

## Agricultural Marketing Service, USDA

## § 70.42

notice is not given, the suspension action shall be promptly confirmed in writing and the reasons therefor shall be stated, except in instances where the person has already corrected the deficiency. Such service, after appropriate corrective action is taken, will be restored immediately, or as soon thereafter as a grader can be made available. During such period of suspension, grading service shall not be rendered. However, the other provisions of the regulations pertaining to providing service on a resident basis will remain in effect unless such service is terminated in accordance with the provisions of this part.

(c) If the grading facilities or methods of operation are not brought into compliance within a reasonable period of time as specified by the Administrator, the Administrator shall initiate withdrawal action pursuant to the Rules of Practice Governing Formal Adjudicatory Proceedings and Grading Service (7 CFR part 1, subpart H), and the operator shall be afforded an opportunity for an oral hearing upon the operator's written request in accordance with such Rules of Practice, with respect to the merits or validity of the withdrawal action, but any suspension shall continue in effect pending the outcome of such hearing unless otherwise ordered by the Administrator. Upon withdrawal of grading service in an official plant, the plant approval shall also become terminated, and all labels, seals, tags, or packaging material bearing official identification shall, under the supervision of a person designated by the AMS, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the AMS.

(d) In any case where grading service is withdrawn under this § 70.38, the person concerned may thereafter apply for grading service as provided in §§ 70.30 through 70.37 of these regulations.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, as amended at 43 FR 60139, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 71 FR 42013, July 24, 2006]

### § 70.39 Form of application.

Each application for grading or sampling a specified lot of any product

shall include such information as may be required by the Administrator in regard to the product and the premises where such product is to be graded or sampled.

[71 FR 42013, July 24, 2006]

### DENIAL OF SERVICE

#### § 70.40 Debarment.

The acts or practices set forth in §§ 70.41 through 70.46, or the causing thereof, may be deemed sufficient cause for the debarment by the Administrator of any person, including any agents, officers, subsidiaries, or affiliates of such person, from all benefits of the act for a specified period. The Rules of Practice Governing Formal Adjudicatory Proceedings (7 CFR part 1, subpart H) shall be applicable to such debarment action.

[71 FR 42013, July 24, 2006]

#### § 70.41 Misrepresentation, deceptive, or fraudulent act or practice.

Any willful misrepresentation or any deceptive or fraudulent act or practice found to be made or committed by any person in connection with:

(a) The making or filing of any application for any grading service, appeal or regrading service;

(b) The making of the product accessible for sampling or grading;

(c) The making, issuing, or using, or attempting to issue or use any grading certificate, symbol, stamp, label, seal, or identification, authorized pursuant to the regulations in this part;

(d) The use of the terms "United States" or "U.S." in conjunction with the grade of the product;

(e) The use of any of the aforesaid terms or any official stamp, symbol, label, seal, or identification in the labeling or advertising of any product.

[41 FR 23681, June 11, 1976; 41 FR 24693, June 18, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 71 FR 42014, July 24, 2006]

#### § 70.42 Use of facsimile forms.

Using or attempting to use a form which simulates in whole or in part any certificate, symbol, stamp, label, seal, or identification authorized to be

## § 70.43

issued or used under the regulations in this part.

### § 70.43 Willful violation of the regulations.

Any willful violation of the regulations in this part or the Act.

### § 70.44 Interfering with a grader or employee of Service.

Any interference with or obstruction or any attempted interference or obstruction of, or assault upon any grader, licensee, or employee of the Service in the performance of such employee's duties. The giving or offering, directly or indirectly, of any money, loan, gift, or anything of value to an employee of the Service, or the making or offering of any contribution to or in any way supplementing the salary, compensation, or expenses of an employee of the Service, or the offering or entering into a private contract or agreement with an employee of the Service for any services to be rendered while employed by the Service.

[41 FR 23681, June 11, 1976; 41 FR 24693, June 18, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 71 FR 42014, July 24, 2006]

### § 70.45 Misleading labeling.

The use of the terms "Government Graded" and "Federal-State Graded" or terms of similar import in the labeling or advertising of any product without stating in the labeling or advertisement the U.S. grade of the product as determined by an authorized grader.

### § 70.46 Miscellaneous.

The existence of any of the conditions set forth in § 70.35 constituting a basis for the rejection of an application for grading service.

## IDENTIFYING AND MARKING PRODUCTS

### § 70.50 Approval of official identification and wording on labels.

Any label or packaging material which bears any official grade identification shall be used only in such a manner as the Administrator may prescribe, and such labeling or packaging materials, including the wording used on such materials, shall be approved in

## 7 CFR Ch. I (1-1-07 Edition)

accordance with and conform with the provisions of this part 70 and the applicable provisions of §§ 381.115 through 381.141 of 9 CFR part 381. Poultry Products Inspection Regulations. Labeling requirements for ready-to-cook rabbits, except for the product name, shall be the same as for ready-to-cook poultry. For ready-to-cook rabbits the class name shall be shown on the label. The appropriate designation, "young," "mature," or "old," may be used as a prefix to the word "rabbit" in lieu of the class name.

[41 FR 23681, June 11, 1976; 41 FR 24694, June 18, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 70.51 Form of grademark and information required.

(a) *Form of official identification symbol and grademark.* (1) The shield set forth in Figure 1 of this section shall be the official identification symbol for purposes of this part and when used, imitated, or simulated in any manner in connection with poultry or rabbits, shall be deemed prima facie to constitute a representation that the product has been officially graded for the purposes of § 70.2.

(2) Except as otherwise authorized, the grademark permitted to be used to officially identify USDA consumer-graded poultry and rabbit products shall be of the form and design indicated in Figures 2 through 4 of this section. The shield shall be of sufficient size so that the printing and other information contained therein is legible and in approximately the same proportion as shown in these figures.

(3) The "Prepared From" grademark in Figure 5 of this section may be used to identify specialized poultry products for which there are no official U.S. grade standards, provided that these products are approved by the Agency and are prepared from U.S. Consumer Grade A poultry carcasses, parts, or other products that comply with the requirements of AMS § 70.220. All poultry products shall be processed and labeled in accordance with 9 CFR part 381.

(b) *Information required on grademark.* (1) Except as otherwise authorized by the Administrator, each grademark