(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.

TABLE I.—CLASSIFICATION OF FLAVOR

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

TABLE II.—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.—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 40 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.

(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: February 24, 1995.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 95–5295 Filed 3–3–95; 8:45 am]

BILLING CODE 3410–2–P

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7 CFR Part 58

[DA–93–03]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; United States Standards for Grades of Nonfat Dry Milk (Spray Process)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to revise the United States Standards for Grades of Nonfat Dry Milk (Spray Process). The proposed changes would reduce existing bacterial standard plate count maximums and incorporate a coliform requirement to reflect the ability of the U.S. dairy industry to produce high-quality nonfat dry milk. The reduction in the maximum standard plate count is made possible through improved raw milk quality and enhanced processing and sanitation techniques. The inclusion of a maximum coliform count adds to the assurance that post-pasteurization contamination has not occurred. This proposal was developed in cooperation with the American Dairy Products Institute and other trade associations.

DATES: Comments should be filed by May 5, 1995.

ADDRESSES: Comments should be sent to: Director, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2968–S, P.O. Box 96456, Washington, DC 20090–6456. They will be available for public inspection at the Dairy Division in Room 2750–S during regular business hours.

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 proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule would 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 proposed 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 proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities because use of the standards is voluntary and the revisions would 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 nonfat dry milk, USDA is proposing the following changes in the U.S. Standards for Grades of Nonfat Dry Milk (Spray Process).

1. Expand the U.S. Grade Standards To Include a Maximum Coliform Count in USDA-Graded Product

Coliform bacteria, abundantly present in the environment, are destroyed by pasteurization. Post-pasteurization contamination has occurred when coliform bacteria are present in nonfat dry milk. The addition of a coliform requirement into the U.S. grade standard increases the assurance that USDA graded nonfat dry milk is produced and packaged in a sanitary manner.

2. Reduce the Standard Plate Count Requirements

Enumeration of bacteria by the standard plate count method has been a criterium used in the determination of U.S. grade for many years. Improvements in the sanitary production of nonfat dry milk have resulted in a gradual reduction in the number of bacteria present in the product. The proposal would reduce the allowable bacteria from 50,000 to 40,000 per gram for U.S. Extra Grade and from 100,000 to 75,000 per gram for U.S. Standard Grade. These proposed changes accurately reflect the ability of the U.S. dairy industry to produce high-quality nonfat dry milk and enhance the image of U.S. products on the world market.

3. Update the Terminology and Format of the Standards

The current U.S. Standards for Grades of Nonfat Dry Milk (Spray Process) were last revised in 1984. Since that time, changes in terminology and formatting of standards have taken place. The proposal would update 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 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 proposal would accurately identify quality characteristics in nonfat dry milk.

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

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, it is proposed that 7 CFR Part 58 be amended as follows:

PART 58—[AMENDED]

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

Authority: Agricultural Marketing Act of 1946, Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627, unless otherwise noted.

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

§ 58.205 Meaning of words.

* * * * *

(a) *Nonfat dry milk.* 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 of 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.

* * * * *

3. In Part 58, Subpart L is revised to read as follows:

Subpart L—United States Standards for Grades of Nonfat Dry Milk (Spray Process) [1]

Definitions

Sec.

U.S. Grades

Explanation of Terms

Supplement to U.S. Standards for Grades of Nonfat Dry Milk (Spray Process): U.S. Heat Treatment Classification

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

Subpart L—United States Standards for Grades of Nonfat Dry Milk (Spray Process) [1]

Definitions

§ 58.2525 Nonfat dry milk.

(a) ''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 of 21 CFR part 131, ''Milk and Cream'' as issued by the Food and Drug Administration. Nonfat dry milk covered by these standards 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. Grades

§ 58.2526 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows:

(a) U.S. Extra.

(b) U.S. Standard.

§ 58.2527 Basis for determination of U.S. grade.

(a) The U.S. grade of nonfat dry milk is determined on the basis of flavor, physical appearance, bacterial estimate on the basis of standard plate count, milkfat content, moisture content, scorched particle content, solubility index, and titratable acidity.

(b) The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality factors.

§ 58.2528 Specifications for U.S. grades.

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

(1) *Flavor.* Reconstituted 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.

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

(2) *Physical appearance.* Nonfat dry milk shall possess a uniform white to light cream natural color. It shall be free from lumps, except those that readily break up with slight pressure, and be practically free from visible dark particles. The reconstituted product shall be free from graininess. See Table II of this section.

(3) *Bacterial estimate.* Not more than 40,000 per gram standard plate count. See Table III of this section.

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

(5) *Moisture content.* Not more than 4.0 percent. See Table III of this section.

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

(7) *Solubility index.* Not more than 1.2 ml., except that product classified as U.S. High-heat may have not more than 2.0 ml. See Table III of this section.

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

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

(1) *Flavor.* Reconstituted nonfat dry milk shall possess a fairly pleasing flavor, but may possess the following flavors to a slight degree: Bitter, oxidized, scorched, storage, or utensil; the following to a definite degree: Chalky, cooked, feed, or flat. See Table I of this section.

(2) *Physical appearance.* Nonfat dry milk may possess a slight unnatural color. It shall be free from lumps, except those that break readily under moderate pressure, and be reasonably free from visible dark particles. The reconstituted product shall be reasonably free from graininess. See Table II of this section.

(3) *Bacterial estimate.* Not more than 75,000 per gram standard plate count. See Table III of this section.

(4) *Milkfat content.* Not more than 1.50 percent. See Table III of this section.

(5) *Moisture content.* Not more than 5.0 percent. See Table III of this section.

(6) *Scorched particle content.* Not more than 22.5 mg. See Table III of this section.

(7) *Solubility index.* Not more than 2.0 ml., except that product classified as U.S. High-heat may have not more than 2.5 ml. See Table III of this section.

(8) *Titratable acidity.* Not more than 0.17 percent (lactic acid). See Table III of this section.

TABLE I.—CLASSIFICATION OF FLAVOR WITH CORRESPONDING U.S. GRADE

Flavor characteristics	U.S. extra grade	U.S. standard grade
Bitter	—	S
Chalky	S	D
Cooked	S	D
Feed	S	D
Flat	S	D
Oxidized	—	S
Scorched	—	S
Storage	—	S
Utensil	—	S

(—) = Not permitted S = Slight D = Definite.

TABLE II.—CLASSIFICATION OF PHYSICAL APPEARANCE WITH CORRESPONDING U.S. GRADE

Physical appearance characteristics	U.S. extra grade	U.S. standard grade
Dry Product:		
Lumpy	Slight	Moderate.
Unnatural color	—	Slight.
Visible dark particles	Practically free	Reasonably free.
Reconstituted Product:		
Grainy	—	Reasonably free.

(—) = Not permitted.

TABLE III.—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS WITH CORRESPONDING U.S. GRADE

Laboratory tests	U.S. extra grade	U.S. standard grade
Bacterial estimate; Standard plate count; per gram (max)	40,000	75,000
Milkfat content; percent (max)	1.25	1.50
Moisture content; percent (max)	4.0	5.0
Scorched particle content; mg (max)	15.0	22.5
Solubility index; ml (max)	1.2	2.0
U.S. High-heat (max)	2.0	2.5
Titratable acidity (lactic acid); percent (max)	0.15	0.17

§ 58.2529 U.S. grade not assignable.

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

(a) The nonfat dry milk fails to meet or exceed the requirements for U.S. Standard Grade.

(b) The nonfat dry milk has a direct microscopic clump (DMC) count exceeding 100 million per gram.

(c) The nonfat dry milk has a coliform count exceeding 10 per gram.

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

§ 58.2532 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

§ 58.2537 Explanation of terms.

(a) *With respect to flavor:*

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

(2) *Definite.* Not intense but detectable.

(3) *Bitter.* Distasteful, similar to the taste of quinine.

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

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

(6) *Feed.* Feed flavors (such as alfalfa, sweetclover, silage, or similar feed) in milk carried through into the nonfat dry milk.

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

(8) *Oxidized.* A flavor resembling cardboard and sometimes referred to as ''cappy'' or ''tallowy''.

(9) *Scorched.* A more intensified flavor than ''cooked'' and imparts a burnt aftertaste.

(10) *Storage.* Lacking in freshness and imparting a ''stale'' aftertaste.

(11) *Utensil.* A flavor that is suggestive of improper or inadequate washing and sanitation of milking machines, utensils, or manufacturing equipment.

(b) *With respect to physical appearance:*

(1) *Practically free.* Present only upon very critical examination.

(2) *Reasonably free.* Present only upon critical examination.

(3) *Slight pressure.* Only sufficient pressure to disintegrate the lumps readily.

(4) *Moderate pressure.* Only sufficient pressure to disintegrate the lumps easily.

(5) *Grainy.* Minute particles of undissolved powder appearing in a thin film on the surface of a glass or tumbler.

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

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

(8) *Unnatural color.* A color that is more intense than light cream and is brownish, dull, or grey-like.

(9) *Visible dark particles.* The presence of scorched or discolored specks.

Supplement to U.S. Standards for Grades of Nonfat Dry Milk (Spray Process): U.S. Heat Treatment Classification

§ 58.2538 Basis for obtaining heat treatment classification.

Heat treatment classification is not a U.S. grade requirement except in cases when the higher solubility index specified for U.S. High-heat product is permitted. In all other instances, product submitted for USDA grading may be analyzed for heat treatment classification upon request and the results shown on the grading certificate. Heat treatment classification will be made available only upon a product graded by USDA.

§ 58.2339 Nomenclature of U.S. Heat Treatment Classification.

The nomenclature of U.S. Heat Treatment Classification is as follows:

(a) U.S. High-heat.

(b) U.S. Medium-heat.

(c) U.S. Low-heat.

§ 58.2540 Basis for determination of U.S. Heat Treatment Classification.

The whey protein nitrogen test shall be used in determining the heat treatment classification as follows:

(a) *U.S. High-heat.* The finished product shall not exceed 1.50 mg. undenatured whey protein nitrogen per gram of nonfat dry milk.

(b) *U.S. Medium-heat.* The finished product shall exceed 1.50 mg. undenatured whey protein nitrogen per gram of nonfat dry milk and shall be less than 6.00 mg. undenatured whey protein nitrogen per gram of nonfat dry milk.

(c) *U.S. Low-heat.* The finished product shall be not less than 6.00 mg. undenatured whey protein nitrogen per gram of nonfat dry milk.

§ 58.2541 Test method; whey protein nitrogen.

The whey protein nitrogen test shall be performed in accordance with DA Instruction 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, 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.

Dated: February 24, 1995.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 95–5293 Filed 3–3–95; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Parts 102, 104, 105, and 116

[Docket No. 93–072–1]

Viruses, Serums, Toxins, and Analogous Products; Licenses, Inspections, Records, and Reports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations under the Virus-Serum-Toxin Act to clarify certain provisions concerning licenses, inspections, records, and reports. The effect of the rule is to ensure that licensees are aware of the fact that licenses are issued on the condition that the licensee permit inspection of establishments, products, and records, and that a licensee must have at least one product license in order to maintain a valid establishment license. Failure to permit inspection would make the license subject to suspension or revocation. We are also proposing amendments concerning the content of records and reports and their availability for inspection. The proposed rule is necessary to clarify and simplify certain provisions of the regulations.

DATES: Consideration will be given only to comments received on or before May 5, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 93–072–1, Animal and Plant Health Inspection Service, Regulatory Analysis and Development, Program and Policy Development, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 93–072–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to