§ 58.1

Supplemental Specifications for Plants Manufacturing, Processing and Packaging Evaporated and Condensed Milk or Ultra-Pasteurized Products

Definitions

58.905 Meaning of words. For the purpose of the regulations in this subpart, words in the singular form shall be deemed to import the plural and vice versa, as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning:


Administrator means the Administrator of the Agricultural Marketing Service or any other officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

Agricultural Marketing Service or AMS means the Agricultural Marketing Service of the Department.

Applicant means any interested party who has applied for inspection or grading service.

Approved laboratory means a laboratory in which the facilities and equipment used for official testing have been adequate to perform the necessary official tests in accordance with this part.

Approved plant means one or more adjacent buildings, or parts thereof, comprising a single plant at one location in which the facilities and methods of operation therein have been surveyed and approved by the Administrator as suitable and adequate for inspection or grading service in accordance with this part.

Note: Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products


Definitions

§ 58.1 Meaning of words.

For the purpose of the regulations in this subpart, words in the singular form shall be deemed to import the plural and vice versa, as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning:


Administrator means the Administrator of the Agricultural Marketing Service or any other officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

Agricultural Marketing Service or AMS means the Agricultural Marketing Service of the Department.

Applicant means any interested party who has applied for inspection or grading service.

Approved laboratory means a laboratory in which the facilities and equipment used for official testing have been adequate to perform the necessary official tests in accordance with this part.

Approved plant means one or more adjacent buildings, or parts thereof, comprising a single plant at one location in which the facilities and methods of operation therein have been surveyed and approved by the Administrator as suitable and adequate for inspection or grading service in accordance with this part.
Agricultural Marketing Service, USDA § 58.1

Area Supervisor means any employee of the Branch in charge of dairy inspection or grading service in a designated geographical area.

Branch means the Dairy Inspection Branch of the Poultry and Dairy Quality Division.

Chief means the Chief of the Branch, or any officer or employee of the Branch to whom authority has been heretofore delegated, or to whom authority may hereafter be delegated, to act in his stead.

Class means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind or method of processing.

Condition of container means the degree of acceptability of the container with respect to freedom from defects which affect its serviceability, including appearance as well as usability, of the container for its intended purpose.

Condition of product or condition is an expression of the extent to which a product is free from defects which affect its usability, including but not limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food.

Continuous resident service or resident service is inspection or grading service performed at a dairy manufacturing plant or grading station by an inspector or grader assigned to the plant or station on a continuous, year-round, resident basis.

Department or USDA means the U.S. Department of Agriculture.

Director means the Director of the Poultry and Dairy Quality Division, or any other officer or employee of the Division to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

Division means the Poultry and Dairy Quality Division of the Agricultural Marketing Service.

Inspection or grading service or service means in accordance with this part, the act of (a) drawing samples of any product; (b) determining the class, grade, quality, composition, size, quantity, or condition of any product by examining each unit or representative samples; (c) determining condition of product containers; (d) identifying any product or packaging material by means of official identification; (e) regrading or appeal grading of a previously graded product; (f) inspecting dairy plant facilities, equipment, and operations; such as, processing, manufacturing, packaging, repackaging, and quality control; (g) supervision of packaging inspected or graded product; (h) reinspection or appeal inspection; and (i) issuing an inspection or grading certificate or sampling, inspection, or other report related to any of the foregoing.

Inspector or grader means any Federal or State employee to whom a license has been issued by the Administrator to perform one or more types of inspection or grading services.

Inspection or grading office means the office of any inspector or grader.

Interested party means any person financially interested in a transaction involving any inspection or grading service.

Licensed plant employee means an employee of an approved plant to whom a license is issued by the Administrator to supervise packaging of officially inspected or graded product, perform laboratory tests, or perform other duties as assigned by the Administrator. A licensed plant employee is not authorized to issue any inspection or grading certificate.

Product means butter, cheese (whether natural or processed), milk, cream, milk products (whether dried, frozen, evaporated, stabilized, or condensed), ice cream, dry whey, dry buttermilk, and any other food product, which is prepared or manufactured in whole or in part from any of the aforesaid products, as the Administrator may hereafter designate.

Person means any individual, partnership, association, business, trust, corporation, or any organized group of persons, whether incorporated or not.

Plant survey means an appraisal of the plant to determine extent to which facilities, equipment, method of operation, and raw material being received are in accordance with the provisions of this part. The survey shall be used to determine suitability of the plant for inspection or grading service.
§ 58.2

Quality means the inherent properties of any product which determine its relative degree of excellence.

Regulations means the provisions of this subpart.

Sampling report means a statement issued by an inspector or grader identifying samples taken by him for inspection or grading service.

Supervisor of packaging means an employee of the Department or other person licensed by the Administrator to supervise the packaging and official identification of product or any re-packaging of bulk product.


§ 58.2 Designation of official certificates, memoranda, marks, identifications, and devices for purpose 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 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:

(a) Official certificate means any form of certification, either written or printed (including that prescribed in §58.18) used under the regulations in this subpart to certify with respect to the inspection of dairy processing plants and the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products and packaging material with applicable specifications).

(b) Official memorandum means any initial record of findings made by an authorized person in the process of inspecting, grading, determining compliance, or sampling pursuant to the regulations in this subpart, any processing or plant-operation report made by an authorized person in connection with inspecting, grading, determining compliance, or sampling under the regulations in this subpart, and any report made by an authorized person of services performed pursuant to the regulations in this subpart.

(c) Official identification or other official marks means any form of identification or mark (including, but not limited to, those in §§58.49 through 58.51) approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product certifying the inspection, class, grade, quality, size, quantity, or condition of the products (including the compliance of products with applicable specifications) or to maintain the identity of the product for which service is provided under the regulations in this subpart.

(d) 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.

ADMINISTRATION

§ 58.3 Authority.

The Administrator shall perform such duties as may be required in the enforcement and administration of the provisions of the Act and this part.

INSPECTION OR GRADING SERVICE

§ 58.4 Basis of service.

Inspection or grading service shall be performed in accordance with the provisions of this part, the instructions and procedures issued or approved by the Administrator, U.S. standards for grades, Federal specifications, and specifications as defined in a specific
§ 58.12 When application may be rejected.

An application for inspection or grading service may be rejected by the Administrator (a) when the applicant fails to meet the requirements of the regulations in this subpart prescribing the conditions under which the service is made available; (b) when the product is owned by, or located on the premises of, a person currently denied the benefits of the Act; (c) when an individual holding office or a responsible position with or having a substantial financial interest or share with the applicant is currently denied the benefits of the Act or was responsible in whole or in part for the current denial of the benefits of the Act to any person; (d) when the application is an attempt on the part of a person currently denied the benefits of the Act to obtain inspection or grading service; (e) when the product was produced from unwholesome raw material or was produced under insanitary or otherwise unsatisfactory conditions; (f) when the product is of illegal composition or is lacking satisfactory keeping quality; (g) when the product has been produced in a plant which has not been surveyed and approved for inspection.
§ 58.13 When application may be withdrawn.

An application for inspection or grading service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by AMS in connection with such application.

§ 58.14 Authority of applicant.

Proof of the authority of any person applying for any inspection or grading service may be required in the discretion of the Administrator.

§ 58.15 Accessibility and condition of product.

Each lot of product for which inspection or grading service is requested shall be so conditioned and placed as to permit selection of representative samples and proper determination of the class, grade, quality, quantity, or condition of such product. In addition, if sample packages are furnished by the applicant, such samples shall be representative of the lot to be inspected or graded and additional samples shall be made available for verification. The room or area where the service is to be performed shall be clean and sanitary, free from foreign odors, and shall be provided with adequate lighting, ventilation, and temperature control.

§ 58.16 Disposition of samples.

Any sample of product used for inspection or grading may be returned to the applicant at his request and at his expense if such request was made at the time of the application for the service. In the event the aforesaid request was not made at the time of application for the service, the sample of product may be destroyed, disposed of to a charitable organization, or disposed of by any other method prescribed by the Administrator.

§ 58.17 Order of service.

Inspection or grading service shall be performed, insofar as practicable and subject to the availability of qualified inspectors or graders, in the order in which applications are made except that precedence may be given to any application for an appeal inspection or grading.

§ 58.18 Inspection or grading certificates, memoranda, or reports.

Inspection or grading certificates and sampling, plant survey, and other memoranda or reports shall be issued on forms approved by the Administrator.

§ 58.19 Issuance of inspection or grading certificates.

An inspection or grading certificate shall be issued to cover a product inspected or graded in accordance with Instructions issued by the Administrator and shall be signed by an inspector or grader. This does not preclude an inspector or grader from granting a power of attorney to another person to sign in his stead, if such grant of power of attorney has been approved by the Administrator: Provided, That in all cases any such certificate shall be prepared in accordance with the facts set forth in the official memorandum defined in § 58.2(b); And provided further, that whenever a certificate is signed by a person under a power of attorney the certificate should so indicate. The signature of the holder of the power shall appear in conjunction with the name of the grader or inspector who personally graded or inspected the product.

§ 58.20 Disposition of inspection or grading certificates or reports.

The original of any inspection or grading certificate or report issued pursuant to § 58.19, and not to exceed four copies thereof, shall immediately upon issuance be delivered or mailed to the applicant or person designated by him. One copy shall be filed in the inspection and grading office serving the
§ 58.21 Advance information.

Upon request of an applicant, all or part of the contents of any inspection or grading certificate or report issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at applicant’s expense.

§ 58.22 When appeal inspection or grading may be requested.

(a) An application for an appeal inspection or grading may be made by any interested party who is dissatisfied with any determination stated in any inspection or grading certificate or report if the identity of the samples or the product has not been lost; or the conditions under which inspection service was performed have not changed. Such application for appeal inspection or grading shall be made within 2 days following the day on which the service was performed. Upon approval by the Administrator, the time within which an application for an appeal grading may be made may be extended.

(b) An appeal inspection shall be limited to a review of the sampling procedure and in analysis of the official sample used, when, as a result of the original inspection, the commodity was found to be contaminated with filthy, putrid, and decomposed material. If it is determined that the sampling procedures were improper, a new sample shall be obtained.

§ 58.23 How to obtain appeal inspection or grading.

Appeal inspection or grading may be obtained by filing a request therefore, (a) with the Administrator, (b) with the inspector or grader who issued the inspection or grading certificate or report with respect to which the appeal service is requested, or (c) with the supervisor of such inspector or grader. The application for appeal inspection or grading shall state the reasons therefore, and may be accompanied by a copy of the aforesaid inspection or grading certificate or report or any other information the applicant may have secured regarding the product or the service from which the appeal is requested. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation may be required.

§ 58.24 Record of filing time.

A record showing the date and hour when each such application for appeal inspection or grading is received shall be maintained in such manner as the Administrator may prescribe.

§ 58.25 When an application for appeal inspection or grading may be refused.

The Administrator may refuse an application for an appeal inspection or grading when (a) the quality or condition of the products has undergone a material change since the time of original service, (b) the identical products inspected or graded cannot be made accessible for reinspection or regrading, (c) the conditions under which inspection service was performed have changed, (d) it appears that the reasons for an appeal inspection or grading are frivolous or not substantial, or (e) the Act or this part have not been complied with. The applicant shall be promptly notified of the reason for such refusal.

§ 58.26 When an application for an appeal inspection or grading may be withdrawn.

An application for appeal inspection or grading may be withdrawn by the applicant at any time before the appeal inspection or grading is made upon payment, by the applicant, of all expenses incurred by AMS in connection with such application.

§ 58.27 Order in which appeal inspections or gradings are performed.

Appeal inspections or gradings shall be performed, insofar as practicable, in...
§ 58.28

the order in which applications there- 
for are received; and any such applica-
tion may be given precedence pursuant 
to § 58.17.

§ 58.28 Who shall make appeal inspec-
tions or gradings.

An appeal inspection or grading of 
any product or service shall be made by 
any inspector or grader (other than the 
one from whose service the appeal is 
made) designated for this purpose by 
the Administrator; and, whenever prac-
tical, such appeal inspection or grading 
shall be conducted jointly by two such 
inspectors or graders.

§ 58.29 Appeal inspection or grading 
certificate or report.

Immediately after an appeal inspec-
tion or grading has been completed, an 
appeal inspection or grading certificate 
or report shall be issued showing the 
results of the inspection or grading. 
Such certificate or report shall there-
upon supersede the previous certificate 
or report and will be effective retro-
active to the date of the previous cer-
tificate or report. Each appeal certifi-
cate or report shall clearly set forth 
the number and date of the pre-
vious certificate or report which it su-
persedes. The provisions of §§ 58.18 
through 58.21 shall, whenever applica-
ble, also apply to appeal certificates or 
reports except that copies shall be fur-
nished each interested party of record.

§ 58.30 Application for reinspection or 
regrading.

An application for the reinspection 
or regrading of any previously in-
spected or graded product may be made 
at any time by any interested party; 
and such application shall clearly indi-
cate the reasons for requesting the re-
inspection or regrading. The provisions 
of the regulations in this subpart rel-
ative to inspection or grading service 
shall apply to reinspection or regrading 
service.

§ 58.31 Reinspection or regrading cer-
tificate or report.

Immediately after a reinspection or 
regrading has been completed, a rein-
spection or a regrading certificate or 
report shall be issued showing the re-
sults of such reinspection or regrading; 
and such certificate or report shall 
thereupon supersede, as of the time of 
issuance, the inspection or grading cer-
tificate or report previously issued. 
Each reinspection or regrading certifi-
cate or report shall clearly set forth 
the number and date of the inspection 
or grading certificate or report that it 
supersedes. The provisions of §§ 58.18 
through 58.21 shall, whenever applica-
ble, also apply to reinspection or re-
grading certificates or reports except 
that copies shall be furnished each in-
terested party of record.

§ 58.32 Superseded certificates or re-
ports.

When any inspection or grading cer-
tificate or report is superseded in ac-
cordance with this part, such certifi-
cate or report shall become null and 
void and, after the effective time of the 
supersedure, shall no longer represent 
the class, grade, quality, quantity, or 
condition described therein. If the 
original and all copies of such super-
seded certificate or report are not re-
turned to the inspector or grader 
issuing the reinspection or regrading 
or appeal inspection or grading certificate 
or report, the inspector or grader shall 
notify such persons as he considers 
necessary to prevent fraudulent use of 
the superseded certificate or report.

LICENSING OF INSPECTORS OR GRADERS

§ 58.33 Who may be licensed.

Any person processing proper quali-
fications, as determined by an exam-
ination for competency, held at such 
time and in such manner as may be 
prescribed by the Administrator, may 
be licensed to perform specified inspec-
tion or grading service. Each license 
issued shall be signed by the Adminis-
trator.

(53 FR 20278, June 3, 1988)

§ 58.34 Suspension or revocation of li-
cense.

For good cause and in instances of 
willful wrongdoing, the Administrator 
may suspend any license issued under 
the regulations in this subpart by giv-
ing notice of such suspension to the re-
spective individual involved, accom-
panied by a statement of reasons there-
for. Within 10 days after receipt of the
Agricultural Marketing Service, USDA

§ 58.42 Payment of travel expenses and other charges.

Charges shall be made to cover the cost of travel and other expenses incurred by AMS in connection with the aforesaid notice and statement of reasons by such individual, he may file an appeal in writing with the Administrator supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. In conjunction therewith, he may request and, in such event, shall be accorded an oral hearing. After consideration of such argument and evidence, the Administrator will take such action as warranted with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license is revoked.

§ 58.35 Surrender of license.

Each license which is suspended or revoked shall be surrendered promptly by the licensee to his supervisor. Upon termination of the services of a licensee, the license shall be surrendered promptly by the licensee to his supervisor.

§ 58.36 Identification.

Each licensee shall have his license card in his possession at all times while performing any function under the regulations in this subpart and shall identify himself by such card upon request.

§ 58.37 Financial interest of licensees.

No licensee shall render service on any product in which he is financially interested.

FEES AND CHARGES

§ 58.38 Payment of fees and charges.

(a) Fees and charges for any inspection or grading service shall be paid by the interested party, making the application for such service, in accordance with the applicable provisions of this section and §§58.39 through 58.46 and, if so required by the inspector or grader, such fees and charges shall be paid in advance.

(b) Fees and charges for any inspection or grading service performed by any inspector or grader who is a salaried employee of the Department shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by the interested party making application for such inspection or grading service by check, draft, or money order payable to the Agricultural Marketing Service and remitted promptly to the office indicated on the bill.

(c) Fees and charges for any inspection or grading service under a cooperative agreement with any State or person shall be paid in accordance with the terms of the cooperative agreement by the interested party making application for the service.

§ 58.39 Fees for holiday or other nonworktime.

If an applicant requests that inspection or grading service be performed on a holiday, Saturday, or Sunday or in excess of each 8-hour shift Monday through Friday, he shall be charged for such service at a rate of 1 1/2 times the rate which would be applicable for such service if performed during normal working hours.

§ 58.40 Fees for appeal inspection or grading.

The fees to be charged for any appeal inspection or grading shall be double the fees specified on the inspection or grading certificate from which the appeal is taken: Provided, That the fee for any appeal grading requested by any agency of the U.S. Government shall be the same as set forth in the certificate from which the appeal is taken. If the result of any appeal inspection or grading discloses that a material error was made in the inspection or grading appealed from, no fee shall be required.

§ 58.41 Fees for additional copies of certificates.

Additional copies of any inspection or grading certificates (including take-off certificates), other than those provided for in §58.20 may be supplied to any interested party upon payment of a fee based on time required to prepare such copies at the hourly rate specified in §58.43.

[54 FR 15167, Apr. 17, 1989]

§ 58.42 Travel expenses and other charges.

Charges shall be made to cover the cost of travel and other expenses incurred by AMS in connection with the
§ 58.43 Fees for inspection, grading, sampling, and certification.

Except as otherwise provided in §§ 58.38 through 58.46 and through the last day of January 2014 inclusive, charges shall be made for inspection, grading, and sampling service at the hourly rate of $75.00 for services performed between 6 a.m. and 6 p.m. and at $82.40 for services performed between 6 p.m. and 6 a.m. for service performed for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports and the travel time of the inspector or grader in connection with the performance of the service. Starting the first day of February 2014, the hourly rate will be equal to $82.00 for service performed between 6 a.m. and 6 p.m. and $90.20 for services performed between 6 p.m. and 6 a.m. calculated in the same manner. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued. Charges for service performed in excess of the assigned tour of duty shall be made at a rate of 1 1/2 times the rate stated in this section.

§ 58.45 Fees for continuous resident services.

Irrespective of the fees and charges provided in §§ 58.39 and 58.43, charges for the inspector(s) and grader(s) assigned to a continuous resident program shall be made at the rate of $69.00 per hour for services performed during the assigned tour of duty until the last day of January 2013. Starting the first day of February 2014, the hourly rate shall be assessed at $76.00 for services calculated in the same manner. Charges for service performed in excess of the assigned tour of duty shall be made at a rate of 1 1/2 times the rate stated in this section.

§ 58.49 Authority to use official identification.

Whenever the Administrator determines that the granting of authority to any person to package any product, inspected or graded pursuant to this part, and to use official identification, pursuant to §§ 58.49 through 58.57, will not be inconsistent with the Act and this part, he may authorize such use of official identification. Any application for such authority shall be submitted to the Administrator in such form as he may require.

§ 58.50 Approval and form of official identification.

(a) Any package label or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe, and such official identification shall be of such form and contain such information as the Administrator may require. No label or packaging material bearing official identification shall be used unless finished copies or samples thereof have been approved by the Administrator.

(b) Inspection or grade mark permitted to be used to officially identify packages containing dairy products which are inspected or graded pursuant to this part shall be contained in a shield in the form and design indicated in Figures 1, 2, and 3 of this section or such other form, design, or wording as may be approved by the Administrator.
§ 58.52 Time limit for packaging inspected or graded products with official identification.

Any lot of butter which is graded for packaging with official grade identification shall be packaged within 10 days immediately following the date of grading, and any lot of natural cheese or dry milk shall be packaged within 30 days immediately following date of numerical score grades when U.S. standards for grades of a product have not been established.

(d) A sketch, proof, or photocopy of each proposed label or packaging material bearing official identification shall be submitted to the Chief of the Dairy Inspection Branch, Poultry and Dairy Quality Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, for review and tentative approval prior to acquisition of a supply of material.

(e) The firm packaging the product shall furnish to the Chief four copies of the printed labels and packaging materials bearing official identification for final approval prior to use.


§ 58.53 Supervisor of packaging required.

The official identification of any inspected or graded product, as provided in §§ 58.50 through 58.52, this section, and §§ 58.54 through 58.57, shall be done only under the supervision of a supervisor of packaging. The authority to use official identification may be granted by the Administrator only to applicants who utilize the services of a supervisor of packaging in accordance with this subpart. The supervisor of packaging shall have jurisdiction over the use and handling of all packaging material bearing any official identification.

§ 58.54 Packing and packaging room and equipment.

Each applicant who is granted authority to package any product with official identification and who operates, for such purpose, a packaging room shall maintain the room and the equipment therein in accordance with this part.

§ 58.55 Facilities for keeping quality samples.

Each applicant granted authority, as aforesaid, to package product with official identification shall provide and maintain suitable equipment for the purpose of incubating samples of product.

§ 58.56 Incubation of product samples.

(a) Samples of product may be taken from any lot of product which is submitted for inspection or grading and packaging with official identification, or sample may be taken after packaging for the purpose of determining in accordance with provisions of this part if such product possesses satisfactory keeping quality.

(b) Samples of product may be taken for keeping quality tests in accordance with provisions of this part from any lot of product submitted for inspection or grading. Issuance of the inspection or grading certificate may be withheld pending completion of the tests.

§ 58.57 Product not eligible for packaging with official identification.

(a) When a lot of inspected or graded product shows unsatisfactory keeping quality, other lots from the same manufacturing plant shall not be packaged with official identification. Packaging with official identification may be resumed only when it is determined that product from such plant possesses satisfactory keeping quality.

(b) Any manufacturing or processing plant supplying product, directly or indirectly, for packaging with official identification shall be surveyed and approved for inspection or grading service.

VIOLATIONS

§ 58.58 Debarment of service.

(a) The following acts or practices, 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 any or all benefits of the Act for a specified period. The rules of practice governing withdrawal of inspection and grading services in formal adjudicatory proceedings instituted by the Secretary (7 CFR, part 1, subpart H) shall be applicable to such debarment action.

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

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

(iii) The making, issuing, or using, or attempting to issue or use any inspection or grading certificate issued pursuant to the regulations in this subpart.
or the use of any official stamp, label, or identification;
  (iv) The use of the terms “United States,” “U.S.,” “Officially graded,” “Officially Inspected,” “Federal-State graded,” or “Government graded,” or terms of similar import in the labeling or advertising of any product without stating in conjunction therewith the official U.S. grade of the product; or
  (v) The use of any of the aforesaid terms or an official stamp, label, or identification in the labeling or advertising of any product that has not been inspected or graded pursuant to this part.
(2) Use of facsimile form. Using or attempting to use a form which simulates in whole or in part any official identification for the purpose of purporting to evidence the U.S. grade of any product; or the unauthorized use of a facsimile form which simulates in whole or in part any official inspection or grading certificate, stamp, label, or other official inspection mark; and
(3) Mislabeling. The use of any words, numerals, letters, or facsimile form which simulates in whole or in part any identification purporting to be a grade when such product does not comply with any recognized standards in general use for such grade, and such activity may be deemed sufficient cause for debarring such person from any or all benefits of the Act.
(4) Willful violation of the regulations in this subpart. Willful violation of the provisions in this part or the Act, or the instructions or specifications issued thereunder.
(5) Interfering with an inspector or grader. Any interference with or obstruction or any attempted interference or obstruction of any inspector or grader in the performance of his duties by intimidation, threat, bribery, assault, or other improper means.

(b) [Reserved]


MISCELLANEOUS

§ 58.64 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The following control number has been assigned to the information collection requirements in 7 CFR part 58, subpart A, by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511.

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<th>7 CFR section where requirements are described</th>
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§ 58.100

(b) Administrator. The Administrator of the Agricultural Marketing Service or any other officer or employee of the Agricultural Marketing Service of the Department to whom there has here-tofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

(c) Approved laboratory. A laboratory in which the facilities and equipment used for official testing have been approved by the Administrator as being adequate to perform the necessary official tests in accordance with this part, and operates under a USDA surveillance program as set forth by the Administrator.

(d) Approved plant. One or more adjacent buildings, or parts thereof, comprising a single plant at one location in which the facilities and methods of operation therein have been surveyed and approved by the Administrator as suitable and adequate for inspection or grading service in accordance with the following:

(1) Shall satisfactorily meet the specifications of this subpart as determined by the Administrator.

(2) Receive dairy products only from plants, transfer stations, receiving stations and cream buying stations which satisfactorily comply with the applicable requirements of this subpart as determined by the Administrator. (Occasional shipments may be received from nonapproved plants provided the product is tested and meets the quality requirements for No. 2 milk.)

(e) Sanitizing treatment. Subjection of a clean product contact surface to steam, hot water, hot air, or an acceptable sanitizing solution for the destruction of most human pathogens and other vegetative microorganisms to a level considered safe for product production. Such treatment shall not adversely affect the equipment, the milk or the milk product, or the health of consumers. Sanitizing solutions shall comply with 21 CFR 178.1010.

(1) Resident service. Inspection or grading service performed at a dairy manufacturing plant or grading station by an inspector or grader assigned to the plant or station on a continuous basis.

1 Dairy products. Butter, cheese (whether natural or processed), skim