

for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government. When the appeal inspector assigns a different class to the lot or determines that a net weight shortage exists, the lot shall be retained pending correction of the labeling or approval of the product disposition by the National Supervisor.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 60 FR 49169, Sept. 21, 1995]

#### § 590.370 Cost of appeals.

(a) There shall be no cost to the appellant when the appeal inspection discloses a material error was made in the original determination.

(b) The costs of an appeal shall be borne by the appellant at an hourly rate of \$27.36, including travel time and expenses if the appeal was frivolous, including but not being limited to the following: The appeal inspection discloses that no material error was made in the original inspection, the condition of the product has undergone a material change since the original inspection, the original lot has changed in some manner, or the Act or these regulations have not been complied with.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, as amended at 46 FR 49571, Oct. 7, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 58 FR 57539, Oct. 26, 1993; 59 FR 52636, Oct. 18, 1994]

#### CERTIFICATES

#### § 590.400 Form of certificates.

All certificates shall be issued on forms approved by the Administrator.

#### § 590.402 Egg products inspection certificates.

(a) Upon request of the applicant or the Service, any inspector is authorized to issue an egg products inspection certificate with respect to any lot of egg products inspected by him. In addition, an inspector is authorized to issue

an inspection certificate covering product inspected in whole or in part by another inspector when the inspector has knowledge that the product is eligible for certification based on personal examination of the product or official inspection records.

(b) Each egg products inspection certificate shall show the name and address of the processor, the class and quantity of the egg products covered by such certificate, such shipping marks as are necessary to identify such products, all pertinent information concerning the wholesomeness thereof, and such other information as the Administrator may prescribe or approve.

#### § 590.404 Erasures or alterations made on official certificates.

Erasures or alterations shall be initialed by the issuing inspector on the original certificate and any copy thereof. All certificates made useless through clerical error or otherwise and all certificates canceled for whatever cause shall be voided and initialed and the original and all other copies shall be forwarded as prescribed by the Administrator.

#### § 590.406 Disposition of official certificates.

The original and up to two copies of each official certificate shall be issued to the applicant or person designated by him. Other copies shall be filed and retained in accordance with the disposition schedule for inspection program records.

#### IDENTIFYING AND MARKING PRODUCT

#### § 590.410 Shell eggs and egg products required to be labeled.

(a) All shell eggs packed into containers destined for the ultimate consumer shall be labeled to indicate that refrigeration is required, e.g., "Keep Refrigerated," or words of similar meaning.

(b) Containers and portable tanks of edible egg products, prior to leaving the official plant, shall be labeled in accordance with §§ 590.411 through 590.415 and shall bear the official identification shown in Figure 2 of § 590.412 or Figure 3 or 4 of § 590.415. Bulk transport shipments of liquid pasteurized

## § 590.411

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egg products to nonofficial outlets need not be sealed. Bulk shipments of liquid egg products transported from one official plant to another shall be sealed and accompanied by an official certificate.

[40 FR 20058, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 63 FR 45675, Aug. 27, 1998]

### **§ 590.411 Requirement of formulas and approval of labels for use in official egg products plants.**

(a) No label, container, or packaging material which bears official identification may bear any statement that is false or misleading. Any label, container, or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe. No label, container, or packaging material bearing official identification may be used unless it is approved by the Administrator in accordance with paragraph (b) of this section. The use of finished labels must be approved as prescribed by the Administrator. If the label is printed on or otherwise applied directly to the container or packaging material, the principal display panel thereof shall be considered as the label.

(b) No label, container, or packaging material bearing official identification may be printed or prepared for use until the printers' or other final proof has been approved by the Administrator in accordance with the regulations in this part, the Egg Products Inspection Act, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, and the regulations promulgated under these acts. Copies of each label submitted for approval shall be accompanied by:

(1) A statement showing by their common or usual names the kinds and percentages of the ingredients comprising the egg product. A range may be given in cases where the percentages may vary from time to time. Formulas are to be expressed in terms of a liquid product except for products which are dry blended. Also, for products to be dried, the label may show the ingredients in the order of descending proportions by weight in the dried form. However, the formula submitted must in-

clude the percentage of ingredients in both liquid and dried form.

(2) When required, scientific data demonstrating that the substance or mixture is safe and effective for its intended use and does not promote deception or cause the product to be otherwise adulterated or misbranded.

(c) Containers of product bearing official identification shall display the following information:

(1) The common or usual name, if any, and if the product is comprised of two or more ingredients, such ingredients shall be listed in the order of descending proportions by weight in the form in which the product is to be marketed (sold), except that ingredients in dried products (other than dry blended) may be listed in either liquid or dried form. When water (excluding that used to reconstitute dehydrated ingredients back to their normal composition) is added to a liquid or frozen egg product or to an ingredient of such products (in excess of the normal water content of that ingredient), the total amount of water added, including the water content of any cellulose or vegetable gums used, shall be expressed as a percentage of the total product weight in the ingredient statement on the label.

(2) The name, address, and ZIP code of the packer or distributor. When the distributor is shown, it shall be qualified by such terms as "packed for," "distributed by," or "distributors";

(3) The lot number or approved alternative code number indicating date of production;

(4) The net contents;

(5) Official identification and plant number;

(6) Egg products which are produced in an official plant from edible shell eggs of other than current production or from other egg products produced from shell eggs of other than current production, shall be clearly and distinctly labeled in close proximity to the common or usual name of the product, e.g., "Manufactured from eggs of other than current production";

(7) Egg products produced from edible shell eggs or the egg product produced from such shell eggs of the turkey, duck, goose, or guinea shall be clearly