

## Agricultural Marketing Service, USDA

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product or packaging material by means of official identification; (e) regrading or appeal grading of a previously graded product; (f) inspecting dairy plant facilities, equipment, and operations; such as, processing, manufacturing, packaging, repackaging, and quality control; (g) supervision of packaging inspected or graded product; (h) reinspection or appeal inspection; and (i) issuing an inspection or grading certificate or sampling, inspection, or other report related to any of the foregoing.

*Inspector or grader* means any Federal or State employee to whom a license has been issued by the Administrator to perform one or more types of inspection or grading services.

*Inspection or grading office* means the office of any inspector or grader.

*Interested party* means any person financially interested in a transaction involving any inspection or grading service.

*Licensed plant employee* means an employee of an approved plant to whom a license is issued by the Administrator to supervise packaging of officially inspected or graded product, perform laboratory tests, or perform other duties as assigned by the Administrator. A licensed plant employee is not authorized to issue any inspection or grading certificate.

*Product* means butter, cheese (whether natural or processed), milk, cream, milk products (whether dried, frozen, evaporated, stabilized, or condensed), ice cream, dry whey, dry buttermilk, and any other food product, which is prepared or manufactured in whole or in part from any of the aforesaid products, as the Administrator may hereafter designate.

*Person* means any individual, partnership, association, business, trust, corporation, or any organized group of persons, whether incorporated or not.

*Plant survey* means an appraisal of the plant to determine extent to which facilities, equipment, method of operation, and raw material being received are in accordance with the provisions of this part. The survey shall be used to determine suitability of the plant for inspection or grading service.

*Quality* means the inherent properties of any product which determine its relative degree of excellence.

*Regulations* means the provisions of this subpart.

*Sampling report* means a statement issued by an inspector or grader identifying samples taken by him for inspection or grading service.

*Supervisor of packaging* means an employee of the Department or other person licensed by the Administrator to supervise the packaging and official identification of product or any repackaging of bulk product.

(60 Stat. 1087, 7 U.S.C. 1621 *et seq.*; 84 Stat. 1620, 21 U.S.C. 1031 *et seq.*)

[37 FR 22363, Oct. 19, 1972, as amended at 38 FR 4381, Feb. 14, 1973. Redesignated at 42 FR 32514, June 27, 1977, as amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 54 FR 15167, Apr. 17, 1989]

### **§ 58.2 Designation of official certificates, memoranda, marks, identifications, and devices for purpose 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 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 purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) *Official certificate* means any form of certification, either written or printed (including that prescribed in § 58.18) used under the regulations in this subpart to certify with respect to the inspection of dairy processing plants and the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products and packaging material with applicable specifications).

(b) *Official memorandum* means any initial record of findings made by an

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authorized person in the process of inspecting, grading, determining compliance, or sampling pursuant to the regulations in this subpart, any processing or plant-operation report made by an authorized person in connection with inspecting, grading, determining compliance, or sampling under the regulations in this subpart, and any report made by an authorized person of services performed pursuant to the regulations in this subpart.

(c) *Official identification or other official marks* means any form of identification or mark (including, but not limited to, those in §§ 58.49 through 58.51) approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product certifying the inspection, class, grade, quality, size, quantity, or condition of the products (including the compliance of products with applicable specifications) or to maintain the identity of the product for which service is provided under the regulations in this subpart.

(d) *Official device* means a stamping applicance, 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.

#### ADMINISTRATION

### § 58.3 Authority.

The Administrator shall perform such duties as may be required in the enforcement and administration of the provisions of the Act and this part.

#### INSPECTION OR GRADING SERVICE

### § 58.4 Basis of service.

Inspection or grading service shall be performed in accordance with the provisions of this part, the instructions and procedures issued or approved by the Administrator, U.S. standards for grades, Federal specifications, and specifications as defined in a specific purchase contract. All services provided in accordance with these regulations shall be rendered without dis-

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crimination on the basis of race, color, creed, or national origin.

[39 FR 986, Jan. 4, 1974. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 58.5 Where service is offered.

Subject to the provisions of this part, inspection or grading service may be performed when a qualified inspector or grader is available, and when the facilities and conditions are satisfactory for the conduct of the service.

### § 58.6 Supervision of service.

All inspection or grading service shall be subject to supervision by a supervisory inspector or grader, Area Supervisor, or by the Chief, or such other person of the Branch as may be designated by the Chief. Whenever there is evidence that inspection or grading service has been incorrectly performed, a supervisor shall immediately make a reinspection or regrading, and he shall supersede the previous inspection or grading certificate or report with a new certificate or report showing the corrected information.

### § 58.7 Who may obtain service.

An application for inspection or grading service may be made by any interested person, including, but not limited to, the United States, any State, county, municipality, or common carrier, or any authorized agent of the foregoing.

### § 58.8 How to make application.

(a) *On a fee basis.* An application for inspection or grading service may be made in any inspection or grading office or with any inspector or grader. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation may be required.

(b) *On a continuous basis.* Application for inspection or grading service on a continuous basis as provided in § 58.45 shall be made in writing on application forms as approved by the Administrator and filed with the Administrator.