

Agricultural Marketing Service, USDA

§ 52.2

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Subpart—Regulations Governing Inspection and Certification

SOURCE: 22 FR 3535, May 22, 1957, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977 and at 46 FR 63203, Dec. 31, 1981.

§ 52.1 Administration of regulations.

(a) The Administrator, Agricultural Marketing Service, United States Department of Agriculture is charged with the administration of the regulations in this part except that he may delegate any or all of such functions to any officer or employee of the Agricultural Marketing Service of the Department, in his discretion.

(b) All services provided under the regulations of this part, including the hiring and licensing of inspection, grading, and sampling personnel shall be conducted without discrimination because of race, color, sex, religion, or national origin.

[22 FR 3535, May 22, 1957, as amended at 38 FR 25166, Sept. 12, 1973. Redesignated at 42 FR 32514, June 27, 1977 and at 46 FR 63203, Dec. 31, 1981]

DEFINITIONS

§ 52.2 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:

Acceptance number. "Acceptance number" means the number in a sam-

pling plan that indicates the maximum number of deviants permitted in a sample of a lot that meets a specific requirement.

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.

Administrator. "Administrator" means the Administrator of the Agricultural Marketing Service.

Applicant. "Applicant" means any interested party who requests inspection service under the regulations in this part.

Approved plant. See "Plant, approved".

Case. "Case" means the number of containers (cased or uncased) which, by the particular industry are ordinarily packed in a shipping container.

Case or shipping case. "Case" or "shipping case" means a unit consisting of a given number of primary containers of the same size, the number and arrangement per unit conforming to customary trade practice. For products not physically assembled into a shipping case (i.e. stacked bright) *case* means simulating the containers in such lot into a unit consisting of the same number of primary containers corresponding to customary trade practice (or corresponding to the unit as defined above).

Certificate of loading. Certificate of loading means a statement, either written or printed, issued pursuant to the regulations in this part, relative to checkloading of a processed product subsequent to inspection thereof. The certificate of loading may be issued in lieu of an official inspection certificate when the same inspection procedures are applied and when authorized by the Administrator.

Certificate of sampling. "Certificate of sampling" means a statement, either written or printed issued pursuant to the regulations in this part, identifying officially drawn samples and may include a description of condition of containers and the condition under which the processed product is stored.

Class. See "Grade."

Condition. "Condition" means the degree of soundness of the product which

may affect its merchantability and includes, but is not limited to those factors which are subject to change as a result of age, improper preparation and processing, improper packaging, improper storage or improper handling.

Department. “Department” means the United States Department of Agriculture.

Deviant. “Deviant” means a sample unit affected by one or more deviations or a sample unit that varies in a specifically defined manner from the requirements of a standard, specification, or other inspection document.

Deviation. “Deviation” means any specifically defined variation from a particular requirement.

Grade or class. “Grade” or “class” designates a level or rank of quality.

Grader. See “Inspector”.

In-plant sampler. In-plant sampler means any employee of the Department authorized by the Administrator to draw samples of processed products and perform a limited number of miscellaneous duties in a plant operating under contract.

Inspection certificate. “Inspection certificate” means a statement, either written or printed, issued pursuant to the regulations in this part, setting forth in addition to appropriate descriptive information relative to a processed product, and the container thereof, the quality and condition, or any part thereof, of the product and may include a description of the conditions under which the product is stored.

Inspection service. (See *Inspection service, general* below.)

Inspection service, general:

(a) The sampling pursuant to the regulations in this part;

(b) The determination pursuant to the regulations in this part of:

(1) Essential characteristics such as style, type, size, sirup density or identity of any processed product which differentiates between major groups of the same kind;

(2) The class, quality and condition of any processed product, including the condition of the container thereof by the examination of appropriate samples;

(c) The issuance of any certificate of sampling, inspection certificates, or

certificates of loading of a processed product, or any report relative to any of the foregoing; or

(d) Performance by an inspector of any related services such as observing the preparation of the product from its raw state through each step in the entire process; observing conditions under which the product is prepared, processed, and packed; or observing plant sanitation as a prerequisite to the inspection of the processed product, either on a continuous or periodic basis, or checkloading the inspected processed product in connection with the distribution or marketing thereof.

Inspection Service; types of. (a) *Lot inspection* means the inspection and grading of specific lots of processed fruits and vegetables which are located in plant warehouses, commercial storage, railway cars, trucks, or any other conveyance or storage facility.

(b) *Approved plant-lot inspection* means the inspection and grading of specific lots of processed fruits and vegetables which are located in plant warehouses, commercial storage, railway cars, trucks, or any other conveyance or storage facility. However, under “approved plant-lot inspection”, the inspection service has knowledge that the products were processed or packaged in plants meeting the “plant approved” definition. This means that the plant facilities, sanitation, and methods of operation have been surveyed and approved for specific product(s) by the Administrator as suitable and adequate for inspection or grading service in accordance with §52.81 through §52.83 of this part.

(c) *Continuous inspection* is the conduct of inspection and grading services in an approved plant whereby one or more inspector(s) are present at all times the plant is in operation to make in-process checks on the preparation, processing, packing, and warehousing of all products under contract and to assure compliance with sanitary requirements.

(d) *Pack certification* is the conduct of inspection and grading services in an approval plant whereby one or more inspector(s) may make inspection of the preparation and processing of products under contract, but are not

required to be present at all times the plant is in operation.

(1) Under a Designated Lot-contract, inspector(s) will grade and certify only those lots designated by the applicant.

(2) Under a Quality Assurance contract, inspector(s) will use information available from the applicant's quality control records to certify lots, as requested, and will grade lots at random as often as necessary to verify the reliability of the applicant's quality control system.

Inspector or grader. "Inspector" or "grader" 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 class, quality and condition of processed products covered in this part and to perform related duties in connection with the inspection service.

Inspector in charge. "Inspector in Charge" means any inspector designated on a plant working shift or in a field office laboratory as the inspector in charge of the inspection work when authorized by the Administrator to act in that capacity.

Inspector, subordinate. "Subordinate inspector" means any inspector assigned to a plant or field office to work under the direction of an inspector-in-charge.

Inspector's aide. "Inspector's aide" means any employee of the Department authorized to perform a limited number and type of duties under the close supervision of an inspector.

Interested party. "Interested party" means any person who has a financial interest in the commodity involved.

Licensed sampler. "Licensed sampler" means any person who is authorized by the Secretary to draw samples of processed products for inspection service, to inspect for identification and condition of containers in a lot, and may, when authorized by the Administrator, perform related services under the act and the regulations in this part.

Lot. Lot means any number of containers of the same size and type which contain a processed product of the same type and style located in the same warehouse or conveyance, and

which is available for inspection service at any time: Provided, that the number of containers comprising lot may not exceed the maximum number specified in the sampling plans in § 52.38 of this Subpart: And further provided that:

(a) If the applicant requests a separate inspection certificate covering a specific portion of a lot, such portion must be separately marked or otherwise identified in such a manner as to permit sampling, inspection, and certification of such portion as a separate lot; and

(b) Under in-plant (in-process) inspection, the inspector is authorized to limit the number of containers of a processed product that may be included in a lot to a period of consecutive production equivalent to one production shift with a maximum of 24 hours of consecutive production.

Officially drawn sample. "Officially drawn sample" means any sample that has been selected from a particular lot by an inspector, licensed sampler, or by any other person authorized by the Administrator pursuant to the regulations in this part.

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), any State, county, or municipal government, any common carrier, and any authorized agent of any of the foregoing.

Plant. "Plant" means the premises, buildings, structure, and equipment (including, but not being limited to machines, utensils, vehicles, and fixtures located in or about the premises) used or employed in the preparation, processing, handling, transporting and storage of fruits and vegetables, or the processed products thereof.

Plant, approved. "Approved plant" means any plant in which the facilities, sanitation, and methods of operation have been surveyed and approved for specific product(s) by the Administrator as suitable and adequate for inspection or grading service in accordance with §§ 52.81 through 52.83.

Processed product. "Processed product" means any fruit, vegetable, or

other food product covered under the regulations in this part which has been preserved by any recognized commercial process, including, but not limited to canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation.

Quality. “Quality” means the inherent properties of any processed product which determine the relative degree of excellence of such product, and includes the effects of preparation and processing, and may or may not include the effects of packing media, or added ingredients.

Rejection number. “Rejection number” means the number in a sampling plan that indicates the minimum number of deviants in a sample that will cause a lot to fail a specific requirement.

Sample. “Sample” means any number of sample units to be used for inspection.

Sample unit. “Sample unit” means a container and/or its entire contents, a portion of the contents of one or more containers or other unit of commodity, or a composite mixture of a product used for inspection.

Sampling. “Sampling” means the act of selecting samples of processed products for the purpose of inspection under the regulations in this part.

Secretary. “Secretary” means the Secretary of the Department or any other officer or employee of the Department authorized to exercise the powers and to perform the duties of the Secretary in respect to the matters covered by the regulations in this part.

Shipping container. “Shipping container” means an individual container designed for shipping a number of packages or cans ordinarily packed in a container for shipping or designed for packing unpackaged processed products for shipping.

Unofficial sample. Unofficial sample means any sample that has been selected by any person other than an inspector or licensed sampler, or by any other person not authorized by the Ad-

ministrator pursuant to the regulations in this part.

[22 FR 3535, May 22, 1957, as amended at 33 FR 9582, July 2, 1968; 35 FR 14061, Sept. 4, 1970; 38 FR 25166, Sept. 12, 1973; 38 FR 26903, Sept. 27, 1973; 40 FR 48934, Oct. 20, 1975. Re-designated at 42 FR 32514, June 27, 1977 and at 46 FR 63203, Dec. 31, 1981, and further amended at 51 FR 20438, June 5, 1986; 58 FR 42413, Aug. 9, 1993]

§ 52.3 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 purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

Official certificate. “Official certificate” means any form of certification, either written or printed, including those defined in § 52.2, used under this part to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

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 United States Department of Agriculture grade standards and to facilitate conduct of the inspection service.