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## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2634

RIN 3209-AA06

#### Public Financial Disclosure, Conflicts of Interest, and Certificates of Divestiture for Executive Branch Officials; Correction

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects a typographical error in one of the amendatory instructions of the final rule on executive branch certificates of divestiture, which was published by OGE in the Federal Register on Tuesday, June 25, 1996 (61 FR 32633-32636).

**EFFECTIVE DATE:** July 25, 1996.

**FOR FURTHER INFORMATION CONTACT:** William E. Gressman, Office of Government Ethics; telephone: 202-208-8000, extension 1110; FAX: 202-208-8000.

**SUPPLEMENTARY INFORMATION:** In the above-noted final rule document published by OGE, amendatory instruction 2 inadvertently indicated that it was revising portions of paragraph (b) of § 2634.1002 of 5 CFR, whereas in fact it was intended to revise portions of paragraph (b) of § 2634.1001 of 5 CFR (amendatory instruction 3 revised portions of § 2634.1002). This correction document corrects the error in amendatory instruction 2.

Approved: July 2, 1996.

F. Gary Davis,

Deputy Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Office of Government Ethics is correcting the June 25, 1996 publication of the final rule on Public Financial Disclosure, Conflicts of Interest, and Certificates of Divestiture for Executive Branch Officials, which

was the subject of FR Doc. 96-15970, as follows:

On page 32635, in the second column, in the first line of amendatory instruction 2, the reference to “§ 2634.1002” is corrected to read “§ 2634.1001”.

[FR Doc. 96-17263 Filed 7-5-96; 8:45 am]

BILLING CODE 6345-01-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 58

[DA-93-04]

#### Grading and Inspection, General Specification for Approved Plants and Standards for Grades of Dairy Products; United States Standards for Instant Nonfat Dry Milk

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document revises the United States Standards for Instant Nonfat Dry Milk. The revision limits the use of lactose as a processing aid in the instantizing process, provides fortification levels for instant nonfat dry milk with added vitamins A and D, and deletes the optional phosphatase test. This revision was developed in cooperation with the American Dairy Products Institute and other dairy trade associations.

**EFFECTIVE DATE:** August 7, 1996.

**FOR FURTHER INFORMATION CONTACT:** Roland S. Golden, Dairy Products Marketing Specialist, Dairy Standardization Branch, USDA/AMS/Dairy Division, Room 2750-S, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-7473.

**SUPPLEMENTARY INFORMATION:** This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule does not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this 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 do not increase costs to those utilizing the standards.

The Department is issuing this rule in conformance with Executive Order 12866.

To provide quality grade standards that reflect the ability of the U.S. dairy industry to produce high-quality instant nonfat dry milk, USDA is revising the U.S. Standards for Instant Nonfat Dry Milk as follows:

#### 1. Restrict the Amount of Lactose Used as a Processing Aid

The use of lactose as a processing aid in the production of instant nonfat dry milk is an acceptable practice provided the amount used does not exceed the amount necessary to produce the desired effect. If more lactose than necessary is added, the additional lactose serves no purpose other than to displace nonfat dry milk. The revision permits the use of lactose as a processing aid and restricts the amount added to a maximum of 2.0 percent of the weight of the nonfat dry milk.

#### 2. Provide Fortification Levels for Instant Nonfat Dry Milk With Added Vitamins A and D

Previously, the U.S. Standards for Instant Nonfat Dry Milk have not provided fortification levels for product with added vitamins A and D. This revision incorporates fortification levels that are consistent with the Food and Drug Administration's standards of identity for nonfat dry milk fortified with vitamins A and D (21 CFR 131.127).

#### 3. Delete the Reference to the Optional Phosphatase Test

Pasteurization destroys pathogenic organisms and occurs when milk is heated to pasteurization temperature and held at that temperature for a specified period of time. To be considered pasteurized, the heating and holding of milk must take place in properly designed and installed equipment which has been inspected and sealed by the State Regulatory Agency. Phosphatase testing confirms only that a given sample of instant

nonfat dry milk has been pasteurized but does not ensure that pasteurization has occurred for product manufactured before and after the sample tested.

Before U.S. grade can be assigned to instant nonfat dry milk, it must be produced in a dairy plant which has been inspected by USDA. When a USDA dairy plant inspection is conducted, the inspector evaluates the pasteurization system for compliance with program requirements.

The Department believes that the inspection and sealing of pasteurization equipment by the State Regulatory Agency and a review of the system by the USDA inspector provides adequate assurance that the instant nonfat dry milk has been properly pasteurized. For this reason, the Department has deleted the reference to the optional phosphatase test that appears in 7 CFR § 58.2756. This action does not prohibit using the phosphatase test upon request.

#### 4. Update the Terminology and Format of the Standards

The current U.S. Standards for Instant Nonfat Dry Milk were last revised in 1984. Since that time, changes in terminology and formatting of standards have taken place. The revision updates the standards to provide consistency among the various U.S. grade standards.

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 instant nonfat dry milk 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 the grading service provided by USDA. The Agency believes this revision accurately identifies quality characteristics in instant nonfat dry milk.

Corollary changes are also made for the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service, to conform the definition of instant nonfat dry milk set forth therein with the revision of the United States Standards for Instant Nonfat Dry Milk.

#### Public Comments

On March 6, 1995, the Department published a proposed rule (60 FR

12154) to revise the United States Standards for Instant Nonfat Dry Milk. The public comment period closed on May 5, 1995. One institute representing the dry milk industry submitted comments.

#### Discussion of Comments

The commenter supported all of the proposed changes except for the lowering of the direct microscopic clump (DMC) count from 75 to 40 million per gram. The commenter suggested deletion of this requirement from the standard and provided the following comments in support of this position.

1. The accuracy and reproducibility of the DMC count results is unreliable.

2. A 0.1 milliliter sample of reconstituted instant nonfat dry milk is an extremely small sample to evaluate a large volume of product.

3. Grade A milk is used to manufacture most instant nonfat dry milk produced in the United States. The maximum allowable bacteria in Grade A raw milk is less than the maximum allowed in manufacturing grade milk. The production of manufacturing grade milk has decreased since the last revision of this standard and provides instant nonfat dry milk with lower DMC counts. (This fact was submitted to support the deletion of DMC count requirements.)

4. Requirements for Grade A (the designation of the National Conference on Interstate Milk Shippers, not an indication of USDA quality grade) instant nonfat dry milk do not include DMC count limits.

5. The Codex Alimentarius "Standard for Whole Milk Powder, Partly Skimmed Milk Powder and Skimmed Milk Powder" does not provide DMC count limits for product in international trade.

The comments pertaining to the accuracy, reproducibility, and small sample size become increasingly valid as DMC count limits are lowered. The Department accepts these concerns and elects not to lower the DMC count limits at this time.

The Department disagrees with the request for deletion of the DMC count requirement. U.S. Grade Standards are quality standards and differ from standards developed by the National Conference on Interstate Milk Shipments and The Codex Alimentarius Commission. The U.S. Standards for Instant Nonfat Dry Milk will retain the DMC count maximum requirement of 75 million per gram.

#### 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 amended as follows:

#### PART 58—[AMENDED]

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

Authority: 7 U.S.C. 1621–1627.

2. In Part 58, § 58.205 paragraph (b) is revised to read as follows:

#### § 58.205 Meaning of words.

\* \* \* \* \*

(b) *Instant nonfat dry milk.* Instant nonfat dry milk is nonfat dry milk which has been produced in such a manner as to substantially improve its dispersing and reconstitution characteristics over that produced by the conventional process. Instant nonfat dry milk shall not contain dry buttermilk, dry whey, or products other than nonfat dry milk, except that lactose may be added as a processing aid during instantizing. The instant nonfat dry milk shall not contain any added preservatives, neutralizing agent, or other chemical. If lactose is used, the amount of lactose shall be the minimum required to produce the desired effect, but in no case shall the amount exceed 2.0 percent of the weight of the nonfat dry milk. If instant nonfat dry milk is fortified with vitamin A, and the product is reconstituted in accordance with the label directions, each quart of the reconstituted product shall contain 2000 International Units thereof. If instant nonfat dry milk is fortified with vitamin D, and the product is reconstituted in accordance with the label directions, each quart of the reconstituted product shall contain 400 International Units thereof.

\* \* \* \* \*

3. In Part 58, subpart U is revised to read as follows:

#### Subpart U—United States Standards for Instant Nonfat Dry Milk

##### Definitions

##### Sec.

58.2750 Instant nonfat dry milk.

##### U.S. Grade

58.2751 Nomenclature of the U.S. grade.

58.2752 Basis for determination of the U.S. grade.

58.2753 Specifications for the U.S. grade.

58.2754 U.S. grade not assignable.

58.2756 Test methods.

##### Explanation of Terms

58.2759 Explanation of terms.

**Subpart U—United States Standards for Instant Nonfat Dry Milk<sup>1</sup>****Definitions****§ 58.2750 Instant nonfat dry milk.**

(a) Instant nonfat dry milk is nonfat dry milk which has been produced in such a manner as to substantially improve its dispersing and reconstitution characteristics over that produced by the conventional processes. Instant nonfat dry milk covered by these standards shall not contain dry buttermilk, dry whey, or products other than nonfat dry milk, except that lactose may be added as a processing aid during instantizing. The instant nonfat dry milk shall not contain any added preservatives, neutralizing agent, or other chemical. If lactose is used, the amount of lactose shall be the minimum required to produce the desired effect, but in no case shall the amount exceed 2.0 percent of the weight of the nonfat dry milk. If instant nonfat dry milk is fortified with vitamin A, and the product is reconstituted in accordance with the label directions, each quart of the reconstituted product shall contain 2000 International Units thereof. If instant nonfat dry milk is fortified with vitamin D, and the product is reconstituted in accordance with the label directions, each quart of the reconstituted product shall contain 400 International Units thereof.

(b) "Nonfat dry milk" is the product obtained by the removal of only water from pasteurized skim milk. It contains not more than 5 percent by weight of moisture and not more than 1½ percent by weight of milkfat and it conforms to the applicable provisions or 21 CFR 131 "Milk and Cream" as issued by the Food and Drug Administration. Nonfat dry milk shall not contain nor be derived from dry buttermilk, dry whey, or products other than skim milk, and shall not contain any added preservative, neutralizing agent, or other chemical.

**U.S. Grade****§ 58.2751 Nomenclature of the U.S. grade.**

The nomenclature of the U.S. grade is U.S. Extra.

**§ 58.2752 Basis for determination of the U.S. grade.**

The U.S. grade of instant nonfat dry milk is determined on the basis of flavor, physical appearance, bacterial estimate on the basis of standard plate count and coliform count, milkfat content, moisture content, scorched

particle content, solubility index, titratable acidity, and dispersibility.

**§ 58.2753 Specifications for the U.S. grade.**

(a) *U.S. Extra Grade.* U.S. Extra Grade instant nonfat dry milk shall conform to the following requirements (See Tables I, II, and III of this section):

(1) *Flavor.* Reconstituted instant nonfat dry milk shall possess a sweet, pleasing, and desirable flavor, but may possess the following flavors to a slight degree: Chalky, cooked, feed, or flat. See Table I of this section.

(2) *Physical appearance.* Instant nonfat dry milk shall possess a uniform white to light cream natural color. It shall be reasonably free-flowing and free from lumps except those that readily break up with very slight pressure. See Table II of this section.

(3) *Bacterial estimate.* Not more than 30,000 per gram standard plate count. See Table III of this section.

(4) *Coliform count.* Not more than 10 per gram. See Table III of this section.

(5) *Milkfat content.* Not more than 1.25 percent. See Table III of this section.

(6) *Moisture content.* Not more than 4.5 percent. See Table III of this section.

(7) *Scorched particle content.* Not more than 15.0 mg. See Table III of this section.

(8) *Solubility index.* Not more than 1.0 ml. See Table III of this section.

(9) *Titratable acidity.* Not more than 0.15 percent (lactic acid). See Table III of this section.

(10) *Dispersibility.* Not less than 85.0 percent. See Table III of this section.

(b) [Reserved]

TABLE I OF § 58.2753—  
CLASSIFICATION OF FLAVOR

Flavor characteristics	U.S. extra grade
Chalky .....	Slight.
Cooked .....	Slight.
Feed .....	Slight.
Flat .....	Slight.

TABLE II OF § 58.2753—CLASSIFICATION OF PHYSICAL APPEARANCE

Physical appearance characteristics	U.S. extra grade
Color .....	White to light cream.
Free flowing .....	Reasonably.
Lumpy .....	Very slight pressure.

TABLE III OF § 58.2753—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS

Laboratory tests	U.S. extra grade
Bacterial estimate; Standard plate count; per gram (max) .....	30,000
Coliform count; per gram (max) ...	10
Milkfat content; percent (max) .....	1.25
Moisture content; percent (max) ...	4.5
Scorched particle content; mg (max) .....	15.0
Solubility index; ml (max) .....	1.0
Titratable acidity (lactic acid); percent (max) .....	0.15
Dispersibility; percent (min) .....	85.0

**§ 58.2754 U.S. grade not assignable.**

Instant nonfat dry milk shall not be assigned the U.S. grade for one or more of the following reasons:

(a) The instant nonfat dry milk fails to meet the requirements for U.S. Extra Grade.

(b) The instant nonfat dry milk has a direct microscopic clump (DMC) count exceeding 75 million per gram.

(c) The instant nonfat dry milk is produced in a plant that is rated ineligible for USDA grading service or is not USDA-approved.

**§ 58.2756 Test methods.**

All required tests shall be performed in accordance with DA Instruction No. 918-RL, "Instruction for Resident Grading Quality Control Service Programs and Laboratory Analysis," Dairy Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20090-6456; the latest revision of "Official Methods of Analysis of the Association of Official Analytical Chemists"; or the latest edition of "Standard Methods for the Examination of Dairy Products" available from the American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005.

**Explanation of Terms****§ 58.2759 Explanation of terms.**

(a) *With respect to flavor:*

(1) *Slight.* Detected only upon critical examination.

(2) *Chalky.* A tactual type of flavor lacking in characteristic milk flavor.

(3) *Cooked.* Similar to a custard flavor and imparts a smooth aftertaste.

(4) *Feed.* Feed flavors (such as alfalfa, sweet clover, silage, or similar feed) in milk carried through into the instant nonfat dry milk.

(5) *Flat.* Insipid, practically devoid of any characteristic reconstituted instant nonfat dry milk flavor.

<sup>1</sup> Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

(b) *With respect to physical appearance:*

(1) *Reasonably free-flowing.* Pours in a fairly constant, uniform stream from the open end of a tilted container or scoop.

(2) *Very slight pressure.* Lumps fall apart with only light touch.

(3) *Lumpy.* Loss of powdery consistency but not caked into hard chunks.

(4) *Natural color.* A color that is white to light cream.

Dated: June 28, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96-17200 Filed 7-5-96; 8:45 am]

BILLING CODE 3410-02-P

## 7 CFR Part 958

[FV96-958-1FR]

### Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon, and Imported Onions; Modification of Size Requirements

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule changes the "repacker/prepacker" size designations for all varieties of onions except white or red varieties by increasing the minimum diameter from 1½ inches to 1¾ inches, and the maximum diameter from 2½ inches to 2¾ inches for onions in this size category. Recent trends in buyer preference reflect an increasing demand for larger size onions in the "repacker/prepacker" category. This final rule will benefit producers and handlers by increasing their flexibility and efficiency in the packaging of "repacker/prepacker" size onions. As provided under section 8e of the Agricultural Marketing Agreement Act of 1937, the change to the minimum size requirement also applies to all imported onions except white or red varieties.

**EFFECTIVE DATE:** July 15, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204-2807; telephone: (503)326-2724; FAX: (503)326-7440; or Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523, South Building, P.O. Box 96456, Washington, D.C. 20090-6456; telephone: (202)690-0464; FAX: (202)720-5698.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Agreement No. 130 and Marketing Order No. 958 (7 CFR Part 958), both as amended, regulating the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. The marketing agreement and marketing order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This final rule, which also affects the minimum size requirements for all varieties of imported onions, except white or red varieties, is also issued pursuant to section 8e of the Act. The provisions of section 8e and the onion import regulations are discussed later in this final rule.

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

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative proceedings which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the act.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly

or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Import regulations issued under the Act are based on those established under Federal marketing orders which regulate the handling of domestically produced products. Thus, this final rule should have small entity orientation, and impact both small and large business entities in a manner comparable to those issued under marketing orders.

There are currently 34 handlers subject to regulation under the marketing order and approximately 550 onion producers in the regulated production area. In addition, at least 148 importers of onions are subject to import regulations and will be affected by this final rule. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. The majority of handlers and producers of Idaho-Eastern Oregon onions may be classified as small entities. The majority of importers may also be classified as small entities.

This final rule changes the "repacker/prepacker" size designations for all varieties of onions except white or red varieties by increasing the minimum diameter from 1½ inches to 1¾ inches, and the maximum diameter from 2½ inches to 2¾ inches for onions in this size category. Recent trends in buyer preference reflect an increasing demand for larger size onions in the "repacker/prepacker" category. This final rule will benefit producers and handlers by allowing them to better meet the needs of their customers, who desire slightly larger "repacker/prepacker" size onions.

As provided under section 8e of the Act, the change to the minimum size requirement also applies to all imported onions except white or red varieties. The benefits to producers and handlers should apply also to importers. The slight increase in minimum size is expected also to benefit importers by recognizing recent trends in buyer preference for larger size onions.

Because this rule is expected to benefit and have a positive impact on producers, handlers, importers, and consumers of onions, the AMS has determined that the issuance of this final rule will not have a significant