minimal Concern.

(g)-(z) [Reserved]

§205.604 Non-synthetic substances prohibited for use in organic livestock production.

The following non-synthetic substances may not be used in organic livestock production:
(a) Strychnine.
(b)-(z) [Reserved]

§205.605 Non-agricultural (non-organic) substances allowed as ingredients in or on processed products labeled as "organic" or "made with organic (specified ingredients or food group(s))."

The following nonagricultural substances may be used as ingredients in or on processed products labeled as "organic" or "made with organic (specified ingredients or food group(s))" only in accordance with any restrictions specified in this section.
(a) *Non-synthetics allowed:*
(1) Acids.
(i) Alginic.
(ii) Citric -- produced by microbial fermentation of carbohydrate substances.
(iii) Lactic.
(2) Bentonite.
(3) Calcium carbonate.
(4) Calcium chloride.
(5) Colors, non-synthetic sources only.
(6) Dairy cultures.
(7) Diatomaceous earth -- food filtering aid only.
(8) Enzymes -- must be derived from edible, nontoxic plants, nonpathogenic fungi, or nonpathogenic bacteria.
(9) Flavors, non-synthetic sources only and must not be produced using synthetic solvents and carrier systems or any artificial preservative.
(10) Kaolin.
(11) Magnesium sulfate, non-synthetic sources only.
(12) Nitrogen -- oil-free grades.
(13) Oxygen -- oil-free grades.
(14) Perlite -- for use only as a filter aid in food processing.
(15) Potassium chloride.
(16) Potassium iodide.
(17) Sodium bicarbonate.
(18) Sodium carbonate.
(19) Waxes – non-synthetic.
(i) Carnauba wax.
(ii) Wood resin.
(20) Yeast – non-synthetic, growth on petrochemical substrate and sulfite waste liquor is prohibited.
(i) Autolysate.

(ii) Bakers.
(iii) Brewers.
(iv) Nutritional.
(v) Smoked – non-synthetic smoke flavoring process must be documented.
(b) *Synthetics allowed:*
(1) Alginates.
(2) Ammonium bicarbonate -- for use only as a leavening agent.
(3) Ammonium carbonate -- for use only as a leavening agent.
(4) Ascorbic acid.
(5) Calcium citrate.
(6) Calcium hydroxide.
(7) Calcium phosphates (monobasic, dibasic, and tribasic).
(8) Carbon dioxide.
(9) Chlorine materials -- disinfecting and sanitizing food contact surfaces, *Except,* That, residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.
(i) Calcium hypochlorite.
(ii) Chlorine dioxide.
(iii) Sodium hypochlorite.
(10) Ethylene -- allowed for post-harvest ripening of tropical fruit.
(11) Ferrous sulfate -- for iron enrichment or fortification of foods when required by regulation or recommended (independent organization).
(12) Glycerides (mono and di) -- for use only in drum drying of food.
(13) Glycerin -- produced by hydrolysis of fats and oils.
(14) Hydrogen peroxide.
(15) Lecithin -- bleached.
(16) Magnesium carbonate -- for use only in agricultural products labeled "made with organic (specified ingredients or food group(s))," prohibited in agricultural products labeled "organic".
(17) Magnesium chloride -- derived from sea water.
(18) Magnesium stearate -- for use only in agricultural products labeled "made with organic (specified ingredients or food group(s))," prohibited in agricultural products labeled "organic".
(19) Nutrient vitamins and minerals, in accordance with 21 CFR 104.20, Nutritional Quality Guidelines For Foods.
(20) Ozone.
(21) Pectin (low-methoxy).
(22) Phosphoric acid -- cleaning of food-contact surfaces and equipment only.
(23) Potassium acid tartrate.
(24) Potassium tartrate made from tartaric acid.
(25) Potassium carbonate.
(26) Potassium citrate.
(27) Potassium hydroxide -- prohibited for use in lye peeling of fruits and vegetables.
(28) Potassium iodide -- for use only in agricultural products labeled "made with organic (specified ingredients or food group(s))," prohibited in agricultural products labeled "organic".

(29) Potassium phosphate -- for use only in agricultural products labeled "made with organic (specific ingredients or food group(s))," prohibited in agricultural products labeled "organic".
(30) Silicon dioxide.
(31) Sodium citrate.
(32) Sodium hydroxide -- prohibited for use in lye peeling of fruits and vegetables.
(33) Sodium phosphates -- for use only in dairy foods.
(34) Sulfur dioxide -- for use only in wine labeled "made with organic grapes," *Provided,* That, total sulfite concentration does not exceed 100 ppm.
(35) Tocopherols -- derived from vegetable oil when rosemary extracts are not a suitable alternative.
(36) Xanthan gum.
(c)-(z) [Reserved]

§205.606 Non-organically produced agricultural products allowed as ingredients in or on processed products labeled as "organic" or "made with organic (specified ingredients or food group(s))."

The following non-organically produced agricultural products may be used as ingredients in or on processed products labeled as "organic" or "made with organic (specified ingredients or food group(s))" only in accordance with any restrictions specified in this section.
Any non-organically produced agricultural product may be used in accordance with the restrictions specified in this section and when the product is not commercially available in organic form.
(a) Cornstarch (native)
(b) Gums -- water extracted only (arabic, guar, locust bean, carob bean)
(c) Kelp -- for use only as a thickener and dietary supplement
(d) Lecithin -- unbleached
(e) Pectin (high- methoxy)

§205.607 Amending the National List.

(a) Any person may petition the National Organic Standard Board for the purpose of having a substance evaluated by the Board for recommendation to the Secretary for inclusion on or deletion from the National List in accordance with the Act.
(b) A person petitioning for amendment of the National List should request a copy of the petition procedures from the USDA at the address in §205.607(c).
(c) A petition to amend the National List must be submitted to: Program Manager, USDA/AMS/TMP/NOP, Room 2945, South Building, P.O. Box 96456, Washington, DC 20090-6456.

§§205.608-205.619 [Reserved]

State Organic Programs

§205.620 Requirements of State organic programs.

(a) A State may establish a State organic program for production and handling operations within the State which produce and handle organic agricultural products.

(b) A State organic program must meet the requirements for organic programs specified in the Act.

(c) A State organic program may contain more restrictive requirements because of environmental conditions or the necessity of specific production or handling practices particular to the State or region of the United States.

(d) A State organic program must assume enforcement obligations in the State for the requirements of this part and any more restrictive requirements approved by the Secretary.

(e) A State organic program and any amendments to such program must be approved by the Secretary prior to being implemented by the State.

§205.621 Submission and determination of proposed State organic programs and amendments to approved State organic programs.

(a) A State organic program's governing State official must submit to the Secretary a proposed State organic program and any proposed amendments to such approved program.

(1) Such submission must contain supporting materials that include statutory authorities, program description, documentation of the environmental conditions or specific production and handling practices particular to the State which necessitate more restrictive requirements than the requirements of this part, and other information as may be required by the Secretary.

(2) Submission of a request for amendment of an approved State organic program must contain supporting materials that include an explanation and documentation of the environmental conditions or specific production and handling practices particular to the State or region, which necessitates the proposed amendment. Supporting material also must explain how the proposed amendment furthers and is consistent with the purposes of the Act and the regulations of this part.

(b) Within 6 months of receipt of submission, the Secretary will: Notify the State organic program's governing State official of approval or disapproval of the proposed program or amendment of an approved program and, if disapproved, the reasons for the disapproval.

(c) After receipt of a notice of disapproval, the State organic program's governing State official may submit a revised State organic program or amendment of such a program at any time.

§205.622 Review of approved State organic programs.
The Secretary will review a State organic program not less than once during each 5-year period following the date of the initial program approval. The Secretary will notify the State organic program's governing State official of approval or disapproval of the program within 6 months after initiation of the review.

§§205.623-205.639 [Reserved]

Fees

§205.640 Fees and other charges for accreditation.
Fees and other charges equal as nearly as may be to the cost of the accreditation services rendered under the regulations, including initial accreditation, review of annual reports, and renewal of accreditation, shall be assessed and collected from applicants for initial accreditation and accredited certifying agents submitting annual reports or seeking renewal of accreditation in accordance with the following provisions:
(a) *Fees-for-service*. (1) Except as otherwise provided in this section, fees-for-service shall be based on the time required to render the service provided calculated to the nearest 15-minute period, including the review of applications and accompanying documents and information, evaluator travel, the conduct of on-site evaluations, review of annual reports and updated documents and information, and the time required to prepare reports and any other documents in connection with the performance of service. The hourly rate shall be the same as that charged by the Agricultural Marketing Service, through its Quality Systems Certification Program, to certification bodies requesting conformity assessment to the International Organization for Standardization "General Requirements for Bodies Operating Product Certification Systems" (ISO Guide 65).
(2) Applicants for initial accreditation and accredited certifying agents submitting annual reports or seeking renewal of accreditation during the first 18 months following the effective date of subpart F of this part shall receive service without incurring an hourly charge for service.
(3) Applicants for initial accreditation and renewal of accreditation must pay at the time of application, effective 18 months following February 20, 2001, a nonrefundable fee of $500.00 which shall be applied to the applicant's fees-for-service account.
(b) Travel charges. When service is requested at a place so distant from the evaluator's headquarters that a total of one-half hour or more is required for the evaluator(s) to travel to such place and back to the headquarters or at a place of prior assignment on circuitous routing requiring a total of one-half hour or more to travel to the next place of assignment on the circuitous routing, the charge for such service shall include a mileage charge administratively determined by the U.S. Department of Agriculture and travel tolls, if applicable, or such travel prorated among all the applicants and certifying agents furnished the service involved on an equitable basis or, when the travel is made by public transportation (including hired vehicles), a fee equal to the actual cost thereof. Travel

charges shall become effective for all applicants for initial accreditation and accredited certifying agents on February 20, 2001. The applicant or certifying agent will not be charged a new mileage rate without notification before the service is rendered.
(c) *Per diem charges.* When service is requested at a place away from the evaluator's headquarters, the fee for such service shall include a per diem charge if the employee(s) performing the service is paid per diem in accordance with existing travel regulations. Per diem charges to applicants and certifying agents will cover the same period of time for which the evaluator(s) receives per diem reimbursement. The per diem rate will be administratively determined by the U.S. Department of Agriculture. Per diem charges shall become effective for all applicants for initial accreditation and accredited certifying agents on February 20, 2001. The applicant or certifying agent will not be charged a new per diem rate without notification before the service is rendered.
(d) *Other costs.* When costs, other than costs specified in paragraphs (a), (b), and (c) of this section, are associated with providing the services, the applicant or certifying agent will be charged for these costs. Such costs include but are not limited to equipment rental, photocopying, delivery, facsimile, telephone, or translation charges incurred in association with accreditation services. The amount of the costs charged will be determined administratively by the U.S. Department of Agriculture. Such costs shall become effective for all applicants for initial accreditation and accredited certifying agents on February 20, 2001.

§205.641 Payment of fees and other charges.
(a) Applicants for initial accreditation and renewal of accreditation must remit the nonrefundable fee, pursuant to §205.640(a)(3), along with their application. Remittance must be made payable to the Agricultural Marketing Service, USDA, and mailed to: Program Manager, USDA-AMS-TMP-NOP, Room 2945-South Building, P.O. Box 96456, Washington, DC 20090-6456 or such other address as required by the Program Manager.
(b) Payments for fees and other charges not covered under paragraph (a) of this section must be:
(1) Received by the due date shown on the bill for collection;
(2) Made payable to the Agricultural Marketing Service, USDA; and
(3) Mailed to the address provided on the bill for collection.
(c) The Administrator shall assess interest, penalties, and administrative costs on debts not paid by the due date shown on a bill for collection and collect delinquent debts or refer such debts to the Department of Justice for litigation.

§205.642 Fees and other charges for certification.
Fees charged by a certifying agent must be reasonable, and a certifying agent shall charge applicants for certification and certified production and handling operations only those fees and charges that it has filed with the Administrator. The certifying agent shall provide each applicant with an estimate of the total cost of certification and an estimate of the annual cost of updating the certification. The certifying agent may require applicants for certification to pay at the time of application a nonrefundable fee which

shall be applied to the applicant's fees-for-service account. The certifying agent may set the nonrefundable portion of certification fees; however, the nonrefundable portion of certification fees must be explained in the fee schedule submitted to the Administrator. The fee schedule must explain what fee amounts are nonrefundable and at what stage during the certification process fees become nonrefundable. The certifying agent shall provide all persons inquiring about the application process with a copy of its fee schedule.

§§205.643-205.649 [Reserved]

Compliance

§205.660 General.

(a) The National Organic Program's Program Manager, on behalf of the Secretary, may inspect and review certified production and handling operations and accredited certifying agents for compliance with the Act or regulations in this part.

(b) The Program Manager may initiate suspension or revocation proceedings against a certified operation:

(1) When the Program Manager has reason to believe that a certified operation has violated or is not in compliance with the Act or regulations in this part; or

(2) When a certifying agent or a State organic program's governing State official fails to take appropriate action to enforce the Act or regulations in this part.

(c) The Program Manager may initiate suspension or revocation of a certifying agent's accreditation if the certifying agent fails to meet, conduct, or maintain accreditation requirements pursuant to the Act or this part.

(d) Each notification of noncompliance, rejection of mediation, noncompliance resolution, proposed suspension or revocation, and suspension or revocation issued pursuant to §205.662, §205.663, and §205.665 and each response to such notification must be sent to the recipient's place of business via a delivery service which provides dated return receipts.

§205.661 Investigation of certified operations.

(a) A certifying agent may investigate complaints of noncompliance with the Act or regulations of this part concerning production and handling operations certified as organic by the certifying agent. A certifying agent must notify the Program Manager of all compliance proceedings and actions taken pursuant to this part.

(b) A State organic program's governing State official may investigate complaints of noncompliance with the Act or regulations in this part concerning organic production or handling operations operating in the State.

§205.662 Noncompliance procedure for certified operations.

(a) *Notification*. When an inspection, review, or investigation of a certified operation by a certifying agent or a State organic program's governing State official reveals any noncompliance with the Act or regulations in this part, a written notification of noncompliance shall be sent to the certified operation. Such notification shall provide:

(1) A description of each noncompliance;

(2) The facts upon which the notification of noncompliance is based; and

(3) The date by which the certified operation must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible.

(b) *Resolution*. When a certified operation demonstrates that each noncompliance has been resolved, the certifying agent or the State organic program's governing State official, as applicable, shall send the certified operation a written notification of noncompliance resolution.

(c) *Proposed suspension or revocation*. When rebuttal is unsuccessful or correction of the noncompliance is not completed within the prescribed time period, the certifying agent or State organic program's governing State official shall send the certified operation a written notification of proposed suspension or revocation of certification of the entire operation or a portion of the operation, as applicable to the noncompliance. When correction of a noncompliance is not possible, the notification of noncompliance and the proposed suspension or revocation of certification may be combined in one notification. The notification of proposed suspension or revocation of certification shall state:

(1) The reasons for the proposed suspension or revocation;

(2) The proposed effective date of such suspension or revocation;

(3) The impact of a suspension or revocation on future eligibility for certification; and

(4) The right to request mediation pursuant to §205.663 or to file an appeal pursuant to §205.681.

(d) *Willful violations*. Notwithstanding paragraph (a) of this section, if a certifying agent or State organic program's governing State official has reason to believe that a certified operation has willfully violated the Act or regulations in this part, the certifying agent or State organic program's governing State official shall send the certified operation a notification of proposed suspension or revocation of certification of the entire operation or a portion of the operation, as applicable to the noncompliance.

(e) *Suspension or revocation*. (1) If the certified operation fails to correct the noncompliance, to resolve the issue through rebuttal or mediation, or to file an appeal of the proposed suspension or revocation of certification, the certifying agent or State organic program's governing State official shall send the certified operation a written notification of suspension or revocation.

(2) A certifying agent or State organic program's governing State official must not send a notification of suspension or revocation to a certified operation that has requested mediation pursuant to §205.663 or filed an appeal pursuant to §205.681, while final resolution of either is pending.

(f) *Eligibility.* (1) A certified operation whose certification has been suspended under this section may at any time, unless otherwise stated in the notification of suspension, submit a request to the Secretary for reinstatement of its certification. The request must be

accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the Act and the regulations in this part.
(2) A certified operation or a person responsibly connected with an operation whose certification has been revoked will be ineligible to receive certification for a period of 5 years following the date of such revocation, *Except,* That, the Secretary may, when in the best interest of the certification program, reduce or eliminate the period of ineligibility.
(g) *Violations of Act*. In addition to suspension or revocation, any certified operation that:
(1) Knowingly sells or labels a product as organic, except in accordance with the Act, shall be subject to a civil penalty of not more than $10,000 per violation.
(2) Makes a false statement under the Act to the Secretary, a State organic program's governing State official, or a certifying agent shall be subject to the provisions of section 1001 of title 18, United States Code.

§205.663 Mediation.
Any dispute with respect to denial of certification or proposed suspension or revocation of certification under this part may be mediated at the request of the applicant for certification or certified operation and with acceptance by the certifying agent. Mediation shall be requested in writing to the applicable certifying agent. If the certifying agent rejects the request for mediation, the certifying agent shall provide written notification to the applicant for certification or certified operation. The written notification shall advise the applicant for certification or certified operation of the right to request an appeal, pursuant to §205.681, within 30 days of the date of the written notification of rejection of the request for mediation. If mediation is accepted by the certifying agent, such mediation shall be conducted by a qualified mediator mutually agreed upon by the parties to the mediation. If a State organic program is in effect, the mediation procedures established in the State organic program, as approved by the Secretary, will be followed. The parties to the mediation shall have no more than 30 days to reach an agreement following a mediation session. If mediation is unsuccessful, the applicant for certification or certified operation shall have 30 days from termination of mediation to appeal the certifying agent's decision pursuant to §205.681. Any agreement reached during or as a result of the mediation process shall be in compliance with the Act and the regulations in this part. The Secretary may review any mediated agreement for conformity to the Act and the regulations in this part and may reject any agreement or provision not in conformance with the Act or the regulations in this part.

§205.664 [Reserved]

§205.665 Noncompliance procedure for certifying agents.
(a) *Notification*. When an inspection, review, or investigation of an accredited certifying agent by the Program Manager reveals any noncompliance with the Act or regulations in this part, a written notification of noncompliance shall be sent to the certifying agent. Such notification shall provide:

(1) A description of each noncompliance;
(2) The facts upon which the notification of noncompliance is based; and
(3) The date by which the certifying agent must rebut or correct each noncompliance and submit supporting documentation of each correction when correction is possible.
(b) *Resolution*. When the certifying agent demonstrates that each noncompliance has been resolved, the Program Manager shall send the certifying agent a written notification of noncompliance resolution.
(c) *Proposed suspension or revocation*. When rebuttal is unsuccessful or correction of the noncompliance is not completed within the prescribed time period, the Program Manager shall send a written notification of proposed suspension or revocation of accreditation to the certifying agent. The notification of proposed suspension or revocation shall state whether the certifying agent's accreditation or specified areas of accreditation are to be suspended or revoked. When correction of a noncompliance is not possible, the notification of noncompliance and the proposed suspension or revocation may be combined in one notification. The notification of proposed suspension or revocation of accreditation shall state:
(1) The reasons for the proposed suspension or revocation;
(2) The proposed effective date of the suspension or revocation;
(3) The impact of a suspension or revocation on future eligibility for accreditation; and
(4) The right to file an appeal pursuant to §205.681.
(d) *Willful violations*. Notwithstanding paragraph (a) of this section, if the Program Manager has reason to believe that a certifying agent has willfully violated the Act or regulations in this part, the Program Manager shall send a written notification of proposed suspension or revocation of accreditation to the certifying agent.
(e) *Suspension or revocation*. When the accredited certifying agent fails to file an appeal of the proposed suspension or revocation of accreditation, the Program Manager shall send a written notice of suspension or revocation of accreditation to the certifying agent.
(f) *Cessation of certification activities*. A certifying agent whose accreditation is suspended or revoked must:
(1) Cease all certification activities in each area of accreditation and in each State for which its accreditation is suspended or revoked.
(2) Transfer to the Secretary and make available to any applicable State organic program's governing State official all records concerning its certification activities that were suspended or revoked.
(g) *Eligibility.* (1) A certifying agent whose accreditation is suspended by the Secretary under this section may at any time, unless otherwise stated in the notification of suspension, submit a request to the Secretary for reinstatement of its accreditation. The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the Act and the regulations in this part.
(2) A certifying agent whose accreditation is revoked by the Secretary shall be ineligible to be accredited as a certifying agent under the Act and the regulations in this part for a period of not less than 3 years following the date of such revocation.

§§205.666-205.667 [Reserved]

§205.668 Noncompliance procedures under State organic programs.

(a) A State organic program's governing State official must promptly notify the Secretary of commencement of any noncompliance proceeding against a certified operation and forward to the Secretary a copy of each notice issued.

(b) A noncompliance proceeding, brought by a State organic program's governing State official against a certified operation, shall be appealable pursuant to the appeal procedures of the State organic program. There shall be no subsequent rights of appeal to the Secretary. Final decisions of a State may be appealed to the United States District Court for the district in which such certified operation is located.

(c) A State organic program's governing State official may review and investigate complaints of noncompliance with the Act or regulations concerning accreditation of certifying agents operating in the State. When such review or investigation reveals any noncompliance, the State organic program's governing State official shall send a written report of noncompliance to the Program Manager. The report shall provide a description of each noncompliance and the facts upon which the noncompliance is based.

§205.670 Inspection and testing of agricultural product to be sold or labeled "organic."

(a) All agricultural products that are to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" must be made accessible by certified organic production or handling operations for examination by the Administrator, the applicable State organic program's governing State official, or the certifying agent.

(b) The Administrator, applicable State organic program's governing State official, or the certifying agent may require pre-harvest or post-harvest testing of any agricultural input used or agricultural product to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" when there is reason to believe that the agricultural input or product has come into contact with a prohibited substance or has been produced using excluded methods. Such tests must be conducted by the applicable State organic program's governing State official or the certifying agent at the official's or certifying agent's own expense.

(c) The pre-harvest or post-harvest tissue test sample collection pursuant to paragraph (b) of this section must be performed by an inspector representing the Administrator, applicable State organic program's governing State official, or certifying agent. Sample integrity must be maintained throughout the chain of custody, and residue testing must be performed in an accredited laboratory. Chemical analysis must be made in accordance with the methods described in the most current edition of the *Official Methods of Analysis of the AOAC International* or other current applicable validated methodology determining the presence of contaminants in agricultural products.

(d) Results of all analyses and tests performed under this section:

(1) Must be promptly provided to the Administrator; *Except*, That, where a State organic program exists, all test results and analyses shall be provided to the State organic program's governing State official by the applicable certifying party that requested testing; and
(2) Will be available for public access, unless the testing is part of an ongoing compliance investigation.
(e) If test results indicate a specific agricultural product contains pesticide residues or environmental contaminants that exceed the Food and Drug Administration's or the Environmental Protection Agency's regulatory tolerances, the certifying agent must promptly report such data to the Federal health agency whose regulatory tolerance or action level has been exceeded.

§205.671 Exclusion from organic sale.
When residue testing detects prohibited substances at levels that are greater than 5 percent of the Environmental Protection Agency's tolerance for the specific residue detected or unavoidable residual environmental contamination, the agricultural product must not be sold, labeled, or represented as organically produced. The Administrator, the applicable State organic program's governing State official, or the certifying agent may conduct an investigation of the certified operation to determine the cause of the prohibited substance.

§205.672 Emergency pest or disease treatment.
When a prohibited substance is applied to a certified operation due to a Federal or State emergency pest or disease treatment program and the certified operation otherwise meets the requirements of this part, the certification status of the operation shall not be affected as a result of the application of the prohibited substance: *Provided*, That:
(a) Any harvested crop or plant part to be harvested that has contact with a prohibited substance applied as the result of a Federal or State emergency pest or disease treatment program cannot be sold, labeled, or represented as organically produced; and
(b) Any livestock that are treated with a prohibited substance applied as the result of a Federal or State emergency pest or disease treatment program or product derived from such treated livestock cannot be sold, labeled, or represented as organically produced: *Except*, That:
(1) Milk or milk products may be sold, labeled, or represented as organically produced beginning 12 months following the last date that the dairy animal was treated with the prohibited substance; and
(2) The offspring of gestating mammalian breeder stock treated with a prohibited substance may be considered organic: *Provided*, That, the breeder stock was not in the last third of gestation on the date that the breeder stock was treated with the prohibited substance.

§§205.673-205.679 [Reserved]

Adverse Action Appeal Process

§205.680 General.

(a) Persons subject to the Act who believe they are adversely affected by a noncompliance decision of the National Organic Program's Program Manager may appeal such decision to the Administrator.
(b) Persons subject to the Act who believe that they are adversely affected by a noncompliance decision of a State organic program may appeal such decision to the State organic program's governing State official who will initiate handling of the appeal pursuant to appeal procedures approved by the Secretary.
(c) Persons subject to the Act who believe that they are adversely affected by a noncompliance decision of a certifying agent may appeal such decision to the Administrator, *Except,* That, when the person is subject to an approved State organic program, the appeal must be made to the State organic program.
(d) All written communications between parties involved in appeal proceedings must be sent to the recipient's place of business by a delivery service which provides dated return receipts.
(e) All appeals shall be reviewed, heard, and decided by persons not involved with the decision being appealed.

§205.681 Appeals.

(a) *Certification appeals.* An applicant for certification may appeal a certifying agent's notice of denial of certification, and a certified operation may appeal a certifying agent's notification of proposed suspension or revocation of certification to the Administrator, *Except*, That, when the applicant or certified operation is subject to an approved State organic program the appeal must be made to the State organic program which will carry out the appeal pursuant to the State organic program's appeal procedures approved by the Secretary.
(1) If the Administrator or State organic program sustains a certification applicant's or certified operation's appeal of a certifying agent's decision, the applicant will be issued organic certification, or a certified operation will continue its certification, as applicable to the operation. The act of sustaining the appeal shall not be an adverse action subject to appeal by the affected certifying agent.
(2) If the Administrator or State organic program denies an appeal, a formal administrative proceeding will be initiated to deny, suspend, or revoke the certification. Such proceeding shall be conducted pursuant to the U.S. Department of Agriculture's Uniform Rules of Practice or the State organic program's rules of procedure.
(b) *Accreditation appeals.* An applicant for accreditation and an accredited certifying agent may appeal the Program Manager's denial of accreditation or proposed suspension or revocation of accreditation to the Administrator.
(1) If the Administrator sustains an appeal, an applicant will be issued accreditation, or a certifying agent will continue its accreditation, as applicable to the operation.

(2) If the Administrator denies an appeal, a formal administrative proceeding to deny, suspend, or revoke the accreditation will be initiated. Such proceeding shall be conducted pursuant to the U.S. Department of Agriculture's Uniform Rules of Practice, 7 CFR part 1, Subpart H.

(c) *Filing period.* An appeal of a noncompliance decision must be filed within the time period provided in the letter of notification or within 30 days from receipt of the notification, whichever occurs later. The appeal will be considered "filed" on the date received by the Administrator or by the State organic program. A decision to deny, suspend, or revoke certification or accreditation will become final and non-appealable unless the decision is appealed in a timely manner.

(d) *Where and what to file.* (1) Appeals to the Administrator must be filed in writing and addressed to Administrator, USDA-AMS, Room 3071-S, P.O. Box 96456, Washington, DC 20090-6456.

(2) Appeals to the State organic program must be filed in writing to the address and person identified in the letter of notification.

(3) All appeals must include a copy of the adverse decision and a statement of the appellant's reasons for believing that the decision was not proper or made in accordance with applicable program regulations, policies, or procedures.

Regulation 43: Poultry

POULTRY AND EGG PRODUCTS

Subpart A -- Mandatory Analyses of Egg Products

Sec.

Subpart B -- Voluntary Analyses of Egg Products

Subpart C -- Salmonella Laboratory Recognition Program

Subpart D -- Processed Poultry Products

Authority: Secs. 2-28 of the Egg Products Inspection Act (84 Stat. 1620-1635; 21 U.S.C. 1031-1056), Agricultural Marketing Act of 1946, Secs. 202-208 as amended (60 Stat. 1087-1091; 7 U.S.C. 1621-1627).

Source: 58 FR 42428, Aug. 9, 1993, unless otherwise noted.

Editorial Note: Nomenclature changes to part 94 appear at 61 FR 51352, Oct. 2 1996.

Subpart A -- Mandatory Analyses of Egg Products

§94.1 General.

Microbiological, chemical, and physical analysis of liquid, frozen, and dried egg products is performed under authority of the Egg Products Inspection Act (21 U.S.C. 1031-1056).

§94.2 Definitions.

Words used in the regulations in this subpart in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this subpart, unless the context requires otherwise, the following terms will be construed to mean:

Egg. The shell egg of the domesticated chicken, turkey, duck, goose, or guinea. Some of the terms applicable to shell eggs are defined by the AMS Poultry Programs in 7 CFR 57.5.

Egg product. Any dried, frozen, or liquid eggs, with or without added ingredients. However, products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry may be exempted by the Secretary under such conditions as may be prescribed to assure that the egg ingredients are not adulterated and such products are not represented as egg products. Some of the products exempted as not being egg products are specified by the AMS Poultry Programs in 7 CFR 57.5.

Mandatory sample. An official sample of egg product(s) taken for testing under authority of the Egg Products Inspection Act (21 U.S.C. 1031-1056) for analysis by a United States Department of Agriculture, Agricultural Marketing Service, Science and Technology laboratory at government expense. A mandatory sample shall include an egg product sample to be analyzed for microbiological, chemical, or physical attributes. A mandatory egg product sample analyzed for the presence of *Salmonella* is also referred to as a confirmation sample as specified by the Food Safety and Inspection Service agency of USDA in 9 CFR 590.580, paragraph (d).

Official plant. Any plant, as determined by the Secretary, at which the U.S. Department of Agriculture maintains inspection of the processing of egg products under the authority of the Egg Products Inspection Act.

Pasteurize. The subjecting of each particle of egg products to heat or other treatments to destroy harmful viable microorganisms by such processes as may be prescribed by the regulations in the EPIA.

Pesticide chemical, food additive, color additive, and raw agricultural commodity. These terms shall have the same meaning for purposes of this subpart as under sections 408, 409, and 706 of the Federal Food, Drug, and Cosmetic Act.

Plant. Any place of business where egg products are processed.

Processing. Manufacturing of egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products at official plants.

[58 FR 42428, Aug. 9, 1993, as amended at 65 FR 64318, Oct. 26, 2000]

§94.3 Analyses performed and locations of laboratories.

(a) Samples drawn by a USDA egg products inspector will be analyzed by AMS Science and Technology (S&T) personnel for microbiological, chemical, and physical attributes. The analytical results of these samples will be reported to the resident egg products inspector at the applicable plant on the official certificate.
(b) Mandatory egg product samples for *Salmonella* are required and are analyzed in S&T laboratories to spot check and confirm the adequacy of USDA approved and recognized laboratories for analyzing routine egg product samples for *Salmonella.*
(c) Mandatory egg product samples for chlorinated hydrocarbons are required and are submitted by the plant inspectors on a random basis. These samples screen for pesticide residues and industrial chemical contaminants in egg products.
(d) Samples are drawn by a USDA egg products inspector to determine potential adulteration. These egg product samples may be analyzed for extraneous material, color, color additive, pesticide, heavy metal, microorganism, dextrin, or other substance.
(e) The AMS Science and Technology's Eastern Laboratory shall conduct the majority of laboratory analyses for egg products. The analyses for mandatory egg product samples are performed at the following USDA location: USDA, AMS, Science & Technology, Eastern Laboratory (Microbiology), 2311-B Aberdeen Boulevard, Gastonia, NC 28054-0614.

§94.4 Analytical methods.

The majority of analytical methods used by the USDA laboratories to perform mandatory analyses for egg products are listed as follows:
(a) Compendium Methods for the Microbiological Examination of Foods, Carl Vanderzant and Don Splittstoesser (Editors), American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005.
(b) Edwards, P.R. and W.H. Ewing, Edwards and Ewing's Identification of Enterobacteriaceae, Elsevier Science, Inc., Regional Sales Office, 655 Avenue of the Americas, P.O. Box 945, New York, NY 10159-0945.
(c) FDA Bacteriological Analytical Manual (BAM), AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877-2417.
(d) Manual of Analytical Methods for the Analysis of Pesticide Residues in Human and Environmental Samples, EPA 600/9-80-038, U.S. Environmental Protection Agency (EPA) Chemical Exposure Research Branch, EPA Office of Research and Development (ORD), 26 West Martin Luther King Drive, Cincinnati, Ohio 45268.
(e) Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II, AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877-2417.
(f) Standard Methods for the Examination of Dairy Products, American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005.
(g) Standard Methods for the Examination of Water and Wastewater, American Public Health Association (APHA), the American Water Works Association (AWWA) and the Water Pollution Control Federation, AWWA Bookstore, 6666 West Quincy Avenue, Denver, CO 80235.

(h) Test Methods for Evaluating Solid Waste Physical/Chemical Methods, Environmental Protection Agency, Office of Solid Waste, SW-846 Integrated Manual (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).
(i) U.S. Food and Drug Administration, Pesticide Analytical Manuals (PAM), Volumes I and II, Food and Drug Administration, Center for Food Safety and Applied Nutrition (CFSAN), 200 C Street, SW, Washington, DC 20204 (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).
[65 FR 64318, Oct. 26, 2000]

§94.5 Charges for laboratory service.

The costs for analysis of mandatory egg product samples at Science and Technology Division laboratories shall be paid by annually appropriated and designated funds allocated to the egg products inspection program. The costs for any other mandatory laboratory analyses and testing of an egg product's identity and condition, necessitated by the Egg Products Inspection Act, shall also be paid by such program funding.

Regulation 56: Bee Keeping

HONEYBEES AND HONEYBEE SEMEN

Sec.

Authority: 7 U.S.C. 281; 7 CFR 2.22, 2.80, and 371.3.
Source: 50 FR 25689, June 21, 1985, unless otherwise noted.

§322.1 Importation of honeybees and honeybee semen.

(a) No persons may import honeybees or honeybee semen, except as otherwise provided in this part.
(b) Honeybees or honeybee semen from Canada may be imported into the United States without any further restrictions under this part.
(c) Honeybee semen from any country listed below is designated as a restricted article and may be imported only in accordance with the provisions in this part.
Australia
Bermuda
France
Great Britain
Sweden

(d) Honeybees from any country or locality other than Canada, may be imported without complying with other provisions of this part if:
(1) Imported by the U.S. Department of Agriculture for experimental or scientific purposes;
(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville MD 20705, or at a port of entry designated by an asterisk in §319.37-14(b);
(3) Imported pursuant to a departmental permit issued for such honeybees and kept on file at the port of entry;
(4) Imported under conditions specified on the departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of diseases or parasites harmful to honeybees, or genetically undesirable germ plasm of honeybees, i.e., conditions of treatment, processing, shipment, disposal; and

(5) Imported with a departmental tag or label securely attached to the outside of the container, and with such tag or label bearing the name of the person to whom the permit is issued.
(e) Honeybees and honeybee semen from New Zealand may transit the United States en route to another country under the following conditions:
(1) The honeybees or honeybee semen must be accompanied by a certificate issued by the New Zealand Department of Agriculture certifying that the honeybees or honeybee semen were derived in or shipped from an apiary in New Zealand;
(2) The honeybees or honeybee semen must be shipped nonstop to the United States for transit to another country;
(3) The honeybees must be contained in cages that are completely enclosed by screens with mesh fine enough to prevent the honeybees from passing through. Each pallet of cages must then be covered by an escape-proof net that is secured tightly to the pallet so that no honeybees can escape from underneath the net;
(4) The honeybees must be shipped by air through a port staffed by an inspector. [1] The honeybees may be trans-loaded from one aircraft to another at the port of arrival in the United States, provided the trans-loading is done under the supervision of an inspector and the area used for any storage of the honeybees between flights is within a completely enclosed building.
[1]For a list of ports staffed by inspectors, contact the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.
(5) At least 2 days prior to the expected date of arrival of honeybees at a port in the United States, the shipper must notify the APHIS Officer in Charge at the port of arrival of the following: the date of arrival and departure; the name and address of both the shipper and receiver; the quantity of queens and the number of cages of package honeybees in the shipment; and, the name of the airline carrying the shipment.
(f) Any honeybees or honeybee semen offered for import or intercepted entering the United States and not in compliance with this part shall be immediately exported from the United States by the importer or shall be destroyed by an inspector. Pending exportation or destruction, the honeybees or honeybee semen shall be subject to the immediate application of such safeguards against escape of diseases or parasites harmful to honeybees, or undesirable species or subspecies of honeybees, as the inspector determines necessary to prevent the introduction into the United States of diseases or parasites harmful to honeybees, or undesirable species or subspecies of honeybees.

(Approved by the Office of Management and Budget under control number 0579-0072)
[50 FR 25689, June 21, 1985, as amended at 59 FR 656, Jan. 6, 1994; 59 FR 67133, Dec. 29, 1994; 60 FR 6000, Feb. 1, 1995]

§322.2 Definitions.

Terms used in the singular form in this part shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this part, shall be construed respectively, to mean:

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, U.S. Department of Agriculture, or any other officer or employee of the Department to whom authority to act in his or her stead has been or may hereafter be delegated.
Diseases harmful to honeybees. Honeybee diseases, including but not limited to diseases caused by *Aspergillus* spp., *Bacillus* spp., *Ascosphaera* spp., Kashmir virus, and *Saccharomyces* spp.
Honeybee. Any live honeybee of the genus *Apis* in any life stage and the germplasm of honeybees of the genus *Apis,* except honeybee semen.
Import (importation, imported). To import or move into the United States.
Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person authorized by the Deputy Administrator in accordance with the law to enforce the provisions of this part.
Parasites harmful to honeybees. Honeybee parasites, including but not limited to *Varroa jacobsoni, Euvarrao sinhai, Tropilaelaps clareae,* and *Acarapis woodi.*
Person. Any individual, corporation, company, society, association, or any other organized group.
Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Honeybee Act, as amended, and regulations promulgated thereunder.
Restricted article. Any honeybee semen from countries listed in §322.1(c).
Undesirable species of subspecies of honeybees. Apis mellifera adansonii, commonly known as the African honeybee, and its hybrids; and *Apis mellifera capensis,* commonly known as the Cape honeybee.
United States. The States, District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

§322.3 Permits.
(a) A restricted article may be imported only after issuance of a written permit by Plant Protection and Quarantine.
(b) An application for a written permit must be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Biological Assessments and Taxonomic Support, 4700 River Road, Unit 133, Riverdale, Maryland 20737-1236, and should be submitted at least 30 days prior to arrival of the article at the port of entry. The completed application does not have to be on any particular form but must indicate that it is an application for a written permit and include the following information:
(1) Name, address, and telephone number of the importer;
(2) Amount of semen indicated to be imported and species or subspecies of the honeybees from which the semen was collected;
(3) Country or locality of origin;
(4) Intended United States port of entry;
(5) Means of transportation; and
(6) Expected date of arrival.

(c) After receipt and review of the application by Plant Protection and Quarantine, a written permit indicating the applicable conditions in this subpart for importation shall be issued for the importation of the articles specified in the application if such articles appear to be eligible to be imported. Even though a written permit has been issued for the importation of an article, it may be moved into the United States from the port of entry only if all requirements of this subpart are met and only if an inspector at the port of entry does not determine that emergency measures are necessary with respect to such article to assure that diseases or parasites harmful to honeybees and that undesirable species or subspecies of honeybees are not introduced into the United States.
(d) Any permit that has been issued may be withdrawn by an inspector or the Deputy Administrator if he or she determines that the permit holder has not complied with any condition for the use of the permit. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within 20 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal in writing, stating the reasons for the decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve the conflict.

(Approved by the Office of Management and Budget under control number 0579-0072)
[50 FR 25689, June 21, 1985, as amended at 59 FR 67133, Dec. 29, 1994; 59 FR 67610, Dec. 30, 1994]

§322.4 Inspections.

Any restricted article is subject to inspection by an inspector at the time of importation for the purpose of determining whether such article is eligible to be imported.

§322.5 Marking and shipping.
(a) Any restricted article for importation by means other than mail shall at the time of importation bear on the outer container the following information:
(1) Amount of semen and species or subspecies of the honeybees from which the semen was collected,
(2) Country or locality of origin,
(3) Name and address of shipper, owner, or person shipping or forwarding the article,
(4) Name and address of consignee, and
(5) Identifying shipper's mark and number.
(b) Any restricted article for importation by mail must be addressed and mailed to Plant Protection and Quarantine at a place specified in §322.8; must be accompanied by a separate sheet of paper within the package bearing the name, address, and telephone number of the intended recipient; and must bear on the outer container the following information:
(1) Species or subspecies of the honeybees from which the semen was collected,
(2) Country or locality of origin, and
(3) Name and address of shipper, owner, or person shipping or forwarding the article.

(c) Any restricted article must be accompanied at the time of importation by an invoice or packing list indicating the contents of the shipment.

(Approved by the Office of Management and Budget under control number 0579-0072)
[50 FR 25689, June 21, 1985, as amended at 59 FR 67133, Dec. 29, 1994]

§322.6 Arrival notification.

Promptly upon arrival of any restricted article at a port of entry, except for mail shipments, the importer must notify Plant Protection and Quarantine of the arrival by such means as a manifest, Customs entry document, commercial invoice, waybill, a broker's document, or a notice form provided for that purpose.

(Approved by the Office of Management and Budget under control number 0579-0049)

§322.7 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.[2] Plant Protection and Quarantine will not be responsible for any costs or charges, other than those indicated in this section.

[2]Provisions relating to costs for other services of an inspector are contained in 7 CFR part 354.

§322.8 Ports of entry.

(a) Any restricted article may be imported only at a port of entry listed in §319.37-14(b) of this chapter.