

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Parts 29, 31, 32, 36, 52, 53, 54, and 58****[Docket Number FV-95-303]****Removal of U.S. Grade Standards and Other Selected Regulations****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Interim final rule with request for comments.

SUMMARY: This document amends an interim final rule that removed certain voluntary U.S. grade standards and other selected regulations covering a number of agricultural commodities from the Code of Federal Regulations (CFR). This rule will remove standards that had been retained pending completion of rulemaking at the time the interim final rule was published, reinstate the U.S. standards for Wisconsin Cigar-Binder Tobacco, and regulations related to the purchase of samples of wool and of mohair grades. Lastly, this rule will add a new part titled "Procedures by Which the Agricultural Marketing Service Develops, Revises, Suspends, or Terminates Voluntary Official Grade Standards." These procedures reflect the steps that were discussed in the original interim rule concerning the procedures that AMS will follow when developing, revising, suspending, or terminating voluntary U.S. grade standards. This action is part of the National Performance Review Program to eliminate unnecessary regulations and improve those that remain in force.

DATES: Effective date: August 13, 1997. Comments must be received by October 14, 1997.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be submitted in duplicate, signed, include the address of the sender, and should note the date and page number of this issue of the **Federal Register**. Commentors are encouraged to include definitive information which explains and supports their views. Written comments may be mailed to Eric Forman, Deputy Director, Fruit and Vegetable Division, USDA, AMS, Room 2085-S, P.O. Box 96456, Washington, DC 20090-6456.

Comments will be available for public inspection during regular business hours in Room 2085—South Building; 14th Street and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Eric Forman, Deputy Director, Fruit and Vegetable Division, USDA, AMS, Room 2085-S, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-0262.

SUPPLEMENTARY INFORMATION: This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Executive Order 12866

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This rule is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

Effect on Small Entities

This action was reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

The United States standards issued or revised pursuant to the Agricultural Marketing Act, and issued thereunder, are administered under the direction of the Administrator of AMS and, as in the past, will be based on input from interested parties, including various industries which are mostly comprised of small entities as defined by the Small Business Administration (13 CFR 121.601). Other users of the various standards are government agencies including USDA's Farm Services Agency and the Foreign Agricultural Service.

Removal of voluntary standards and other selected regulations covering a number of agricultural commodities from the CFR is expected to benefit the affected industries because it will provide for more timely improvement in the standards in accordance with the procedures included in this interim final rule. Notice of any actions as to the

development, revision, suspension or termination of U.S. standards will be published in the **Federal Register** for comment to ensure that all interested parties, including small businesses as well as the general public, have an opportunity to have their views considered regarding any actions taken concerning the U.S. grade standards.

This action amends an interim final rule that previously removed most of the voluntary U.S. grade standards and other selected regulations covering a number of agricultural commodities (dairy products, tobacco, wool, mohair, fresh and processed fruits and vegetables, livestock, meats and meat products, eggs, and poultry and rabbit products) from the CFR. This interim final rule will: Remove those standards from the CFR that had been retained pending completion of rulemaking at the time the interim final rule was published; reinstate in the CFR the U.S. standards for Wisconsin Cigar-Binder Tobacco (U.S. Types 54 and 55); and, reinstate in the CFR those regulations related to the purchase of samples of grades of wool and of mohair. The U.S. standards for grades of wool and mohair will be maintained in AMS and not as published regulations in the CFR. Lastly, this rule will specify a new CFR part titled "Procedures by Which the Agricultural Marketing Service Develops, Revises, Suspends, or Terminates Voluntary Official Grade Standards." These procedures reflect the steps that were discussed in the original interim rule concerning the procedures that AMS will follow when developing, revising, suspending, or terminating U.S. grade standards.

Paperwork Reduction Act

In accordance with the provisions of the Paperwork Reduction Act, the information collection requirements contained in the provisions to be amended have been previously approved by the Office of Management and Budget.

Background

The Secretary of Agriculture is authorized under various statutes to provide various services to provide Federal grading/certification services and to develop and establish efficient marketing methods and practices of agricultural commodities. The ultimate goal for more than 75 years, AMS has facilitated the marketing of agricultural commodities by developing official U.S. grade standards which provide a uniform language that may be used to describe the characteristics of more than 450 commodities as valued by the marketplace. These standards are

widely used in private contracts, government procurement, marketing communication and, for some commodities, consumer information.

Although use of most of the U.S. standards is voluntary, they have through the years been promulgated as regulations and codified in the CFR. Rapid changes in consumer preferences, together with associated changes in commodity characteristics, processing technology, and marketing practices have often out paced the revision of existing or, the issuance of new regulations. As a result, the marketplace has been in some instances burdened with outdated trading language. The President's regulatory review initiative has provided the impetus to develop new approaches to meet more effectively the needs of U.S. industry, government agencies, and consumers by reducing the regulatory burden. As part of this initiative, AMS determined that certain regulations that were in the CFR which could be administered under the authority of AMS should be removed from the CFR.

With this objective, on December 4, 1995, AMS published an interim final rule with a request for comments that removed most of the voluntary U.S. standards and related regulations from the CFR. This action included all the standards except those that at the time were in rulemaking, incorporated by reference in marketing orders/agreements appearing at 7 CFR Parts 900 through 999, or those used to implement government price supports. Those grade standard regulations have remained in the CFR, even though the text will also be available as AMS standards along with all other grade standards.

On March 11, 1996, in response to requests by representatives of the dairy and meat industries, USDA published a notice in the **Federal Register** (61 FR 9589-9590) that it would reopen and extend the comment period until July 10, 1996. The industry association comments asked for more time to evaluate how the changes AMS was initiating would impact their respective industries.

Twenty one comments were received from interested persons in connection with the interim final rule. These comments were received from a variety of industry representatives including trade associations, a food processor, a State department of agriculture and other interested persons. The majority of comments were commodity specific and are addressed on an AMS divisional basis with regard to the appropriate commodity topic. For example, nine comments were received concerning the wool and mohair standards and are

discussed under the paragraph heading *Livestock and Seed Division*. Several comments discussed in general the removal of standards from the CFR.

The American Meat Institute expressed its concern as to what would be required of AMS with regard to new or revised standards. They questioned the AMS responsibility to solicit input from industry when developing and revising U.S. grade standards if the standards are not published in the CFR. They question whether AMS would follow the same procedures as provided under the Administrative Procedures Act (APA) (5 U.S.C. 551 et seq.). The APA provides for the public to participate in rulemaking by commenting on proposed rules. The American Meat Institute requested assurance that AMS still be required to publish actions involving U.S. standards in the **Federal Register** for comment.

The AMS procedures described in the interim final rule provided for interested persons to have the opportunity to comment on actions involving U.S. grade standards and to have their views considered.

Accordingly, taking into consideration the comments received on the December 4, 1995, interim final rule, this rule will establish the "Procedures By Which The Agricultural Marketing Service Develops, Revises, Suspends, or Terminates Voluntary Official Grade Standards" in 7 CFR Part 36. This action will set forth in the regulations, the procedures the agency will follow that provide for public comment and will be considered by AMS before formal action is taken on a proposal even though the standards would not be published in the CFR. In addition to providing for AMS to solicit comments through the **Federal Register**, this rule will set forth the procedures that AMS will follow when developing a new standard or when revising existing standards. This action will also ensure that the commodity divisions in AMS follow the same procedures in developing and maintaining official U.S. grade standards for dairy, fresh and processed fruits and vegetables, livestock, meats and meat products, eggs, poultry and rabbit products, tobacco, wool, mohair and other agricultural products. As has been longstanding practice, the standards for the various commodities will be administered by the respective commodity divisions within AMS.

Several additional comments were received that were not commodity, product or division specific. Two commentors, including a food service distributor, and other interested persons, objected to the removal of the U.S. standards from the CFR because

they liked the convenience of all of the standards being available from a single source from the government or most libraries. AMS agrees that the standards should be readily available and believes that the procedures provided for in this rule will accomplish that objective. In addition to paper copies which are readily available from the individual commodity divisions, AMS will provide the standards in a number of formats, including electronic format (computer diskettes or cd rom). In March 1997, the U.S. grade standards for commodities administered under AMS were posted on the Internet. Therefore any individual or organization with access to the Internet can currently view, copy or print copies of the standards from the Internet (<http://www.ams.usda.gov/standards>).

Comments from the National Association of Perishable Agricultural Receivers, the American Frozen Food Institute, and Division of Inspection Services with the Department of Food and Agriculture for the State of California supported AMS in its efforts of streamlining government and working to ensure that the services it provides are responsive to the industry it serves.

When the December 4, 1995, interim final rule was published it was organized by AMS commodity division since each division is basically commodity, products, or product group specific. This arrangement provided industries or others with specific commodity interest with an easier understanding of what changes were being initiated. Likewise, commodity specific responses to the interim final rule are being separated by commodity division. The following discusses the comments received on the interim final rule, the agencies response to the various comments, the action being taken in response to those comments, and the standards this rule will remove from the CFR that were in the rulemaking process at the time the December 4 interim final rule was published and would be subject to removal from the CFR at a later time.

Tobacco Division

One comment was received concerning tobacco. The Northern Wisconsin Cooperative Tobacco Pool Incorporated of Wisconsin requested that the grade standards for Wisconsin Cigar-Binder Tobacco be retained in the CFR because the cooperative uses that standard as a part of their price support program. The agency agrees, this standard is a part of the USDA price support program and this rule will reinstate the "Official Standard Grades

for Wisconsin Cigar-Binder Tobacco (U.S. Types 54 and 55)" in their original location, sections 29.6001-6161 of 7 CFR Part 29.

Livestock and Seed Division

The wool and mohair standards (7 CFR Parts 31 and 32, respectively) removed under the interim final rule from the CFR included language authorizing the collection of fees for sets of standard samples depicting the various grades. Since the Agency had not for sometime graded product under these standards and believed that the standards were no longer being used, the decision was made to drop the standards completely.

This action elicited nine comments from a variety of industry trade associations (Mohair Council of America, Empire Sheep Producers Association, Inc., American Sheep Industry Association, Inc., Utah Wool Marketing Association, U.S. Wool Marketing Association, Inc., and American Textile Manufacturers Institute) and other interested persons. All of the commentors pointed out that, although there was no official grading of wool or mohair, the grades and standards were cited in contracts for trading of wool and mohair and were used as a basis for establishing prices. Also, AMS Market News reports of wool and mohair trading cited the grades as the basis for explaining price differentials. Several commentors asserted that without the official grade standards there would be no basis for settling claims in cases where the quality of product delivered was in dispute. Accordingly AMS will reinstate the U.S. standards for grades of wool and for mohair as official U.S. standards that will be maintained in AMS along with the other voluntary commodity standards. As for the sections of those standards relevant to the fees and for method of purchasing "standard samples" of wool and of mohair, those regulations will be reinstated in their original location in sections 31.400-402 of 7 CFR Part 31 and sections 32.400-403 of 7 CFR Part 32, respectively.

The following U.S. standards were retained in the CFR because they were in rulemaking at the time the interim final rule was published. This rule will remove those standards from the CFR.

	Standards being removed from the CFR
7 Part 53	Livestock (Grading, Certification, and Standards). Subpart B—Standards.
53.201-206	Cattle.

	Standards being removed from the CFR
7 Part 54	Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards). Subpart B—Standards.
54.102-107	Carcass beef.

Fruit and Vegetable Division (Processed Products Branch)

One comment was received from the National Food Processors Association (NFPA) expressing particular interest in the voluntary U.S. grade standards for canned and frozen fruits, vegetables, and juices administered by the Fruit and Vegetable Division's Processed Products Branch. The NFPA supported the action taken in the interim final rule.

The following U.S. standards were retained in the CFR because they were in rulemaking at the time the interim final rule was published. This rule will remove those standards from the CFR.

	Standards being removed from the CFR
7 Part 52	Processed Fruits and Vegetables, Processed Products thereof, and Certain Other Processed Food Products.
52.721-729	Subpart—United States Standards for Grades of Frozen Cauliflower.
52.1511-1520 ..	Subpart—United States Standards for Grades of Frozen Okra.
52.1661-1674 ..	Subpart—United States Standards for Grades of Frozen Field Peas and Frozen Black-eye Peas.
52.2321-2330 ..	Subpart—United States Standards for Grades of Frozen Green Beans and Frozen Wax Beans.

Dairy Division

Three dairy trade associations (American Dairy Products Institute, International Dairy Foods Association, and National Milk Producers Federation) responded during the comment period. Each association opposed the removal of dairy product grade standards from the CFR. The following reasons were provided for this opposition:

1. The dairy industry is uniquely regulated and differs from other AMS industries in that several Federal agencies govern virtually every aspect relating to the production, processing, and marketing of dairy products. Because of this extensive government involvement, the dairy industry relies on the CFR as a central source for all relevant federal regulations.

Several Federal agencies have roles with respect to the manner in which milk and milk products are marketed in the United States. However, these roles do not substantially differ from other products for which AMS also provides quality grade standards. Any reliance on the CFR as a central source of U.S. grade standards will not significantly change with the removal of AMS grade standards. This action only affects the voluntary standards developed by AMS and does not affect requirements of other Federal agencies. This action will enhance the process for keeping grade standards current by permitting AMS to develop and revise standards more quickly and efficiently in response to the changing needs of the dairy industry and the consumer.

A concern of AMS is to provide information to the public in a timely manner. The CFR is updated and published annually. Therefore, standards published in the CFR do not necessarily provide the most current information since new standards may be developed and existing standards may be revised throughout the year. Up-to-date printed standards are currently available from AMS and will soon also be available by electronic access. This approach enhances the availability of updated information and lessens the possibility that existing standards have been changed or new standards have not been included in the currently available CFR.

2. Dairy product grade standards serve unique marketing functions for the dairy industry and should not be removed from the CFR. In instances where dairy products are used as ingredients, buyers use grade standards to describe ingredient quality and identify desired product characteristics. Manufacturers of these ingredients provide certification that their product meets the appropriate requirements of a grade standard. Also, in instances where grade identification is displayed on consumer-ready product, local manufacturers who manufacture non-brand product are able to communicate quality to the consumer.

AMS grade standards often play a key role in the marketing of agricultural products, both for the manufacturer and the consumer. AMS grade standards will still exist, will be readily accessible, and will continue to meet the requirements of the industry and the consumer. Only their annual publication in the CFR will be affected.

In order to maximize the effectiveness of these standards, they must keep pace with changes in technology as well as user and consumer preferences. The National Performance Review program

has provided the opportunity to reconsider the manner in which grade standards are developed and revised. This action enhances the ability of AMS to more efficiently address industry and consumer needs. This should improve the effectiveness of dairy standards for companies that use them to define ingredient quality and to communicate finished-product quality to consumers.

3. The current system of publication of all relevant regulations in the CFR, with notice of all changes to those regulations published in the **Federal Register**, is the most efficient means of bridging the gap between the regulated industry and the government regulators.

Publication in the **Federal Register** informs the public of actions that are being considered or implemented concerning the development or revision of grade standards. This has been done with proposed rule and final rule publication in the **Federal Register**. With the removal of grade standards from the CFR, the manner in which AMS notifies the public of these considerations and action will not change significantly since publication in the **Federal Register** will still occur. AMS is publishing in this amended interim final rule procedures that provide for **Federal Register** publication of proposed actions with request for public comment, as well as publication of the final action taken by AMS. AMS will publish these actions as notices in the **Federal Register** and will continue to provide for public participation.

4. The removal of AMS quality grade standards from the CFR would not support the National Performance Review initiative to eliminate regulations, but merely shift these standards from the CFR to another document. This action would increase the work of Government officials and require the creation of a new AMS publication. In addition, it is unclear how the Government will realize savings and increased efficiencies.

The President's regulatory review initiative provided an impetus to develop new approaches to more effectively meet the needs of U.S. industry, government agencies, and consumers and still reduce the regulatory burden. Because AMS grade standards play a key role in the marketing of agricultural products, the Department chose not to eliminate these standards. This action removes AMS standards from annual publication in the CFR. As a result, it enhances the ability of AMS to be more responsive to rapid changes in consumer preferences, processing technology, and marketing practices. This action will not increase

the work required by AMS employees since printed grade standards are currently available for distribution, and maintenance time is minimal once standards are prepared for electronic access. The Department has estimated that this action will result in a savings of more than \$1 million over the next five years in CFR publication costs.

5. The removal of AMS grade standards would hamper rather than enhance the electronic availability of these documents. Currently the full text of the CFR is readily accessible on the Internet, and relocation of the standards would result in users not being able to locate the information.

USDA has made available on the Internet information concerning the programs it administers, including AMS programs. AMS is the agency responsible for the development and revision of quality grade standards. Users of these standards are familiar with the agency, and therefore AMS is the logical choice when accessing grade standard information on the Internet. The inclusion of grade standards in the AMS Home Page will provide updated grade standard information that will be easily accessible and downloadable.

The following U.S. standards were retained in the CFR because they were in rulemaking at the time the interim final rule was published. This rule will remove those standards from the CFR.

	Standards being removed from the CFR
7 Part 58	Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products.
58.2465–2471 ..	Subpart I—United States Standards for Grades of Monterey (Monterey Jack) Cheese.
58.2525–2541 ..	Subpart L—United States Standards for Grades of Nonfat Dry Milk (Spray Process).
58.2750–2759 ..	Subpart U—United States Standards for Instant Nonfat Dry Milk.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The standards are voluntary; (2) No changes are being made to the standards by this docket; (3) New procedures are included for

developing new and revising existing U.S. standards which will provide an improved form of delivery standards for those who use U.S. standards. (4) This is consistent with the President's regulatory review initiative. (5) This rule amends a previously issued interim final rule removing most of the voluntary U.S. grade standards and other selected regulations covering a number of agricultural commodities from the CFR.

List of Subjects

7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

7 CFR Part 31

Wool.

7 CFR Part 32

Mohair.

7 CFR Part 36

Administrative practice and procedure, Agricultural commodities, Food grades and standards, Reporting and recordkeeping requirements.

7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

7 CFR Part 53

Cattle, Hogs, Livestock, Sheep.

7 CFR Part 54

Food grades and standards, Food labeling, Meat and meat products.

7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR chapter I is amended as follows:

PART 29—TOBACCO INSPECTION

1. The authority citation for 7 CFR Part 29 continues to read as follows:

Authority: 7 U.S.C. 511b, 511r.

2. In part 29, subpart C, new undesignated center headings and §§ 29.6001 through 29.6161 are added to read as follows:

Subpart C—Standards**Official Standard Grades for Wisconsin Cigar-Binder Tobacco (U.S. Types 54 and 55)¹****Definitions****Sec.**

- 29.6001 Definitions.¹
- 29.6002 Air-cured.
- 29.6003 Body.
- 29.6004 Burn.
- 29.6005 Case (order).
- 29.6006 Class.
- 29.6007 Clean.
- 29.6008 Condition.
- 29.6009 Crude.
- 29.6010 Cured.
- 29.6011 Damage.
- 29.6012 Dirty.
- 29.6013 Elasticity.
- 29.6014 Elements of quality.
- 29.6015 Foreign matter.
- 29.6016 Form.
- 29.6017 General quality.
- 29.6018 Grade.
- 29.6019 Grademark.
- 29.6020 Group.
- 29.6021 Injury.
- 29.6022 Leaf scrap.
- 29.6023 Leaf structure.
- 29.6024 Length.
- 29.6025 Lot.
- 29.6026 Maturity.
- 29.6027 Nested.
- 29.6028 No Grade.
- 29.6029 Offtype.
- 29.6030 Package.
- 29.6031 Packing.
- 29.6032 Quality.
- 29.6033 Raw.
- 29.6034 Semicured.
- 29.6035 Side.
- 29.6036 Sound.
- 29.6037 Stem.
- 29.6038 Stemmed.
- 29.6039 Stem rot.
- 29.6040 Strength (tensile).
- 29.6041 Strips.
- 29.6042 Sweated.
- 29.6043 Tobacco.
- 29.6044 Tobacco products.
- 29.6045 Type.
- 29.6046 Type 53.
- 29.6047 Type 54.
- 29.6048 Type 55.
- 29.6049 Undried.
- 29.6050 Uniformity.
- 29.6051 Unstemmed.
- 29.6052 Unsweated.
- 29.6053 Wet (high-case).
- 29.6054 Width.

Elements of Quality

- 29.6081 Elements of quality and degrees of each element.

Rules

- 29.6086 Rules.
- 29.6087 Rule 1.
- 29.6088 Rule 2.
- 29.6089 Rule 3.
- 29.6090 Rule 4.
- 29.6091 Rule 5.

- 29.6092 Rule 6.
- 29.6093 Rule 7.
- 29.6094 Rule 8.
- 29.6095 Rule 9.
- 29.6096 Rule 10.
- 29.6097 Rule 11.
- 29.6098 Rule 12.
- 29.6099 Rule 13.
- 29.6100 Rule 14.
- 29.6101 Rule 15.
- 29.6102 Rule 16.
- 29.6103 Rule 17.
- 29.6104 Rule 18.

Grades

- 29.6126 Binder (B Group).
- 29.6127 Stripper (C Group).
- 29.6128 Straight Stripped (X Group).
- 29.6129 Farm Filler (Y Group).
- 29.6130 Nondescript (N Group).
- 29.6131 Scrap (S Group).

Summary of Standard Grades

- 29.6155 Summary of standard grades.

Key to Standard Grademarks

- 29.6161 Key to standard grademarks.

Definitions**§ 29.6001 Definitions.**

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.6002 Air-cured.

Tobacco cured under natural atmospheric conditions. Artificial heat sometimes is used to control excess humidity during the curing period to prevent pole-sweat, pole-burn, and shed-burn in damp weather. Air-cured tobacco should not carry the odor of smoke or fumes resulting from the application of artificial heat.

§ 29.6003 Body.

The thickness and density of a leaf or the weight per unit of surface. (See chart.)

§ 29.6004 Burn.

The duration of combustion or length of time that a tobacco leaf will hold fire after ignition. (See Rule 18.)

§ 29.6005 Case (order).

The state of tobacco with respect to its moisture content.

§ 29.6006 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.6007 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more sand or dirt than those from higher stalk positions. (See Rule 4.)

§ 29.6008 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are Undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.6009 Crude.

A subdegree of maturity. (See Rule 15.)

§ 29.6010 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.6011 Damage.

The effect of mold, must, rot, black rot or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must or rot is considered damaged. (See Rule 17.)

§ 29.6012 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See Rule 17.)

§ 29.6013 Elasticity.

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched. (See chart.)

§ 29.6014 Elements of quality.

Physical characteristics used to determine the quality of tobacco. Words selected to describe degrees within each element are shown in the chart in § 29.6081.

§ 29.6015 Foreign matter.

Any extraneous substance or material such as stalks, suckers, straw, strings, and rubber bands. (See Rule 17.)

§ 29.6016 Form.

The stage of preparation of tobacco such as stemmed or unstemmed.

§ 29.6017 General quality.

The quality of tobacco considered in relation to the type as a whole. General quality is distinguished from the restricted use of the term "quality" within a group.

§ 29.6018 Grade.

A subdivision of a type according to group and quality and to other characteristics when they are of sufficient importance to be treated separately.

¹ These standards also apply to Type 53 Havana seed tobacco.

§ 29.6019 Grademark.

In these types a grademark normally consists of a letter to indicate group and a number to indicate quality. For example, B2 means Binder, fair quality.

§ 29.6020 Group.

A type division consisting of one or more grades based on the general quality of tobacco. Groups in these types are: Binder (B), Stripper (C), Straight Stripped (X), Farm Filler (Y), Nondescript (N), and Scrap (S).

§ 29.6021 Injury.

Hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state. (See definition of Damage.) Injury to tobacco may be caused by field diseases, insects, or weather conditions; insecticides, fungicides, or cell growth inhibitors; nutritional deficiencies or excesses; or improper fertilization, harvesting, curing, or handling. Injured tobacco includes dead, burnt, hail-cut, torn, broken, frostbitten, frozen (see Rule 16), sunburned, sun-scalded, bulk-burnt, pole-burnt, shed-burnt, pole-sweated, stem-rotted, bleached, bruised, discolored, or deformed leaves; or tobacco affected by wildfire, rust, frogeye, mosaic, root rot, wilt, black shank, or other diseases. (See Rule 13.)

§ 29.6022 Leaf scrap.

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.6023 Leaf structure.

The cell development of a leaf as indicated by its porosity. The degrees range from close (slick and tight) to open (porous). (See chart.)

§ 29.6024 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

§ 29.6025 Lot.

A pile, basket, bulk, package, or other definite unit.

§ 29.6026 Maturity.

The degree of ripeness. (See chart.)

§ 29.6027 Nested.

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes any lot of tobacco which contains foreign matter or damaged, injured, tangled, or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged. (See Rule 17.)

§ 29.6028 No Grade.

A designation applied to a lot of tobacco classified as damaged, dirty, nested, offtype, semicured, or wet; tobacco that is improperly packed, contains foreign matter, or has an odor foreign to the type. (See Rules 5 and 17.)

§ 29.6029 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Type 53, 54, or 55. (See Rule 17.)

§ 29.6030 Package.

A hoghead, tierce, case, bale, or other securely enclosed parcel or bundle.

§ 29.6031 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.6032 Quality.

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality.

§ 29.6033 Raw.

Tobacco as it appears between the time of harvesting and the beginning of the curing process.

§ 29.6034 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swelled stems, and tobacco having frozen stems or stems that have not been thoroughly dried in the curing process. (See definition of No Grade and Rule 17.)

§ 29.6035 Side.

A certain phase of quality as contrasted with some other phase of quality or any peculiar characteristic of tobacco.

§ 29.6036 Sound.

Free of damage. (See Rule 4.)

§ 29.6037 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.6038 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.6039 Stem rot.

The deterioration of an uncured or frozen stem resulting from bacterial action. Although stem rot results from

bacterial action, it is inactive in cured tobacco and is treated as a kind of injury in these types. (See Rule 14.)

§ 29.6040 Strength (tensile).

The stress a tobacco leaf can bear without tearing. (See chart.)

§ 29.6041 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

§ 29.6042 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition sometimes is described as aged.

§ 29.6043 Tobacco.

Tobacco in its unmanufactured forms as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters a manufacturing process. Conditioning, sweating, and stemming are not regarded as manufacturing processes.

§ 29.6044 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff, which is subject to Internal Revenue tax.

§ 29.6045 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.6046 Type 53.

That type of cigar-leaf tobacco commonly known as York State or Havana Seed of New York and Pennsylvania, produced principally in the Big Flats and Onondaga sections of New York and extending into Pennsylvania.

§ 29.6047 Type 54.

That type of cigar-leaf tobacco commonly known as Southern Wisconsin Cigar-leaf or Southern Wisconsin Binder-type, produced principally south and east of the Wisconsin River.

§ 29.6048 Type 55.

That type of cigar-leaf tobacco commonly known as Northern Wisconsin Cigar-leaf or Northern Wisconsin Binder-type, produced

principally north and west of the Wisconsin River and extending into Minnesota.

§ 29.6049 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.6050 Uniformity.

A grade requirement designating the percentage of a lot which must meet the specified degree of each element of quality. (See Rule 12.)

§ 29.6051 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.6052 Unsweated.

The condition of cured tobacco which has not been sweated.

§ 29.6053 Wet (high-case).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See Rule 17.)

§ 29.6054 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See chart.)

Elements of Quality

§ 29.6081 Elements of quality and degrees of each element.

These standardized words or terms are used to describe tobacco quality and to assist in interpreting grade specifications. Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by the use of words or terms designated as degrees. These degrees are arranged to show their relative value, but the actual value of each degree varies with type and group.

Elements	Degrees		
Body	Heavy	Medium	Thin.
Maturity	Immature	Mature	Ripe.
Leaf structure	Close	Firm	Open.
Elasticity	Inelastic	Semielastic	Elastic.
Strength (tensile)	Weak	Normal	Strong.
Width	Narrowdo	Spready.
Length	(1)	(1)	(1)
Uniformity	(2)	(2)	(2)
Injury tolerance	(2)	(2)	(2)

¹ Expressed in inches.
² Expressed in percentages.

Rules

§ 29.6086 Rules.

The application of these official standard grades shall be in accordance with the following rules.

§ 29.6087 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.6088 Rule 2.

The determination of grade shall be based upon a representative sample or a thorough examination of a packing of tobacco.

§ 29.6089 Rule 3.

The grade of unsorted tobacco shall be based upon a representative sample of the packing. A minimum of 10 percent of the bundles or bales shall be selected at random for sampling; a higher percentage may be sampled at the discretion of the inspector. To obtain the sample, a sufficient amount of tobacco shall be drawn to be representative of each selected bale. In determining the grade, the inspector shall consider the quality of all samples. The grade assigned shall represent the quality of the lot as a whole.

§ 29.6090 Rule 4.

Standard grades shall be assigned to clean and sound tobacco only.

§ 29.6091 Rule 5.

Tobacco leaves shall be placed straight in bundles or bales of normal weight, size, and shape with the butts out and tips overlapping from 6 to 8 inches or sufficiently to make a level, solid, and uniform pack. The sides of the bundles shall be completely covered with paper, or other suitable protective material, and tightly bound with not less than three large twines spaced so that the tobacco will be held securely together. Improperly packed tobacco shall be designated as "No—G."

§ 29.6092 Rule 6.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

§ 29.6093 Rule 7.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between

two grades shall be placed in the lower grade.

§ 29.6094 Rule 8.

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

§ 29.6095 Rule 9.

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

§ 29.6096 Rule 10.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standardization Branch and approved by the Director of the Tobacco Division, Agricultural Marketing Service.

§ 29.6097 Rule 11.

The use of any grade may be restricted by the Director during any marketing season when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.6098 Rule 12.

Uniformity shall be expressed in percentages. These percentages shall govern the portion of a lot which must meet each specification of the grade; the remaining portion must be related. Grade specifications state the minimum acceptable degree of each element of quality. Specified percentages of uniformity shall not affect limitations established by other rules.

§ 29.6099 Rule 13.

Injury tolerance shall be expressed in percentages. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury, and consideration shall be given to the kinds of injury normal to the group or grade.

§ 29.6100 Rule 14.

Stem rot shall not exceed 40 percent of the specified injury tolerance for any grade.

§ 29.6101 Rule 15.

In grade specifications the tolerance of crude shall apply to the entire leaf surface of the lot.

§ 29.6102 Rule 16.

In grade specifications frozen shall be treated as a separate kind of injury and the tolerance shall apply to the entire leaf surface of the lot.

§ 29.6103 Rule 17.

Tobacco shall be designated as No Grade, using the grademark "No—G," when it is damaged, dirty, nested, offtype, semicured, wet, improperly

packed, contains foreign matter, or has an odor foreign to the type.

§ 29.6104 Rule 18.

Burn shall be determined as the average burning time of leaves selected at random from the sample. A minimum of 10 leaves shall be selected as representative regardless of the number of bundles or bales in the lot. All burn tests shall be made in the bindercutting area on the same side of the leaf. The leaf shall be punctured to permit quick ignition when placed over a candle, alcohol lamp, or electrical-lighting device. Good burn shall average 6 seconds or longer; fair burn, 3 to 5 seconds; and poor burn, under 3 seconds. B1 and B2 shall require good burn and B3, fair burn.

Grades**§ 29.6126 Binder (B Group).**

Tobacco of this group is of cigar-binder quality from which trash and trashy Farm Fillers have been removed.

U.S. grades	Grade names, minimum specifications, and tolerances
B1	Fine Quality Binder. Thin, ripe, open, elastic, strong, spready, and 19 inches or over in length. Uniformity, 90 percent; injury tolerance, 10 percent.
B2	Fair Quality Binder. Medium body, ripe, open, semielastic, strong, normal width, and 19 inches or over in length. Uniformity, 80 percent; injury tolerance, 20 percent.
B3	Low Quality Binder. Medium, ripe, firm, semielastic, normal strength and width, and 17 inches or over in length. Uniformity, 70 percent; injury tolerance, 30 percent.

§ 29.6127 Stripper (C Group).

This group consists of tobacco from which the trash and trashy Farm Fillers have been removed but does not meet the specifications of the Binder group.

U.S. grades	Grade names, minimum specifications, and tolerances
C1	Fine Quality Stripper. Heavy, ripe, firm, semielastic, normal strength and width, and 16 inches or over in length. Uniformity, 90 percent; injury tolerance, 10 percent.
C2	Fair Quality Stripper. Heavy, mature, close, inelastic, normal strength, narrow, and 16 inches or over in length. Uniformity, 80 percent. Tolerances: 5 percent crude, 5 percent frozen, and 20 percent injury.
C3	Low Quality Stripper. Heavy, immature, close, inelastic, weak, and narrow. Uniformity, 70 percent. Tolerances: 10 percent crude, 10 percent frozen, and 30 percent injury.

§ 29.6128 Straight Stripped (X Group).

This group consists of unsorted tobacco from which the trash has been removed.

U.S. grades	Grade names, minimum specifications, and tolerances
X1	Fine Quality Straight Stripped. Heavy, ripe, firm, semielastic, normal strength and width, and 16 inches or over in length. Uniformity, 85 percent; injury tolerance, 15 percent.
X2	Fair Quality Straight Stripped. Heavy mature, close, inelastic, normal strength, narrow, and 16 inches or over in length. Uniformity, 75 percent. Tolerances: 5 percent crude, 5 percent frozen, and 25 percent injury.
X3	Low Quality Straight Stripped. Heavy, immature, close, inelastic, weak, and narrow. Uniformity, 60 percent. Tolerances: 10 percent crude, 10 percent frozen, and 40 percent injury.

§ 29.6129 Farm Filler (Y Group).

This group consists of tobacco from the lower portion of the stalk and may include throw out leaves from the Binder and Stripper groups.

U.S. grades	Grade names, minimum specifications, and tolerances
Y1	Fine Quality Farm Filler. Thin, ripe, open, semielastic, normal strength and width, and 12 inches or over in length. Uniformity, 85 percent; injury tolerance, 15 percent.
Y2	Fair Quality Farm Filler. Thin, ripe, firm, inelastic, normal strength, and narrow. Uniformity, 75 percent. Tolerances: 5 percent crude, 5 percent frozen, and 25 percent injury.
Y3	Low Quality Farm Filler. Thin, mature, close, inelastic, weak, and narrow. Uniformity, 60 percent. Tolerances: 10 percent crude, 10 percent frozen, and 40 percent injury.

§ 29.6130 Nondescript (N Group).

Tobacco which does not meet the minimum specifications or exceeds the tolerance of the lowest grade of any other group.

U.S. grades	Grade names, minimum specifications, and tolerances
N1	First Quality Nondescript. Tolerances: 20 percent crude, 20 percent frozen, and 60 percent injury.
N2	Second Quality Nondescript. Over 20 percent crude, over 20 percent frozen, or over 60 percent injury.

§ 29.6131 Scrap (S Group).

A byproduct of unstemmed and stemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

U.S. grades	Grade names and specifications
S	Loose, tangled, whole, or broken unstemmed leaves, or the web portion of tobacco leaves reduced to scrap by any process.

Summary of Standard Grades**§ 29.6155 Summary of standard grades.**

Three grades of binder	Three grades of stripper
B1	C1
B2	C2
B3	C3
Three grades of straight stripped	Three grades of farm filler
X1	Y1
X2	Y2
X3	Y3
Two grades of nondescript	One grades of scrap
N1	S
N2	

Tobacco not covered by standard grades is designated as "No-G."

Key to Standard Grademarks**§ 29.6161 Key to standard grademarks.**

Groups	Qualities
B—Binder	1—Fine.
C—Stripper	2—Fair.
X—Straight Stripped	3—Low.
Y—Farm Filler	
N—Nondescript	
S—Scrap	

3. Part 31, consisting of §§ 31.400 through 31.402 is added to read as follows:

PART 31—PURCHASE OF WOOL AND WOOL TOP SAMPLES

Sec.

31.400 Samples for wool and wool top grades; method of obtaining.

31.401 Cost of samples for wool grades.

31.402 Cost of samples for wool top grades.

Authority: 7 U.S.C. 1621–1627.

§ 31.400 Samples for wool and wool top grades; method of obtaining.

Samples certified as representative of the official standards of the United States for grades of wool and wool top will be furnished as follows, subject to other conditions of this section, upon filing of an approved application and prepayment of costs thereof as fixed in §§ 31.401 and 31.402. The certification will be issued by the United States Department of Agriculture and will be signed by the Director of the Livestock Division or other duly authorized official.

(a) Samples representative of each of the standard grades of wool:

(1) *Complete set:* Grades 80's through 36's. Fourteen samples, each of approximately 1/8 pound grease wool, or

(2) *Individual sample:* Individual samples of approximately 1/8 pound of grease wool.

(b) Samples representative of each of the standard grades of wool top:

(1) *Complete set:* Grades 80's through 36's. Fourteen samples, each of approximately 3 ounces wool top, or

(2) *Individual sample:* Individual samples of approximately 3 ounces of wool top, representing a standard grade.

(c) Each application for standard samples of wool or wool top shall be upon an application form furnished or approved by the Agricultural Marketing Service, shall be signed by the applicant, and shall be accompanied by certified check, draft, post office money order, or express money order, payable to the "Agricultural Marketing Service," in an amount to cover the cost of the samples requested, and shall incorporate the following agreement:

(1) That no samples representative of the official wool or wool top standards shall be considered or used as representing such standards after cancellation in accordance with this section.

(2) That the said standard samples shall be subject to inspection by the Secretary or by any duly authorized officer or agent of the Department of Agriculture during usual business hours of the person having custody of the samples.

(3) That the certificate covering any of the samples representative of the standards may be revoked and canceled by the Director of the Livestock Division if it is found upon such inspection that the said samples are not representative of the official standards.

Note to § 31.400: A sample consists of wool randomly selected from a bulk sample. The measured average and standard deviation of fiber diameter of the bulk sample are within the limits corresponding to the grade of the standard sample as set forth in the voluntary

U.S. grade standards. Copies of the voluntary U.S. grade standards can be obtained from Director, Livestock and Seed Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington, DC 20090-6456.

§ 31.401 Cost of samples for wool grades.

(a) *Complete set*: \$22 each, delivered to any destination within the United States and \$24 each, delivered to any destination outside the United States.

(b) *Individual sample*: \$2 each, delivered to any destination within the United States and \$2.50 each, delivered to any destination outside the United States.

§ 31.402 Cost of samples for wool top grades.

(a) *Complete set*: \$42 each, delivered to any destination within the United States and \$44 each, delivered to any destination outside the United States.

(b) *Individual sample*: \$3 each, delivered to any destination within the United States and \$3.50 each, delivered to any destination outside the United States.

4. Part 32, consisting of §§ 32.400 through 32.403 is added to read as follows:

PART 32—PURCHASE OF GREASE MOHAIR AND MOHAIR TOP SAMPLES

32.400 Samples of grease mohair grades; method of obtaining.

32.401 Cost of samples for grease mohair grades.

32.402 Samples of mohair top grades; method of obtaining.

32.403 Cost of samples for mohair top grades.

Authority: 7 U.S.C. 1621-1627.

§ 32.400 Samples of grease mohair grades; method of obtaining.

Samples certified as representative of the official standards of the United States for grades of grease mohair will be furnished as follows, subject to other conditions of this section, upon filing of an approved application and prepayment of the costs thereof as fixed in § 32.401. The certification will be issued by the U.S. Department of Agriculture and will be signed by the Director of the Livestock Division or other duly authorized official.

(a) Samples representative of each of the standard grades of grease mohair:

(1) *Complete set*. Ten certified samples of grease mohair, grades 40s through 18s.

(2) *Individual sample*. Individual certified samples of grease mohair.

(b) Each application for standard samples of grease mohair shall be upon an application form furnished or approved by the Consumer and

Marketing Service, shall be signed by the applicant, and shall be accompanied by certified check, draft, post office money order, or express money order, payable to the "Agricultural Marketing Service," in an amount to cover the cost of the samples requested, and shall incorporate the following agreement.

(1) That no samples representative of the official grease mohair standards shall be considered or used as representing such standards after cancellation in accordance with this section.

(2) That the said standard samples shall be subject to inspection by the Secretary or by any duly authorized officer or agent of the Department of Agriculture during usual business hours of the person having custody of the samples.

(3) That the certificate covering any of the samples representative of the standards may be revoked and canceled by the Director of the Livestock Division, if it is found upon such inspection that the said samples are not representative of the official standards.

Note to § 32.400: A certified sample consists of grease mohair randomly selected from a bulk sample. The measured average and standard deviation of fiber diameter of bulk sample were within the limits corresponding to the grade of the standard sample as set forth in the voluntary U.S. grade standards. Copies of the voluntary U.S. grade standards can be obtained from Director, Livestock and Seed Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington, DC 20090-6456.

§ 32.401 Cost of samples for grease mohair grades.

(a) *Complete set*. \$22 each, delivered to any destination within the United States and \$25 each, delivered to any destination outside the United States.

(b) *Individual sample*. \$2.50 each, delivered to any destination within the United States, and \$3 each, delivered to any destination outside the United States.

§ 32.402 Samples of mohair top grades; method of obtaining.

Samples certified as representative of the official standards of the United States of grades of mohair top will be furnished when available as follows, subject to other conditions for this section, upon filing of an approved application and prepayment of the cost thereof as fixed in § 32.403. The certification will be issued by the U.S. Department of Agriculture and will be signed by the Director of the Livestock Division or other official duly authorized by him.

(a) Samples representative of the official grades of mohair top:

(1) *Complete set*. Nine certified samples of mohair top, grades 40s through 20s.

(2) *Individual sample*. Individual certified samples of mohair top, grades 40s through 20s.

(b) Each application for standard samples of mohair top shall be upon an application form furnished or approved by the Agricultural Marketing Service, shall be signed by the applicant, and shall be accompanied by certified check, draft, postal money order, or express money order, payable to the "Agricultural Marketing Service," in an amount to cover the cost of the samples requested and shall incorporate the following agreement:

(1) That no samples representative of the official mohair top standards shall be considered or used as representing such standards after cancellation in accordance with this section.

(2) That the said standard samples shall be subject to inspection by the Secretary or by any duly authorized officer or agent of the Department of Agriculture during usual business hours of the person having custody of the samples.

(3) That the certificate covering any of the samples representative of the standards may be revoked and canceled by the Director of the Livestock Division, if it is found upon such inspection that the said samples are not representative of the official standards.

§ 32.403 Cost of samples for mohair top grades.

(a) *Complete set*. Twenty-seven dollars each, delivered to any destination within the United States and \$30 each, delivered to any destination outside the United States.

(b) *Individual sample*. Three dollars each, delivered to any destination within the United States, and \$3.50 each, delivered to any destination outside the United States.

5. Part 36, consisting of §§ 36.1 through 36.3 is added to read as follows:

PART 36—PROCEDURES BY WHICH THE AGRICULTURAL MARKETING SERVICE DEVELOPS, REVISES, SUSPENDS, OR TERMINATES VOLUNTARY OFFICIAL GRADE STANDARDS

Sec.

36.1 General information.

36.2 Initiating action on grade standards.

36.3 Public notification of grade standards action.

Authority: 7 U.S.C. 1621-1627.

§ 36.1 General information.

The Agricultural Marketing Service (AMS or agency) of the U.S. Department

of Agriculture (USDA) facilitates the fair and efficient marketing of agricultural products by promulgating voluntary official grade standards for dairy, fresh and processed fruits and vegetables, livestock, meats and meat products, eggs, poultry and rabbit products, tobacco, wool, mohair, and other agricultural products. AMS standards provide a uniform language for describing the quality of various agricultural commodities in the marketplace. These standards may cover (but are not limited to) terms, classes, sizes (including quantities of packaged consumer agricultural commodities), dimensions, capacities, quality levels, performance criteria, inspection requirements, marking requirements, testing equipment, test procedures, and installation procedures.

(a) Grade standards are officially designated as U.S. Grade Standards and the AMS assigns each grade standard an appropriate identification number. AMS develops, revises, suspends, or terminates official grade standards under procedures that allows for input by interested parties.

(b) These procedures set forth the process by which AMS will develop, revise, suspend, or terminate the U.S. standards.

(c) Communications about AMS standards in general should be addressed to the Administrator, Attention: Functional Committee for Standards. Communications about specific standards (such as a request to develop or revise a standard) should be addressed to the Director of the appropriate Division (Dairy, Fruit and Vegetable, Livestock and Seed, Poultry, or Tobacco). All communications should include in the address: Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington, D.C. 20090-6456.

§ 36.2 Initiating action on grade standards.

The Agency will develop, revise, suspend, or terminate grade standards if it determines that such action is in the public interest. Any standardization action should reflect the broad interest of individuals or an industry involved in manufacturing, producing, packaging, distributing, testing, consuming, or using the product; or the interest of a Federal, State, or local agency. Proposed actions should always be based on sound technical and marketing information and should include careful consideration of the factors that determine a commodity's quality and condition and that will allow trained personnel to determine objectively conformance or non-conformance.

(a) AMS encourages interested parties to participate in the review, development, and revision of grade standards. Interested parties include growers, producers, processors, shippers, distributors, consumers, individuals or groups, trade associations, companies, and State or Federal agencies. Such groups and individuals may at any time recommend that AMS develop, revise suspend, or terminate a grade standard. Requests for Agency action should be in writing, preferably accompanied by a draft of the suggested change.

(1) The Agency, in cooperation with interested parties, as applicable, will:

- (i) Determine the need for new or revised standards;
- (ii) Collect technical, marketing, or other appropriate data;
- (iii) Conduct research regarding new or revised standards, as appropriate; and,

- (iv) Draft the proposed standards;
- (2) [Reserved]

(b) If the Agency determines that new standards are needed, existing standards need to be revised, or the suspension or termination of existing standards is justified, it will undertake the action, with input from all interested parties.

§ 36.3 Public notification of grade standards action.

After developing a standardization proposal, the Agency will publish a notice in the **Federal Register** describing new or changes to existing standards or to suspend or terminate existing standards. AMS will simultaneously issue a news release about these actions. AMS will also distribute copies of the full text of the proposals to anyone requesting a copy or to anyone the Agency believes may be interested, including other Federal, State, or local government agencies, and on the Internet. For other than minor editorial or technical changes, the notice will provide at least 60 days for interested parties to submit comments to the Agency.

(a) All comments received within the comment period will be part of the public record maintained by the Agency, will be available to the public for review, and will be considered by the Agency before final action is taken on the proposal.

(1) Based on the comments received, the Agency's knowledge of standards, grading, marketing, and other technical factors, and any other relevant information AMS will decide whether the proposed actions should be implemented.

(2) If AMS concludes that the actions as proposed or with minor

modifications should be adopted, AMS will publish a description of the changes or actions in a **Federal Register** notice. The Agency, through the appropriate AMS Divisions, will make the grade standards and related information available in printed form and electronic media.

(3) If the Agency determines that proposed changes are not warranted, or otherwise are not in the public interest, the Agency will either publish in the **Federal Register** a notice withdrawing the proposal, or will revise the proposal and again seek public input.

(b) [Reserved]

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS¹

6. The authority citation for part 52 continues to read as follows:

Authority: 7 U.S.C. 1621-1627.

7. In part 52, Subpart—United States Standards for Grades of Frozen Cauliflower (§§ 52.721 through 52.729), Subpart—United States Standards for Grades of Frozen Okra (§§ 52.1511 through 52.1520), Subpart—United States Standards for Grades of Frozen Field Peas and Frozen Black-eye Peas (§§ 52.1661 through 52.1674), Subpart—United States Standards for Grades of Frozen Green Beans and Frozen Wax Beans (§§ 52.2321 through 52.2330) are removed.

PART 53—LIVESTOCK (GRADING, CERTIFICATION, AND STANDARDS)

8. The authority citation for part 53 continues to read as follows:

Authority: 7 U.S.C. 1621-1627.

Subpart B—[Removed and Reserved]

9. In part 53, Subpart B—Standards, is removed and reserved.

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

10. The authority citation for part 54 continues to read as follows:

Authority: 7 U.S.C. 1621-1627.

Subpart B—[Removed and Reserved]

11. In part 54, Subpart B—Standards is removed and reserved.

¹ Among such other processed food products are the following: Honey; molasses, except for stockfeed; nuts and nut products, except oil; sugar (cane, beet, and maple); sirups (blended), sirups, except from grain; tea; cocoa; coffee; spices; condiments.

**PART 58—GRADING AND
INSPECTION, GENERAL
SPECIFICATIONS FOR APPROVED
PLANTS AND STANDARDS FOR
GRADES OF DAIRY PRODUCTS**

12. The authority citation for part 58 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

**Subparts I, L, U—[Removed and
Reserved]**

13. In part 58, Subpart I—U.S. Standards for Grades of Monterey (Monterey Jack) Cheese, subpart L—United States Standards for Grades of Nonfat Dry Milk (Spray Process), and subpart U—United States Standards for Instant Nonfat Dry Milk are removed and reserved.

Dated: July 31, 1997.

Lon Hatamiya,

*Administrator, Agricultural Marketing
Service.*

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