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other person not authorized by the Administrator 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. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981, and 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.

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.

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 § 52.53 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.

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.

[22 FR 3535, May 22, 1957, as amended at 23 FR 4999, July 1, 1958. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

INSPECTION SERVICE

§ 52.4 Where inspection service is offered.

Inspection service may be furnished wherever any inspector or licensed sampler is available and the facilities and conditions are satisfactory for the conduct of such service.

§ 52.5 Who may obtain inspection service.

An application for inspection service may be made by any interested party,

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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.

§ 52.6 How to make application.

An application for inspection service may be made to the office of inspection or to any inspector, at or nearest the place where the service is desired. An up-to-date list of the Inspection Field Offices of the Department may be obtained upon request to the Administrator. Satisfactory proof that the applicant is an interested party shall be furnished.

§ 52.7 Information required in connection with application.

(a) Application for inspection service shall be made in the English language and may be made orally (in person or by telephone), in writing, or by telegraph. If an application for inspection service is made orally, written confirmation may be required by the inspection service involved.

(b) In connection with each application for inspection service, there shall be furnished such information as may be necessary to perform an inspection on the processed product(s), including but not limited to, the name of the product, name and address of the packer or plant where such product was packed, the location of the product, its lot or car number, codes or other identification marks, the number of containers, the type and size of the containers, the interest of the applicant in the product, whether the lot has been inspected previous to the application by any Federal agency and the purpose for which inspection is desired.

[51 FR 20439, June 5, 1986]

§ 52.8 Filing of application.

An application for inspection service shall be regarded as filed only when made in accordance with the regulations in this part.

§ 52.9 Record of filing time.

A record showing the date when each application for inspection or for an ap-

peal inspection is received shall be maintained.

[51 FR 20439, June 5, 1986]

§ 52.10 When application may be rejected.

An application for inspection service may be rejected by the Administrator (a) for non-compliance by the applicant with the regulations in this part, (b) for non-payment for previous inspection services rendered, (c) when the product is not properly identifiable by code or other marks, or (d) when it appears that to perform the inspection service would not be to the best interests of the Government. Such applicant shall be promptly notified of the reason for such rejection.

§ 52.11 When application may be withdrawn.

An application for inspection service may be withdrawn by the applicant at any time before the inspection is performed: *Provided*, That, the applicant shall pay at the hourly rate prescribed in § 52.42 for the time incurred by the inspector in connection with such application, any travel expenses, telephone, telegraph or other expenses which have been incurred by the inspection service in connection with such application.

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

§ 52.12 Disposition of inspected sample.

Any sample of a processed product that has been used for inspection may be returned to the applicant, at his request and expense; otherwise it shall be destroyed, or disposed of to a charitable institution.

§ 52.13 Basis of inspection and grade or compliance determination.

(a) Inspection service shall be performed on the basis of the appropriate United States standards for grades of processed products, Federal, Military, Veterans Administration or other government agency specifications, written contract specifications, or any written specification or instruction which is approved by the Administrator.