

§ 592.330

the container, but shall not be applied to a detachable cover.

§ 592.330 Unauthorized use or disposition of approved labels.

(a) Containers or labels that bear official identification approved for use pursuant to § 592.300 shall be used only for the purpose for which approved. Any unauthorized use or disposition of approved containers or labels that bear any official identification may result in cancellation of the approval and denial of the use of containers or labels bearing official identification or denial of the benefits of the Act pursuant to the provisions of § 592.200;

(b) The use of simulations or imitations of any official identification by any person is prohibited;

(c) Upon termination of inspection service in an official plant pursuant to the regulations in this part, all labels or packaging material bearing official identification to be used to identify product packed by the plant shall either be destroyed, or have the official identification completely obliterated under the supervision of a USDA representative, or, if to be used at another location, modified in a manner acceptable to the Agency.

§ 592.340 Supervision of marking and packaging.

(a) Evidence of label approval. Inspection program personnel shall authorize the use of official identification on any inspected product when they have evidence that such official identification or packaging material bearing such official identification has been approved in accordance with the provisions of § 592.300.

(b) Affixing of official identification. No official identification may be affixed to or placed on or caused to be affixed to or placed on any product or container thereof except by an inspection program employee or under the supervision of an inspection program employee or other person authorized by the Administrator. All such products shall have been inspected in accordance with the regulations in this part. Inspection program personnel shall have supervision over the use and handling of all material bearing any official identification.

9 CFR Ch. III (1–1–07 Edition)

(c) Labels for products sold under Government contract. Inspectors-in-charge may approve labels for containers of product sold under a contract specification to governmental agencies when such product is not offered for resale to the general public: Provided, that the contract specifications include complete specific requirements with respect to labeling, and are made available to inspection program personnel.

§ 592.350 Accessibility of product.

Each product for which service is requested shall be so placed as to disclose fully its class, quality, quantity, and condition as the circumstances may warrant.

§ 592.360 Certificates.

Certificates (including appeal certificates) shall be issued on forms approved by the Administrator.

§ 592.370 Certificate issuance.

When performing inspection service at locations other than an official establishment, inspection program personnel shall issue a certificate covering each product inspected. An applicant may request issuance of a certificate for each production lot inspected.

§ 592.380 Disposition of certificates.

The original and a copy of each certificate issued pursuant to § 592.370, and not to exceed two additional copies thereof if requested by the applicant prior to issuance, shall, immediately upon issuance, be delivered or mailed to the applicant or designee. Other copies shall be filed and retained in accordance with the disposition schedule for inspection program records.

§ 592.390 Advance information.

Upon request of an applicant, all or part of the contents of any certificate issued to such applicant may be telephoned or transmitted to the applicant or designee, at the applicant's expense.

APPEALS

§ 592.400 Who may request an appeal inspection or review of an inspection program employee's decision.

An appeal inspection may be requested by any interested party who is dissatisfied with the determination by an inspection program employee of the class, quality, quantity, or condition of any product, as evidenced by the USDA inspection mark and accompanying label, or as stated on a certificate and a review may be requested by the operator of an official plant with respect to an inspection program personnel decision or on any other matter related to inspection in the official plant.

§ 592.410 Where to file an appeal.

(a) Appeal of inspection program personnel decision in an official plant. Any interested party who is not satisfied with the determination of the class, quality, quantity, or condition of product that was inspected by inspection program personnel in an official plant and has not left such plant, and the operator of any official plant who is not satisfied with a decision by inspection program personnel on any other matter relating to inspection in such plant, may request an appeal inspection or review of the decision by the inspection program employee by filing such request with the inspection program employee's immediate supervisor.

(b) All other appeal requests. Any interested party who is not satisfied with the determination of the class, quality, quantity, or condition of product that has left the official plant where it was inspected or inspected other than in an official plant may request an appeal inspection by filing such request with the District Manager in the district where the product is located.

§ 592.420 How to file an appeal.

The request for an appeal inspection or review of an inspection program employee's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the identity of the product, the decision which is questioned, and the reasons for requesting the appeal service. If such ap-

peal request is based on the results stated on an official certificate, the original and all copies of the certificate available at the appeal inspection site shall be provided to the appeal inspection program employee assigned to make the appeal inspection.

§ 592.430 When an application for an appeal inspection may be refused.

When it appears to the official with whom an appeal request is filed that the reasons given in the request are frivolous or not substantial, class, quality, quantity, or that the condition of the product has undergone a material change since the original inspection, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal inspection may be refused. In such case, the applicant shall be promptly notified of the reason(s) for refusal.

§ 592.440 Who shall perform the appeal.

(a) An appeal inspection or review of a decision requested under § 592.410(a) shall be made by the inspection program employee's immediate supervisor or by an inspection program employee assigned by the immediate supervisor other than the inspection program employee whose inspection or decision is being appealed.

(b) Appeal inspections requested under § 592.410(b) shall be performed by an inspection program employee other than the inspection program employee who originally inspected the product.

(c) Whenever practical, an appeal inspection shall be conducted jointly by two inspection program employees. The assignment of the inspection program personnel who will make the appeal inspection under § 592.410(b) shall be made by the District Manager.

§ 592.450 Procedures for selecting appeal samples.

(a) *Prohibition on movement of product.* Products shall not have been moved from the place where the inspection being appealed was performed and must have been maintained under adequate refrigeration, when applicable.