

Rules and Regulations

Federal Register

Vol. 55, No. 190

Monday, October 1, 1990

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MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1204

Availability of Official Information

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: To reflect a change in the delegations of authority from the Chairman, the Merit Systems Protection Board is amending its rules implementing the Freedom of Information Act by changing the official to whom appeals of denials of access to records and denials of fee waivers are to be directed.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Michael H. Hoxie, Director, Information Services Division, (202) 653-8120.

List of Subjects in 5 CFR Part 1204

Freedom of information, Administrative practice and procedure, Privacy.

Accordingly, the Board amends title 5, part 1204, Subpart C—Appeals of the CFR as follows:

PART 1204—[AMENDED]

1. The authority citation for part 1204 continues to read as follows:

Authority: 5 U.S.C. 552 and 1204, Pub. L. 99-570 and E.O. 12800.

2. Section 1204.21 is revised to read as follows:

§ 1204.21 Submission.

A person may appeal a denial by the Clerk of the Board, or by any regional director, of access to agency records, waiver of fees, or reduction of fees. The appeal must be filed with the Executive Director, Merit Systems Protection Board, 1120 Vermont Avenue NW.,

Washington, DC 20419. Any appeal must include a copy of the initial request, a copy of the letter denying the request, and a statement of the reasons why the appellant believes the denying official erred.

Dated: September 25, 1990.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 90-23096 Filed 9-28-90; 8:45 am]

BILLING CODE 7400-01-M

5 CFR Part 1205

Privacy Act Regulations

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: To reflect a change in the delegations of authority from the Chairman, the Merit Systems Protection Board is amending its rules implementing the Privacy Act by changing the official to whom appeals of denials of access to records and denials of fee waivers are to be directed.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Michael H. Hoxie, Director, Information Services Division, (202) 653-8120.

List of Subjects in 5 CFR part 1205

Privacy, Administrative practice and procedure, Government employees.

Accordingly, the Board amends 5 CFR Part 1205 Subpart D—Appeals as follows:

1. The authority citation for part 1205 continues to read as follows:

Authority: 5 U.S.C. 552a and 1204.

2. Section 1205.31(a) is revised to read as follows:

§ 1205.31 Submitting appeal.

(a) A partial or complete denial, by the Clerk of the Board or a regional director, of a request for amendment may be appealed to the Executive Director, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419.

3. Section 1205.32 is revised to read as follows:

§ 1205.32 Decision on appeal.

(a) The Executive Director will decide the appeal within 30 working days unless that official determines that there

is good cause for extension of that deadline. If an appeal is improperly labeled, does not contain the necessary information, or is submitted to an inappropriate official, the time period for processing the appeal will begin when the Executive Director receives the appeal and the necessary information.

(b) If the request for amendment of a record is granted on appeal, the Executive Director will direct that the amendment be made. A copy of the amended record will be provided to the requester.

(c) If the request for amendment of a record is denied, the Executive Director will notify the requester of the denial and will inform the requester of:

- (1) The basis for the denial;
- (2) The right to judicial review of the decision under 5 U.S.C. 552a(g)(1)(A); and
- (3) The right to file a concise statement with the Board stating the reasons why the requester disagrees with the denial. This statement will become a part of the requester's record.

Dated: September 25, 1990.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 90-23097 Filed 9-28-90; 8:45 am]

BILLING CODE 7400-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[DA-80-126]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; Final Amendments to the United States Standards for Dry Whey and the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the United States Standards for Dry Whey. The revision allows the moisture removed from cheese curd as a result of salting ("salty whey") to be collected for further processing as whey if the

collection of the moisture and the removal of the salt from the moisture are conducted in an approved manner. The revision takes into consideration new technology for removing salt from salty whey. A corollary change has been made in the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT:

Duane R. Spomer, Head, Dairy Standardization Section, U.S. Department of Agriculture, Agricultural Marketing Service, Dairy Division, room 2750 South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-3171.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

The final rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Administrator, Agricultural Marketing Service, has determined that the final rule will not have a significant economic impact on a substantial number of small entities because use of the standards is voluntary and the revisions will not increase costs to those utilizing the standards.

In accordance with the United States Department of Agriculture policy for regulatory review, the Dairy Standardization Section conducted a review of the United States Standards for Dry Whey. The objective of the review was to obtain both current and historical information relating to a proposal to allow the moisture removed from cheese curd as a result of salting (salty whey) to be collected for further processing as whey if the salty whey has been collected and the salt has been removed in an approved and sanitary manner. The review took into consideration new technology for removing salt from salty whey.

The review involved the collection and evaluation of information from the Department's Dairy Grading Section and representatives of the whey processing industry. It was determined that modern equipment and processes can collect the salty whey and remove the salt from it in a sanitary manner. In the past, salty whey has been discarded. The U.S. Standards for Dry Whey have been revised to allow the collection of salty whey and, after the salt has been removed, the further processing of the remaining material as whey.

USDA grade standards are voluntary standards that are developed pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) to facilitate the marketing process. Manufacturers of dairy products are free to choose whether or not to use these grade standards. USDA grade standards for dairy products have been developed to identify the degree of quality in the various products. Quality in general refers to usefulness, desirability, and value of the product—its marketability as a commodity. When dry whey is officially graded, the USDA regulations and standards governing the grading of manufactured or processed dairy products are used. These regulations also require a charge for grading service provided by USDA.

A corollary change has been made in Part 58, Subpart B, entitled General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service, to conform the definition of whey set forth therein with the revised U.S. Standards for Dry Whey.

Changes Adopted in the Final Rule

This document makes the following revisions to the United States Standards for Dry Whey and amends the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service:

1. Revise the definition for whey to allow the moisture removed from cheese curd as a result of salting (salty whey) to be collected for further processing as whey if the salty whey has been collected and the salt has been removed in an approved and sanitary manner.
2. A corollary change has been made in part 58, subpart 8, entitled General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service, to conform to the definition of whey set forth therein with the revised U.S. Standards for Dry Whey.

Response to Industry Comments

A rulemaking document proposing the changes outlined above was published in the *Federal Register* on June 15, 1990 (55 FR 24248). A 60-day comment period was provided so that interested persons could submit comments on the proposed changes.

The Agency received one comment from an institute representing the dry products industry, and one comment from an individual representing a major dairy company. Both commenters were in favor of the proposed changes and both suggested that the revision be made effective as soon as the docket is

printed in the *Federal Register* as a final rule.

Good cause is found for not postponing the effective date of this rule until 30 days after publication in the *Federal Register* (5 U.S.C. 553) because of the new technology which enables salty whey to be further processed. Applicants for service should be able to utilize this technology as soon as possible. Additionally, both comments received supported an immediate effective date and no useful purpose would be served by any delay in the effective date of the rule.

List of Subjects in 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 part 58 is revised as follows:

PART 58—[AMENDED]

1. The authority citation for 7 CFR part 58 continues to read as follows:

Authority: Sections 202-208, 60 Stat. 1087, as amended; 7 U.S.C. 1621-1627, unless otherwise noted.

2. In subpart B, § 58.805(a) is revised to read as follows:

§ 58.805 Meaning of words.

(a) *Whey*. "Whey" is the fluid obtained by separating the coagulum from milk, cream, and/or skim milk in cheesemaking. The acidity of the whey may be adjusted by the addition of safe and suitable pH adjusting ingredients. Moisture removed from cheese curd as a result of salting may be collected for further processing as whey if the collection of the moisture and the removal of the salt from the moisture are conducted in accordance with procedures approved by the Administrator.

3. The authority citation for 7 CFR part 58, subpart 0 continues to read as follows:

Authority: Agricultural Marketing Act of 1946; secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

4. In subpart 0, § 58.2601 is revised to read as follows:

§ 58.2601 Whey.

"Whey" is the fluid obtained by separating the coagulum from milk, cream, and/or skim milk in cheesemaking. The acidity of the whey may be adjusted by the addition of safe and suitable pH adjusting ingredients. Moisture removed from cheese curd as a

result of salting may be collected for further processing as whey if the collection of the moisture and the removal of the salt from the moisture are conducted in accordance with procedures approved by the Administrator.

Signed at Washington, DC, on September 26, 1990.

Daniel Haley,

Administrator.

[FR Doc. 90-23153 Filed 9-29-90; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Stabilization and Conservation Service

7 CFR Parts 723, 724, 725, and 726

Farm Marketing Quotas, Acreage Allotments, and Production Adjustment; Tobacco

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Final rule.

SUMMARY: This rule adopts as a final rule, with minor corrections, the proposed rule published in the Federal Register on June 20, 1990 (55 FR 25096). This rule amends the regulations at 7 CFR parts 723, 724, 725, and 726 which implements the tobacco marketing quota and acreage allotment programs authorized by the Agricultural Adjustment Act of 1938, as amended (the 1938 Act). This rule removes 7 CFR parts 724, 725, and 726; and revises part 723 to consolidate parts 724, 725, and 726. It deletes obsolete and unnecessary provisions and includes Puerto Rico (type 46) tobacco in marketing quota regulations. No substantive changes of current regulations are included in this final rule.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Raymond S. Fleming, Agricultural Program Specialist, Tobacco and Peanuts Division, ASCS-USDA, P.O. Box 2415, Washington, DC 20013, telephone (202) 447-4318.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation No. 1512-1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant

adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises, to compete with foreign-based enterprises in domestic or export markets.

Information collection requirements contained in this regulation have been approved by OMB under the provisions of 44 U.S.C., chapter 35 and have been assigned OMB #0580-0058 and #0580-0006.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the catalog of Federal Domestic Assistance.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

The regulations in 7 CFR parts 723 through 726 set forth the provisions of the tobacco marketing quota and acreage allotment programs. Part 723 is currently applicable to Cigar-filler (type 41) and Maryland (type 32) tobacco. Part 724 is currently applicable to Fire-cured, Dark air-cured, Virginia sun cured, Cigar-binder (types 51 and 52), Cigar-filler and binder (types 42, 43, 44, 54, and 55) tobacco. Part 725 is currently applicable to Flue cured tobacco and part 726 is currently applicable to Burley tobacco. This final rule revises part 723 and removes all references to Cigar-binder (types 51 and 52) tobacco in part 724 since marketing quotas are not currently in effect with respect to these kinds of tobacco.

A proposed rule was published in the Federal Register on June 20, 1990, (55 FR 25096), to consolidate 7 CFR parts 723 through 726 into part 723. This was done because numerous provisions in the various parts were identical. Therefore, consolidation of the parts will result in more uniformity in the provisions and more efficient program administration.

This rule does not impose additional regulatory provisions. However, obsolete and unnecessary regulations are removed. The rule reduces paperwork and recordkeeping by tobacco producers and industry entities.

The public was given 30 days to submit written comments on the proposed rule published in the Federal Register on June 20, 1990, (55 FR 25096) with respect to any provisions of part 723 which are unnecessary or unclear. There were two (2) public comments received on the proposed rule from State ASC Committees. These comments addressed typographical errors and omission of certain provisions. These pertinent errors are corrected in the final rule. The comments included recommendations for changes in the tobacco program that were not included for consideration in the proposed rule. While these recommendations are not included in the final rule because the public was not afforded an opportunity to comment on them, these recommendations will be considered for inclusion in a future proposed rule. Accordingly, the proposed rule which was published in the Federal Register on June 20, 1990, (55 FR 25096) is adopted, with minor corrections, as the final rule.

List of Subjects

7 CFR Part 723

Acreage allotments, Marketing quotas, Reporting and recordkeeping requirements, Tobacco.

7 CFR Part 724

Acreage allotments, Disaster assistance, Marketing quotas, Penalties, Pesticides and pests, Reporting requirements, Tobacco.

7 CFR Part 725

Acreage allotments, Disaster assistance, Marketing quotas, Penalties, Pesticides and pests, Reporting requirements, Tobacco.

7 CFR Part 726

Disaster assistance, Marketing quotas, Penalties, Pesticides and pests, Reporting requirements, Tobacco.

Final Rule

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

PARTS 724, 725, and 726—[REMOVED]

Accordingly, parts 724, 725, and 726 are removed and the present part 723 is revised to read as follows: