

necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of \$100 million or more in any one year. This rule is not “significant regulatory action,” under Executive Order 12866.

#### *B. Reducing Regulation and Controlling Regulatory Costs*

This rule is not an E.O. 13771 regulatory action because it is not significant under E.O. 12866.

#### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. See 5 U.S.C. 603(a) and 604(a). The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires agencies to adjust civil penalties annually. No discretion is allowed. Thus, the RFA does not apply to this final rule.

#### *D. Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))*

This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

#### *E. Unfunded Mandate Reform Act of 1995 (2 U.S.C. 1532)*

This rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

#### *F. E.O. 12630, Takings*

This rule does not have takings implications.

#### *G. E.O. 13132, Federalism*

This rule does not have federalism implications. The rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### *H. E.O. 12988, Civil Justice Reform*

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

- (a) Does not unduly burden the judicial system.
- (b) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (c) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

#### *I. E.O. 13175, Consultation With Indian Tribes*

In accordance with Executive Order 13175, OPM has evaluated this rule and determined that it has no tribal implications.

#### *J. Paperwork Reduction Act*

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

#### **List of Subjects in 5 CFR Part 185**

Program Fraud Civil Remedies, Claims, Penalties, Basis for Civil Penalties and Assessments.

Office of Personnel Management.

**Stephen Hickman,**

*Regulatory Affairs.*

For the reasons set forth in the preamble, amend part 185 of title 5 of the Code of Federal Regulations as follows:

#### **PART 185—PROGRAM FRAUD CIVIL REMEDIES: CIVIL MONETARY PENALTY INFLATION ADJUSTMENT**

- 1. The authority citation for part 185 continues to read:

**Authority:** 28 U.S.C. 2461 note.

#### **§ 185.103 [Amended]**

- 2. Section 185.103 is amended in paragraphs (a) introductory text and

(f)(2) by revising “\$11,181” to read as “\$11,463”.

[FR Doc. 2019–21132 Filed 9–30–19; 8:45 am]

**BILLING CODE 6325–48–P**

## **DEPARTMENT OF AGRICULTURE**

### **Office of the Secretary of Agriculture**

#### **7 CFR Part 1**

#### **Rules of Practice and Procedure Governing Formal Rulemaking Proceedings Instituted by the Secretary**

**AGENCY:** Office of the Secretary of Agriculture, USDA.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Department of Agriculture (USDA or Department) is amending the regulations on the rules of practice and procedure governing formal rulemaking proceedings instituted by the Secretary. This final rule amends the definition of judge so that the term is consistently applied to all USDA formal rulemaking proceedings.

**DATES:** This final rule is effective October 1, 2019.

**FOR FURTHER INFORMATION CONTACT:** Rupa Chilukuri, Trial Attorney, Office of the General Counsel, telephone: 202–720–4982, email: [Rupa.Chilukuri@usda.gov](mailto:Rupa.Chilukuri@usda.gov).

**SUPPLEMENTARY INFORMATION:** USDA is issuing this final rule to amend the definition of judge in the rules of practice and procedure governing formal rulemaking proceedings instituted by the Secretary. The current definition of judge in the rules of practice at 7 CFR 1.802 only includes administrative law judges. To provide the agency with more flexibility in overseeing formal rulemaking proceedings, and to better allocate resources within the Department, we are expanding the definition of judge to be consistent with how that term is defined in the Department’s other rules of practice and procedure applicable to formal rulemaking proceedings (*i.e.*, 7 CFR part 900 (General Regulations) and 7 CFR part 1200 (Rules of Practice and Procedure Governing Proceedings Under Research, Promotion, and Information Programs)). Judge will now be defined as any administrative law judge appointed pursuant to 5 U.S.C. 3105 or any presiding official appointed by the Secretary, and assigned to conduct the proceeding.

**5 U.S.C. 553, 601, and 804**

This final rule modifies a definition in agency rules of practice and procedure. Under the Administrative Procedure Act, prior notice and opportunity for comment are not required for the promulgation of agency rules of practice and procedure. 5 U.S.C. 553(b)(3)(A). Only substantive rules require publication 30 days prior to their effective date. 5 U.S.C. 553(d). Therefore, this final rule is effective upon publication in the **Federal Register**.

Furthermore, under 5 U.S.C. 804, this rule is not subject to congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. In addition, because prior notice and opportunity for comment are not required to be provided for this final rule, this rule is exempt from the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

**Executive Orders 12866 and 13563**

This rule does not meet the definition of a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563. Because this rule is not a significant regulatory action, it has not been reviewed by the Office of Management and Budget.

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

**Executive Order 13771**

Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements of Executive Order 13771. See OMB's Memorandum on "Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, Titled 'Reducing Regulation and Controlling Regulatory Costs'" (February 2, 2017).

**Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative proceedings that must be exhausted before parties may file suit in court challenging this rule.

**Executive Order 13132**

This rule has been reviewed in accordance with the requirements of Executive Order 13132, Federalism. The review reveals that this rule does not contain policies with federalism implications sufficient to warrant federalism consultation under Executive Order 13132.

**Executive Order 13175**

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on tribal governments and would not have significant tribal implications.

**Paperwork Reduction Act**

This rule contains no information collections or recordkeeping requirements under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*].

**List of Subjects in 7 CFR Part 1**

Administrative practice and procedure.

For the reasons set forth in the preamble, 7 CFR part 1 is amended as follows:

**PART 1—ADMINISTRATIVE REGULATIONS****Subpart P—Rules of Practice and Procedure Governing Formal Rulemaking Proceedings Instituted by the Secretary**

- 1. Add an authority citation for subpart P of part 1 to read as follows:

Authority: 5 U.S.C. 301.

- 2. Section 1.802 is amended by revising the definition of "Judge" to read as follows:

**§ 1.802 Definitions.**

\* \* \* \* \*

*Judge* means any administrative law Judge appointed pursuant to 5 U.S.C. 3105 or any presiding official appointed by the Secretary, and assigned to conduct the proceeding.

\* \* \* \* \*

**Stephen Alexander Vaden,**

*General Counsel, Office of the General Counsel.*

[FR Doc. 2019–20585 Filed 9–30–19; 8:45 am]

**BILLING CODE 3410–90–P**

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 51**

[Document Number AMS–SC–18–0055, SC–18–330]

**U.S. Standards for Grades of Apples**

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

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) is amending the U.S. Standards for Grades of Apples by removing smooth net-like russetting as a grade-determining factor in the U.S. Extra Fancy, U.S. Fancy, and U.S. No. 1 grades for Fuji apples. In addition, AMS is removing obsolete references to the location where color standards may be examined and purchased. The changes modernize the standards and meet consumer demand by providing greater marketing flexibility.

**DATES:** Effective October 31, 2019.

**FOR FURTHER INFORMATION CONTACT:**

David G. Horner, Agricultural Marketing Specialist, USDA, AMS, Specialty Crops Program, Specialty Crops Inspection Division, 100 Riverside Parkway, Suite 101, Fredericksburg VA, 22406; phone (540) 361–1120; fax (540) 361–1199; or, email [Dave.Horner@usda.gov](mailto:Dave.Horner@usda.gov). Copies of the revised U.S. Standards for Apples are available at <http://www.regulations.gov> or on the AMS website at <https://www.ams.usda.gov/grades-standards/fruits>.

**SUPPLEMENTARY INFORMATION:** The changes exempt Fuji apples from smooth net-like russetting as a grade-determining factor. These revisions also affect the grade requirements under the Export Apple Act.

**Executive Orders 12866, 13771, and 13563**

This rule does not meet the definition of a significant regulatory action contained in section 3(f) of Executive Order 12866, and is not subject to review by the Office of Management and Budget (OMB). Because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements in Executive Order 13771. See OMB's Memorandum titled "Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs'" (February 2, 2017). Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of