AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

GRADES AND GRADE REQUIREMENTS—Continued

Grading factors	Grades U.S. Nos.				
	1	2	3	4	5
Crotalaria seeds	2	2	2	2	2
Glass	0	0	0	0	0
Stones	3	3	3	3	3
Unknown foreign substances	3	3	3	3	3
Total[4]	4	4	4	4	4
Insect-damaged kernels in 100 grams	31	31	31	31	31

U.S. Sample grade is Wheat that:
(a) Does not meet the requirements for U.S. Nos. 1, 2, 3, 4, or 5; or
(b) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or
(c) Is heating or of distinctly low quality.

[1] Includes damaged kernels (total), foreign material, shrunken and broken kernels.
[2] Unclassed wheat of any grade may contain not more than 10.0 percent of wheat of other classes.
[3] Includes contrasting classes.
[4] Includes any combination of animal filth, castor beans, crotalaria seeds, glass, stones, or unknown foreign substance.

(b) *Grades and grade requirements for Mixed wheat.* Mixed wheat is graded according to the U.S. numerical and U.S. Sample grade requirements of the class of wheat that predominates in the mixture, except that the factor wheat of other classes is disregarded.

[52 FR 24418, June 30, 1987, as amended at 52 FR 24442, June 30, 1987; 57 FR 58966, Dec. 14, 1992; 71 FR 8235, Feb. 18, 2006]

SPECIAL GRADES AND SPECIAL GRADE REQUIREMENTS

§ 810.2205 Special grades and special grade requirements.

(a) *Ergoty wheat.* Wheat that contains more than 0.05 percent of ergot.

(b) *Garlicky wheat.* Wheat that contains in a 1,000 gram portion more than two green garlic bulblets or an equivalent quantity of dry or partly dry bulblets.

(c) *Light smutty wheat.* Wheat that has an unmistakable odor of smut, or which contains, in a 250-gram portion, smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 5 smut balls, but not in excess of a quantity equal to 30 smut balls of average size.

(d) *Smutty wheat.* Wheat that contains, in a 250 gram portion, smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 30 smut balls of average size.

(e) *Treated wheat.* Wheat that has been scoured, limed, washed, sulfured, or treated in such a manner that the true quality is not reflected by either the numerical grades or the U.S. Sample grade designation alone.

[52 FR 24418, June 30, 1987, as amended at 52 FR 24442, June 30, 1987; 57 FR 58967, Dec. 14, 1992]

PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

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AUTHORITY: 7 U.S.C. 1621–1627.

Subpart A—Regulations

SOURCE: 53 FR 3722, Feb. 9, 1988, unless otherwise noted. Redesignated at 60 FR 16364, Mar. 30, 1995.

DEFINITIONS

§ 868.1 Meaning of terms.

(a) *Construction*. Words used in the singular form are considered to imply the plural and vice versa, as appropriate.

(b) *Definitions*. For the purpose of these regulations, unless the context requires otherwise, the following terms have the meanings given for them in this paragraph.

(1) *Act*. The Agricultural Marketing Act of 1946, as amended (secs. 202–208, 60 Stat. 1087, as amended, 7 U.S.C. 1621 *et seq.*).

(2) *Administrator*. The Administrator of the Agricultural Marketing Service, or any person to whom the Administrator's authority has been delegated.

(3) *Appeal inspection service*. A review by the Service of the result(s) of an original inspection or retest inspection service.

(4) *Applicant*. An interested person who requests any inspection service with respect to a commodity.

(5) *Authorized inspector*. A Department employee authorized by the Administrator to inspect a commodity in accordance with the Act, regulations, standards, and instructions.

(6) *Board appeal inspection service*. A review by the Board of Appeals and Review of the result(s) of an original inspection or appeal inspection service on graded commodities.

(7) *Board of Appeals and Review or Board*. The Board of Appeals and Review of the Service that performs Board appeal inspection services.

(8) *Business day*. The established field office working hours, any Monday through Friday that is not a holiday, or the working hours and days established by a cooperator.

(9) *Carrier*. A truck, trailer, truck/trailer(s) combination, railroad car, barge, ship, or other container used to transport bulk, sacked, or packaged commodity.

(10) *Commodity*. Agricultural commodities and products thereof that the Secretary has assigned to the Service for inspection under the Act, including but not limited to dry beans, grain, hops, lentils, oilseeds, dry peas, split peas, and rice.

(11) *Continuous inspection.* The conduct of inspection services in an approved plant where one or more official inspection personnel are present during the processing of a commodity to make in-process examinations of the preparation, processing, packing, and warehousing of the commodity and to determine compliance with applicable sanitation requirements.

(12) *Contract service.* Any service performed under a contract between an applicant and the Service.

(13) *Contractor.* Any person who enters into a contract with the Service or with a cooperator to perform specified inspection services.

(14) *Cooperator.* An agency or department of the Federal Government which has an interagency agreement or State agency which has a reimbursable agreement with the Service.

(15) *Cooperator inspection service.* The inspection service provided by a cooperator under the regulations. Under this service, inspection certificates are issued by the cooperator and all fees and charges are collected by the cooperator, except as provided in the agreement.

(16) *Department.* The United States Department of Agriculture.

(17) *Factor.* A quantified physical or chemical property identified in official standards, specifications, abstracts, contracts, or other documents whose measurement describes a specific quality of a commodity.

(18) *Field office.* An office of the Service designated to perform, monitor, or supervise inspection services.

(19) *Grade.* A grade designating a level of quality as defined in the commodity standards promulgated pursuant to the Act.

(20) *Graded commodity.* Commodities for which the Service has promulgated Standards under the Act and commodities which are tested by the Service at a field office or by a cooperator for specific physical factors using approved equipment and an inspector's interpretation of visual conditions.

(21) *Holiday.* The legal public holidays specified in paragraph (a) of section 6103, title 5, of the United States Code (5 U.S.C. 6103(a)) and any other day declared to be a holiday by Federal Statute or Executive Order. Under section 6103 and Executive Order 10357, as amended, if the specified legal public holiday falls on a Saturday, the preceding Friday shall be considered to be the holiday, or if the specified legal public holiday falls on a Sunday, the following Monday shall be considered to be the holiday.

(22) *Inspection certificate.* A written or printed official document which is approved by the Service and which shows the results of an inspection service performed under the Act.

(23) *Inspection service.* (i) Applying such tests and making examinations of a commodity and records by official personnel as may be necessary to determine the kind, class, grade, other quality designation, the quantity, or condition of commodity; performing condition of container, carrier stowage examinations; and any other services as related to commodities, as necessary; and (ii) issuing an inspection certificate.

(24) *Instructions.* The Notices, Instructions, Handbooks, and other directives issued by the Service.

(25) *Interagency agreement.* An agreement between the Service and other agencies or departments of the Federal Government to conduct commodity inspection services as authorized in the Act.

(26) *Interested person.* Any person having a contract or other financial interest in a commodity as the owner, seller, purchaser, warehouseman, carrier, or otherwise.

(27) *Licensee.* Any person licensed by the Service.

(28) *Nongraded commodity.* Nonprocessed commodities which are chemically tested for factors not included in the Standards under the Act or the U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*) and processed commodities.

(29) *Nonregular workday.* Any Sunday or holiday.

(30) *Official inspector.* Any official personnel who performs, monitors, or supervises the performance of inspection service and certifies the results of inspection of the commodity.

(31) *Official personnel.* Any authorized Department employee or person licensed by the Administrator to perform all or specified functions under the Act.

(32) *Official sampler*. Any official personnel who performs, monitors, or supervises the performance of sampling of a commodity.

(33) *Official technician*. Any official personnel who performs, monitors, or supervises the performance of specified inspection services and certifies the results thereof, other than certifying the grade of a commodity.

(34) *Origin*. The geographical area or place where the commodity is grown.

(35) *Original inspection service*. An initial inspection of a community.

(36) *Person*. Any individual, partnership, association, corporation, or other business entity.

(37) *Plant*. The premises, buildings, structure, and equipment (including but not limited to machines, utensils, vehicles, and fixtures located in or about the premises) used or employed in the preparation, processing, handling, transporting, and storage of commodities.

(38) *Regular workday*. Any Monday through Saturday that is not a holiday.

(39) *Regulations*. The regulations in this part.

(40) *Reimbursable agreement*. An agreement between the Service and State agencies to conduct commodity inspection services authorized pursuant to the Act.

(41) *Retest inspection service*. To test, using the same laboratory procedures, a factor(s) of nongraded commodities previously tested.

(42) *Secretary*. The Secretary of Agriculture of the United States or any person to whom the Secretary's authority has been delegated.

(43) *Service*. The Federal Grain Inspection Service of the Agricultural Marketing Service, of the United States Department of Agriculture.

(44) *Service representative*. An employee authorized by the Service or a person licensed by the Administrator.

(45) *Specification*. A document which clearly and accurately describes the essential and technical requirements for items, materials, or services including requested inspection procedures.

(46) *Standards*. The commodity standards in this part that describe the physical and biological condition of a commodity at the time of inspection.

(47) *Submitted sample*. A sample submitted by or for an applicant for inspection.

(48) *Test*. A procedure to measure a factor using specialized laboratory equipment involving the application of established scientific principles and laboratory procedures.

[53 FR 3722, Feb. 9, 1988, as amended at 60 FR 5835, Jan. 31, 1995. Redesignated at 60 FR 16364, Mar. 30, 1995, as amended at 63 FR 29531, June 1, 1998; 70 FR 69250, Nov. 15, 2005]

ADMINISTRATION

§ 868.5 Administrator.

The Administrator, under the authority delegated by the Secretary, is charged with administering the programs and functions authorized under the Act and the regulations concerning those commodities assigned by the Secretary to the Service.

§ 868.6 Nondiscrimination—policy and provisions.

In implementing, administering, and enforcing the Act and the regulations, standards, and instructions, it is the policy of the Service to promote adherence to the provisions of the Civil Rights Act of 1964 (42 U.S.C. 2000a *et seq.*).

§ 868.7 Procedures for establishing regulations and standards.

Notice of proposals to prescribe, amend, or revoke regulations and standards shall be published in accordance with applicable provisions of the Administrative Procedures Act (5 U.S.C. 551 *et seq.*). Any interested person desiring to file a petition for the issuance, amendment, or revocation of regulations or standards may do so in accordance with 7 CFR 1.28 of the regulations of the Office of the Secretary of Agriculture.

§ 868.8 Complaints and reports of alleged violations.

(a) *General*. Except as provided in paragraph (b) of this section, complaints and reports of violations involving the Act or the regulations, standards, and instructions issued under the Act should be filed with the Service in accordance with 7 CFR 1.133 of the regulations of the Office of the

Secretary of Agriculture and these regulations and the instructions.

(b) *Retest inspection and appeal inspection service.* Complaints involving the results of inspection services shall, to the extent practicable, be submitted as requests for retest inspection, appeal inspection, or Board appeal inspection services as set forth in these regulations.

(Approved by the Office of Management and Budget under control number 0580–0011)

§ 868.9 Provisions for hearings.

Opportunities shall be provided for hearings either in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes (7 CFR part 1, subpart H) or in accordance with FGIS procedures as appropriate.

§ 868.10 Information about the Service, Act, and regulations.

Information about the Service, Act, regulations, standards, rules of practice, instructions, and other matters related to the inspection of commodities may be obtained by telephoning or writing the U.S. Department of Agriculture, Federal Grain Inspection Service, P.O. Box 96454, Washington, DC 20090–6454, or any field office or cooperator.

§ 868.11 Public information.

(a) *General.* This section is issued in accordance with §§1.1 through 1.23 of the regulations of the Secretary in part 1, subpart A, of subtitle A of title 7 (7 CFR 1.1 through 1.23), and appendix A thereto, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by this section, govern the availability of records of the Service to the public.

(b) *Public inspection and copying.* Materials maintained by the Service, including those described in 7 CFR 1.5, will be made available, upon a request which has not been denied, for public inspection and copying at the U.S. Department of Agriculture, Federal Grain Inspection Service, 1400 Independence Avenue SW., Washington, DC 20250. The public may request access to these materials 8:00 a.m.–4:30 p.m. Monday through Friday except for holidays.

(c) *Indexes.* The Service shall maintain an index of all material required to be made available in 7 CFR 1.5. Copies of these indexes will be maintained at the location given in paragraph (b) of this section. Notice is hereby given that quarterly publication of these indexes is unnecessary and impracticable because the material is voluminous and does not change often enough to justify the expense of quarterly publication. However, upon specific request, copies of any index will be provided at a cost not to exceed the direct cost of duplication.

(d) *Requests for records.* Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.6 and shall be addressed as follows: Office of the Administrator, Federal Grain Inspection Service, FOIA Request, U.S. Department of Agriculture, P.O. Box 96454, Washington, DC 20090–6454.

(e) *FOIA Appeals.* Any person whose request, under paragraph (d) of this section, is denied shall have the right to appeal such denial in accordance with 7 CFR 1.13. Appeals shall be addressed to the Administrator, Federal Grain Inspection Service, FOIA Appeal, U.S. Department of Agriculture, P.O. Box 96454, Washington, DC 20090–6454.

(f) *Disclosure of information.* FGIS employees or persons acting for FGIS under the Act shall not, without the consent of the applicant, divulge or make known in any manner any facts or information acquired pursuant to the Act, regulations, or instructions except as authorized by the Administrator, by a court of competent jurisdiction, or otherwise by law.

[53 FR 3722, Feb. 9, 1988, as amended 54 FR 5923, Feb. 7, 1989. Redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.12 Identification.

All official personnel shall have in their possession and present upon request, while on duty, the means of identification furnished to them by the Department.

§ 868.13 Regulations not applicable for certain purposes.

These regulations do not apply to the inspection of grain under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) or the inspection

of commodities under the United States Warehouse Act, as amended (7 U.S.C. 241 *et seq.*).

CONDITIONS FOR OBTAINING OR WITHHOLDING SERVICE

§ 868.20 Availability of services.

(a) *Original inspection service.* Original inspection services are available according to this section and §§ 868.40 through 868.44.

(b) *Retest inspection and appeal inspection services.* Retest inspection, appeal inspection, and Board appeal inspection services are available according to §§ 868.50 through 868.52 and §§ 868.60 through 868.63.

(c) *Proof of authorization.* A cooperator or the Service may request satisfactory proof that an applicant is an interested person or their authorized agent.

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.21 Requirements for obtaining service.

(a) *Consent and agreement by applicant.* In submitting a request for inspection service, the applicant and the owner of the commodity consent to the requirements specified in paragraphs (b) through (j) of this section.

(b) *Written confirmation.* Verbal requests for inspection service shall be confirmed in writing upon request. Each written request shall be made in English and shall include:

(1) The date filed;

(2) The identification, quantity, and location of the commodity;

(3) The type of service(s) requested;

(4) The name and mailing address of the applicant and, if made by an authorized agent, the agent's name and mailing address; and

(5) Any other relevant information that the official with whom the application is filed may request.

A written request or a written confirmation of a verbal request shall be signed by the applicant or a duly authorized agent.

(c) *Names and addresses of interested persons.* When requested, each applicant for inspection service shall show on the application form the name and mailing address of each known interested person.

(d) *Surrender of superseded certificates.* Superseded certificates must be promptly surrendered.

(e) *Accessibility*—(1) *Commodities.* Each commodity lot inspected shall be arranged so the entire lot may be examined or, if necessary, a representative sample, as appropriate, can be obtained. If the entire lot is not accessible for examination or a representative sample cannot be obtained, the inspection shall be restricted to an examination or sampling of the accessible portion and the results certified as stated in § 868.34.

(2) *Origin records.* When an applicant requests origin inspection, the records indicating the origin of the commodity to be inspected shall be made accessible for examination and verification by official personnel.

(f) *Plant examination.* Plant surveys shall be performed upon request. Survey results shall be reported in writing to a designated plant official. If the plant is approved as a result of the survey, inspection service may begin or continue at a time agreed upon by the plant management and the cooperator or Service. If the plant is not approved as a result of the survey, inspection service shall be conditionally withheld pursuant to the procedures in § 868.24.

(g) *Working space.* An applicant must provide adequate and separate space when inspection service is performed at a plant.

(h) *Loading and unloading conditions.* Each applicant for inspection service shall provide or arrange for suitable conditions in the—

(1) Loading and unloading areas and the truck and railroad holding areas;

(2) Pier or dock areas;

(3) Deck and stowage areas of a carrier;

(4) Other service areas; and

(5) Equipment used in loading or unloading, processing, and handling the commodity.

Suitable conditions are those which will facilitate accurate inspection, maintain the quantity and the quality of the commodity that is to be inspected, and not be hazardous to the health and safety of official personnel as prescribed in the instructions.

(i) *Timely arrangements.* Requests for inspection service shall be made in a timely manner; otherwise, official personnel may not be available to provide the requested service. ''Timely manner'' shall mean not later than 2 p.m., local time, of the preceding business day.

(j) *Payment of bills.* Each applicant for inspection service shall pay bills for the service pursuant to §§ 868.90–868.92.

(Approved by the Office of Management and Budget under control number 0580–0012)

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.22 Withdrawal of request for inspection service by applicant.

An applicant may withdraw a request for inspection service any time before official personnel release results, either verbally or in writing. Reimbursement of expenses, if any, shall be made pursuant to § 868.26.

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.23 Dismissal of request for inspection service.

(a) *Conditions for dismissal*—(1) *General.* A cooperator or the Service shall dismiss requests for inspection service when:

(i) Performing the requested service is not practicable or possible.

(ii) The cooperator or the Service lacks authority under the Act or regulations to provide the inspection service requested or is unable to comply with the Act, regulations, standards, or instructions.

(iii) Sufficient information is not available to make an accurate determination.

(2) *Original inspection service.* A request for original inspection service shall be dismissed if an original inspection has already been performed and circumstances do not prevent a retest inspection, appeal inspection, or Board appeal inspection from being performed on the same lot.

(3) *Retest inspection service.* A request for a retest inspection service shall be dismissed by official personnel when:

(i) The factor requested was not tested during the original inspection;

(ii) The condition of the commodity has undergone a material change;

(iii) A representative file sample is not available;

(iv) The applicant requests that a new sample be obtained;

(v) The request is for a graded commodity; or

(vi) The reasons for the retest inspection are frivolous.

(4) *Appeal inspection service.* A request for an appeal inspection service shall be dismissed by official personnel when:

(i) The scope is different from the scope of the original inspection service;

(ii) The condition of the commodity has undergone a material change;

(iii) The request specifies a file sample and a representative file sample is not available;

(iv) The applicant requests that a new sample be obtained and a new sample cannot be obtained; or

(v) The reasons for the appeal inspection are frivolous.

(5) *Board appeal inspection service.* A request for a Board appeal inspection service shall be dismissed by official personnel when:

(i) The scope is different from the scope of the original inspection service;

(ii) The condition of the commodity has undergone a material change;

(iii) A representative file sample is not available;

(iv) The applicant requests that a new sample be obtained; or

(v) The reasons for the Board appeal inspection are frivolous.

(b) *Procedure for dismissal.* The cooperator or the Service shall notify the applicant of the proposed dismissal of service. If correctable, the applicant will be afforded reasonable time to take. corrective action or to demonstrate there is no basis for the dismissal. If corrective action has not been adequate, the applicant will be notified of the decision to dismiss the request for service, and any results of service shall not be released.

§ 868.24 Conditional withholding of service.

(a) *Conditional withholding.* A cooperator or the Service shall conditionally withhold service when an applicant fails to meet any requirement prescribed in § 868.21.

(b) *Procedure for withholding.* The cooperator or the Service shall notify the applicant of the reason for the proposal to conditionally withhold service. The applicant will then be afforded reasonable time to take corrective action or to demonstrate that there is no basis for withholding service. If corrective action has not been adequate, the applicant will be notified of the decision to withhold service; and any results of service shall not be released.

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.25 Denial or withdrawal of service.

(a) *General.* Service may be denied or withdrawn because of (1) any willful violation of the Act, regulations, standards, or instructions or (2) any interference with or obstruction of any official personnel in the performance of their duties by intimidation, threat, assault, or any other improper means.

(b) The Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes (7 CFR part 1, subpart H) shall be followed in the denial or withdrawal of service.

§ 868.26 Expenses of the cooperator or the Service.

For any request that has been withdrawn, dismissed, or withheld under §§ 868.22, 868.23, or 868.24, respectively, each applicant shall pay expenses incurred by the cooperator or the Service.

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

INSPECTION METHODS AND PROCEDURES

§ 868.30 Methods and order of performing inspection service.

(a) *Methods*—(1) *General.* All sampling and inspection services performed by official personnel shall be made in accordance with the regulations, standards, and the instructions.

(2) *Lot inspection service.* A lot inspection service shall be based on official personnel obtaining representative samples, examining the commodity in the entire lot, and making an accurate analysis of the commodity on the basis of the samples.

(3) *Submitted sample inspection service.* A submitted sample inspection service shall be based on a submitted sample of sufficient size to enable official personnel to perform an accurate, complete analysis. The sample size will be prescribed in the instructions. If a complete analysis cannot be performed because of an inadequate sample size or other conditions, the request shall be dismissed or a factor only inspection may be performed upon request.

(b) *Order of service.* Inspection services shall be performed, to the extent practicable, in the order in which requests for service are received.

(c) *Recording receipt of documents.* Each document submitted by or on behalf of an applicant for inspection service shall be promptly stamped or similarly marked by official personnel to show the date of receipt.

(d) *Conflicts of interest.* (1) Official personnel shall not perform or participate in performing an inspection service on a commodity or a carrier or container in which the official personnel have a direct or indirect financial interest.

(2) Official personnel shall not perform, participate in performing, or issue a certificate if the official personnel participated in a previous inspection or certification of the lot unless there is only one authorized person available at the time and place of the requested inspection service.

§ 868.31 Kinds of inspection services.

(a) *General.* The inspection of commodities shall be according to the—

(1) Standards of class, grade, other quality designation, quantity, or condition for such commodities promulgated by the Administrator; or

(2) Specifications prescribed by Federal agencies; or

(3) Specifications of trade associations or organizations; or

(4) Other specifications as requested by applicant; or

(5) The instructions.

The kinds of services provided and the basis for performing the services include those specified in paragraphs (b) through (m) of this section. Some or all of these services are provided when performing a complete inspection service.

(b) *Quality inspection service.* This service consists of official personnel—

(1) Obtaining representative sample(s) of an identified commodity lot;

(2) Examining, grading, or testing the sample(s);

(3) Examining relevant records for the lot; and

(4) Certifying the results.

(c) *Submitted sample inspection service.* This service consists of official personnel grading or testing a sample submitted by the applicant and certifying the results.

(d) *Examination service.* This service consists of official personnel examining supplies without the use of special laboratory equipment or procedures to determine conformance to requirements requested by the applicant and certifying the results.

(e) *Checkweighing service (container).* This service consists of official personnel—

(1) Weighing a selected number of containers from a commodity lot;

(2) Determining the estimated total gross, tare, and net weights or the estimated average gross or net weight per filled container; and

(3) Certifying the results.

(f) *Bulk weighing service.* This service consists of official personnel—

(1) Completely supervising the loading or the unloading of an identified lot of bulk or containerized commodity,

(2) Physically weighing or completely supervising the weighing of the commodity; and

(3) Certifying the results.

(g) *Checkloading service.* This service consists of official personnel—

(1) Performing a stowage examination;

(2) Computing the number of filled commodity containers loaded aboard the carrier;

(3) Observing the condition of commodity containers loaded aboard the carrier;

(4) If practicable, sealing the carrier; and

(5) Certifying the results.

(h) *Checkcounting service.* This service consists of official personnel determining the total number of filled outer containers in a lot to determine that the number of containers shown by the applicant is correct and certifying the results.

(i) *Condition inspection service.* This service consists of official personnel determining the physical condition of the commodity by determining whether an identifiable commodity lot is water damaged, fire damaged, or has rodent or bird contamination, insect infestation, or any other deteriorating condition and certifying the results.

(j) *Condition of food containers service.* This service consists of official personnel determining the degree of acceptability of the containers with respect to absence of defects which affect the serviceability, including appearance as well as usability, of the container for its intended purpose and certifying the results.

(k) *Observation of loading service.* This service consists of official personnel determining that an identified lot has been moved from a warehouse or carrier and loaded into another warehouse or carrier and certifying the results.

(l) *Plant approval service.*[1] This service consists of official personnel performing a plant survey to determine if the plant premises, facilities, sanitary conditions, and operating methods are suitable to begin or continue inspection service.

(m) *Stowage examination service.* This service consists of official personnel visually determining if an identified carrier or container is clean; dry; free of infestation, rodents, toxic substances and foreign odor; and suitable to store or carry commodities and certifying the results.

[1] Compliance with the requirements in this paragraph does not excuse failure to comply with all applicable sanitation rules and regulations of city, county, State, Federal, or other agencies having jurisdiction over such plants and operations.

§ 868.32 Who shall inspect commodities.

Official commodity inspections shall be performed only by official personnel.

§ 868.33 Sample requirements; general.

(a) *Samples for lot inspection service*—(1) *Original lot inspection service.* The sample(s) on which the original inspection is determined shall be—

(i) Obtained by official personnel;

(ii) Representative of the commodity in the lot;

(iii) Protected by official personnel from manipulation, substitution, and improper or careless handling; and

(iv) Obtained within the prescribed area of responsibility of the cooperator or field office performing the inspection service.

(2) *Retest lot inspection service.* The sample(s) on which the retest is determined shall meet the requirements of paragraph (a)(1) of this section. The retest inspection shall be performed on the basis of a file sample(s), and the samples shall meet the requirements prescribed in § 868.35(e).

(3) *Appeal lot inspection service.* For an appeal lot inspection service, the sample(s) on which the appeal is determined shall meet the requirements of paragraph (a)(1) of this section. If the appeal inspection is performed on the basis of a file sample(s), the samples shall meet the requirements prescribed in § 868.35(e). In accordance with § 868.61(b), an applicant may request that a new sample be obtained and examined as part of the appeal inspection service.

(4) *Board appeal lot inspection service.* A Board appeal lot inspection service shall be performed on the basis of file sample.

(b) *Sampler requirement.* An official sampler shall sample commodities and forward the samples to the appropriate cooperator or field office or other location as specified. A sampling report signed by the sampler shall accompany each sample. The report shall include the identity, quantity, and location of the commodity sampled; the name and mailing address of the applicant; and all other information regarding the lot as may be required.

(c) *Representative sample.* A sample shall not be considered representative of a commodity lot unless the sample—

(1) Has been obtained by official personnel;

(2) Is of the size prescribed in the instructions; and

(3) Has been obtained, handled, and submitted in accordance with the instructions.

(d) *Protecting samples.* Official personnel shall protect samples from manipulation, substitution, and improper and careless handling which would deprive the samples of their representativeness or which would change the physical and chemical properties of the commodity from the time of sampling until inspection services are completed and file samples have been discarded.

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.34 Partial inspection.

When the entire lot is not accessible for examination or a representative sample cannot be obtained from the entire lot, the certificate shall state the estimated quantity of the commodity in the accessible portion and the quantity of the entire lot. The inspection shall be limited to the accessible portion. In addition, the words ''Partial Inspection'' shall be printed or stamped on the certificate.

§ 868.35 Sampling provisions by level of service.

(a) *Original inspection service*—(1) *Lot inspection service.* Each original lot inspection service shall be made on the basis of one or more representative samples obtained by official personnel from the commodity in the lot and forwarded to the appropriate location.

(2) *Submitted sample service.* Each original submitted sample inspection service shall be performed on the basis of the sample as submitted.

(b) *Retest inspection service.* Each retest inspection service performed on a commodity lot or a submitted sample shall be based on an analysis of the file sample.

(c) *Appeal inspection service*—(1) *Lot inspection service.* Each appeal inspection service on a commodity lot shall be made on the basis of a file sample or, upon request, a new sample.

(2) *Submitted sample service.* Each appeal inspection service on the commodity in a submitted sample shall be based on an analysis of the file sample.

(d) *Board appeal inspection service.* Each Board appeal inspection service performed on a commodity lot or submitted sample shall be based on an analysis of the file sample.

(e) *Use of file samples*—(1) *Requirements for use.* A file sample that is retained by official personnel in accordance with the procedures prescribed in the instructions shall be considered representative for retest inspection, appeal inspection, and Board appeal inspection service if: (i) The file samples have remained at all times in the custody and control of the official personnel that performed the inspection service and (ii) the official personnel who performed the inspection service in question and those who are to perform the retest inspection, the appeal inspection, or the Board appeal inspection service determines that the samples were representative of the commodity at the time the inspection service was performed and that the quality or condition of the commodity in the samples has not since changed.

(2) *Certificate statement.* The certificate for a retest inspection, appeal inspection, or Board appeal inspection service which is based on a file sample shall show the statement ''Results based on file sample.''

§ 868.36 Loss of identity.

(a) *Lots.* The identity of a packaged lot, bulk lot, or sublot of a commodity shall be considered lost if:

(1) A portion of the commodity is unloaded, transferred, or otherwise removed from the carrier or location after the time of original inspection, unless the identity is preserved; or

(2) More commodity or other material, including a fumigant or insecticide, is added to the lot after the original inspection was performed, unless the addition of the fumigant or insecticide was performed in accordance with the instructions; or

(3) At the option of official personnel performing an appeal inspection or Board appeal inspection service, the identity of a commodity in a closed carrier or container may be considered lost if the carrier or container is not sealed or the seal record is incomplete.

(b) *Carriers and containers.* The identity of a carrier or container shall be considered lost if (1) the stowage area is cleaned, treated, fumigated, or fitted after the original inspection was performed or (2) the identification has been changed since the original inspection.

(c) *Submitted sample.* The identity of a submitted sample of a commodity shall be considered lost if:

(1) The identifying number, mark, or symbol for the sample is lost or destroyed; or

(2) The sample has not been retained and protected by official personnel as prescribed in the regulations and the instructions.

ORIGINAL INSPECTION SERVICE

§ 868.40 Who may request original inspection service.

Any interested person may apply for inspection service.

§ 868.41 Contract service.

Any interested person may enter into a contract with a cooperator or the Service whereby the cooperator or Service will provide original inspection services for a specified period, and the applicant will pay a specific fee.

§ 868.42 How to request original inspection service.

(a) *General.* Requests may be made verbally or in writing. Verbal requests shall be confirmed in writing when requested by official personnel. All written requests shall include the information specified in § 868.21. Copies of request forms may be requested from the cooperator or the Service. If all required documentation is not available when the request is made, it shall be provided as soon as it is available. At their discretion, official personnel may withhold inspection service pending receipt of the required documentation.

(b) *Request requirements.* Requests for original inspection service, other than submitted sample inspections, must be made with the cooperator or the Service responsible for the area in which the service will be provided. Requests for submitted sample inspections may

be made with any cooperator or any field office that provides original inspection service. Requests for inspection of commodities during loading, unloading, handling, or processing shall be received far enough in advance so official personnel can be present.

(Approved by the Office of Management and Budget under control number 0580–0012)

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.44 New original inspection.

When circumstances prevent a retest inspection, appeal inspection, or Board appeal inspection, an applicant may request a new original inspection on any previously inspected lot; except that a new original inspection may not be performed on an identifiable commodity lot which, as a result of a previous inspection, was found to be contaminated with filth, other than insect fragments in nongraded processed products, or to contain a deleterious substance. A new original inspection shall be based on a new sample and shall not be restricted to the scope of any previous inspection. A new original inspection certificate shall not supersede any previously issued certificate.

RETEST INSPECTION SERVICE

§ 868.50 Who may request retest inspection service.

(a) *General.* Any interested person may request a retest inspection service on nongraded commodities. When more than one interested person requests a retest inspection service, the first interested person to file is the applicant of record. Only one retest inspection service may be performed on any original inspection service.

(b) *Scope of request.* A retest inspection service may be requested for any or all quality factors tested but shall be limited to analysis of the file sample.

(Approved by the Office of Management and Budget under control number 0580–0012)

§ 868.51 How to request retest inspection service.

(a) *General.* Requests shall be made with the field office responsible for the area in which the original inspection service was performed. Verbal requests shall be confirmed in writing, upon request, as specified in § 868.21. Copies of request forms may be obtained from the field office upon request. If at the time the request is filed and the documentation required by § 868.21 is not available, official personnel may, at their discretion, withhold service pending the receipt of the required documentation.

(b) *Request requirements.* Requests will be considered filed on the date they are received by official personnel.

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[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.52 Certificating retest inspection results.

(a) *General.* Retest inspection certificates shall be issued according to § 868.70 and instructions. The certificate shall show the results of the factor(s) retested and the original results not included in the retest service.

(b) *Required statements on retest certificates.* Each retest inspection certificate shall show the statements required by this section, § 868.71, and the instructions.

(1) Each retest inspection certificate shall clearly show the term ''Retest'' and a statement identifying the superseded original certificate. The superseded certificate shall be considered null and void as of the date of the retest certificate. When applicable, the certificate shall also show a statement as to which factor(s) result is based on the retest inspection service and that all other results are those of the original inspection service.

(2) If the superseded certificate is in the custody of the Service, the superseded certificate shall be marked ''Void.'' If the superseded certificate is not in the custody of the Service at the time the retest certificate is issued, a statement indicating that the superseded certificate has not been surrendered shall be shown on the retest certificate.

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

APPEAL INSPECTION SERVICE

§ 868.60 Who may request appeal inspection service.

(a) *General.* Any interested person may request appeal inspection or Board appeal inspection service. When more than one interested person requests an appeal inspection or Board appeal inspection service, the first interested person to file is the applicant of record. Only one appeal inspection may be obtained from any original inspection or retest inspection service for nongraded commodities. Only one Board appeal inspection may be obtained from any original or appeal inspection service for graded commodities. Board appeal inspection shall be performed on the basis of the file sample.

(b) *Kind and scope of request.* When the results for more than one kind of service are reported on a certificate, an appeal inspection or Board appeal inspection service, as applicable, may be requested on any or all kinds of services reported on the certificate. The scope of an appeal inspection service will be limited to the scope of the original inspection or, in the case of a Board appeal inspection service, the original or appeal inspection service. A request for appeal inspection of a retest inspection will be based upon the scope of the original inspection. If the request specifies a different scope, the request shall be dismissed. Provided, however, that an applicant for service may request an appeal or Board appeal inspection of specific factor(s) or official grade and factors. In addition, appeal and Board appeal inspection for grade may include a review of any pertinent factor(s), as deemed necessary by official personnel.

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[53 FR 3722, Feb. 9, 1988. Redesignated at 60 FR 16364, Mar. 30, 1995 and amended at 70 FR 69250, Nov. 15, 2005]

§ 868.61 How to request appeal inspection service.

(a) *General.* Requests shall be made with the field office responsible for the area in which the original service was performed. Requests for Board appeal inspections may be made with the Board of Appeals and Review or the field office that performed the appeal inspection. Verbal requests must be confirmed in writing, upon request, as specified in § 868.21. Copies of request forms may be obtained from the field office upon request. If at the time the request is made the documentation required by § 868.21 is not available, official personnel may, at their discretion, withhold service pending the receipt of the required documentation.

(b) *Request requirements.* (1) This subparagraph is applicable to rice inspection only. Except as may be agreed upon by the interested persons, the application shall be made: (i) Before the rice has left the place where the inspection being appealed was performed and (ii) no later than the close of business on the second business day following the date of the inspection being appealed. However, the Administrator may extend the time requirement as deemed necessary.

(2) Subject to the limitations of paragraph (b)(3) of this section, the applicant may request that an appeal inspection be based on: (i) The file sample or (ii) a new sample. However, an appeal inspection shall be based on a new sample only if the lot can positively be identified by official personnel as the one that was previously inspected and the entire lot is available and accessible for sampling and inspection. Board appeals shall be on the basis of the file sample.

(3) An appeal inspection shall be limited to a review of the sampling procedure and an analysis of the file sample when, as a result of a previous inspection, the commodity was found to be contaminated with filth (other than insect fragments in nongraded processed products) or to contain a deleterious substance. If it is determined that the sampling procedures were improper, a new sample shall be obtained if the lot can be positively identified as the lot which was previously inspected and the entire lot is available and accessible for sampling and inspection.

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[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.62 Who shall perform appeal inspection service.

(a) *Appeal.* For graded commodities, the appeal inspection service shall be performed by the field office responsible for the area in which the original inspection was performed. For nongraded commodities, the appeal inspection service shall be performed by the Service's Commodity Testing Laboratory.

(b) *Board appeal.* Board appeal inspection service shall be performed only by the Board of Appeals and Review. The field office will act as a liaison between the Board of Appeals and Review and the applicant.

§ 868.63 Certificating appeal inspection results.

(a) *General.* An appeal inspection certificate shall be issued according to § 868.70 and instructions. Except as provided in paragraph (b)(2) of this section, only the results of the appeal inspection or Board appeal inspection service shall be shown on the appeal inspection certificate.

(b) *Required statements.* Each appeal inspection certificate shall show the statements required by this section, § 868.71, and instructions.

(1) Each appeal inspection certificate shall clearly show: (i) The term ''Appeal'' or ''Board Appeal'' and (ii) a statement identifying the superseded certificate. The superseded certificate shall be considered null and void as of the date of the appeal inspection or Board appeal inspection certificate.

(2) When the results for more than one kind of service are reported on a certificate, the appeal or Board appeal inspection certificate shall show a statement of which kind of service(s) results are based on the appeal or Board appeal inspection service and that all other results are those of the original inspection, retest inspection, or appeal inspection service.

(3) If the superseded certificate is in the custody of the Service, the superseded certificate shall be marked ''Void.'' If the superseded original inspection, retest inspection, or appeal inspection certificate is not in the custody of the Service at the time the appeal certificate is issued, a statement indicating that the superseded certificate has not been surrendered shall be shown on the appeal certificate.

(c) *Finality of Board appeal inspection.* A Board appeal inspection shall be the final appeal inspection service except that for nongraded commodities an appeal shall be the final appeal inspection.

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

OFFICIAL CERTIFICATES

§ 868.70 Official certificates; issuance and distribution.

(a) *Required issuance.* An inspection certificate shall be issued to show the results of each kind and each level of inspection service.

(b) *Distribution*—(1) *Original.* The original and one copy of each inspection certificate shall be distributed to the applicant or the applicant's order. In addition, one copy of each inspection certificate shall be filed with the office providing the inspection; and, if the inspection is performed by a cooperator, one copy shall be forwarded to the appropriate field office. If requested by the applicant prior to issuance of the inspection certificate, additional copies not to exceed a total of three copies will be furnished at no extra charge.

(2) *Retest and appeal inspection service.* In addition to the distribution requirements in paragraph (b)(1) of this section, one copy of each retest or appeal inspection certificate will be distributed to each interested person of record or the interested person's order and to the cooperator or field office that issued the superseded certificate.

(3) *Additional copies.* Additional copies of certificates will be furnished to the applicant or interested person upon request. Fees for extra copies in excess of three may be assessed according to the fee schedules established by the cooperator or the Service.

(c) *Prompt issuance.* An inspection certificate shall be issued before the close of business on the business day following the date the inspection is completed.

(d) *Who may issue a certificate*—(1) *Authority.* Certificates for inspection services may be issued only by official personnel who are specifically authorized

or licensed to perform and certify the results reported on the certificate.

(2) *Exception.* The person in the best position to know whether the service was performed in an approved manner and that the determinations are accurate and true should issue the certificate. If the inspection is performed by one person, the certificate should be issued by that person. If an inspection is performed by two or more persons, the certificate should be issued by the person who makes the majority of the determinations or the person who makes the final determination. Supervisory personnel may issue a certificate when the individual is licensed or authorized to perform the inspection being certificated.

(e) *Name requirement.* The name or the signature, or both, of the person who issued the inspection certificate shall be shown on the original and all copies of the certificate.

(f) *Authorization to affix names*—(1) *Requirements.* The names or the signatures, or both, of official personnel may be affixed to official certificates which are prepared from work records signed or initialed by the person whose name will be shown. The agent affixing the name or signature, or both, shall: (i) Be employed by a cooperating agency or the Service, (ii) have been designated to affix names or signatures, or both, and (iii) hold a power of attorney from the person whose name or signature, or both, will be affixed. The power of attorney shall be on file with the employing cooperating agency or the Service as appropriate.

(2) *Initialing.* When a name or signature, or both, is affixed by an authorized agent, the initials of the agent shall appear directly below or following the name or signature of the person.

(g) *Advance information.* Upon request, the contents of an official certificate may be furnished in advance to the applicant and any other interested person, or to their order, and any additional expense shall be borne by the requesting party.

(h) *Certification; when prohibited.* An official certificate shall not be issued for service after the request for an inspection service has been withdrawn or dismissed.

§ 868.71 Official certificate requirements.

Official certificates shall—

(a) Be on standard printed forms prescribed in the instructions;

(b) Be in English;

(c) Be typewritten or handwritten in ink and be clearly legible;

(d) Show the results of inspection services in a uniform, accurate, and concise manner;

(e) Show the information required by §§ 868.70–868.75; and

(f) Show only such other information and statements of fact as are provided in the instructions authorized by the Administrator.

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.72 Certification of results.

(a) *General.* Each official certificate shall show the results of the inspection service.

(b) *Graded commodities.* Each official certificate for graded commodities shall show—

(1) The class, grade, or any other quality designation according to the official grade standards;

(2) All factor information requested by the applicant; and

(3) All grade determining factors for commodities graded below the highest quality grade.

§ 868.73 Corrected certificates.

(a) *General.* The accuracy of the statements and information shown on official certificates must be verified by the individual whose name or signature, or both, is shown on the official certificate or by the authorized agent who affixed the name or signature, or both. Errors found during this process shall be corrected according to this section.

(b) *Who may correct.* Only official personnel or their authorized agents may make corrections, erasures, additions, or other changes to official certificates.

(c) *Corrections prior to issuance.* No corrections, erasures, additions, or other changes shall be made which involve identification, quality, or quantity. If such errors are found, a new official certificate shall be prepared and

issued and the incorrect certificate marked ''Void.'' Otherwise, errors may be corrected provided that—

(1) The corrections are neat and legible;

(2) Each correction is initialed by the individual who corrects the certificate; and

(3) The corrections and initials are shown on the original and all copies.

(d) *Corrections after issuance*—(1) *General.* If errors are found on an official certificate at any time up to a maximum of 1 year after issuance, the errors shall be corrected by obtaining the incorrect certificate and replacing it with a corrected certificate. When the incorrect certificate cannot be obtained, a corrected certificate can be issued superseding the incorrect one.

(2) *Certification requirements.* The same statements and information, including permissive statements, that were shown on the incorrect certificate, along with the correct statement or information, shall be shown on the corrected certificate. According to this section and the instructions, corrected certificates shall show—

(i) The terms ''Corrected Original'' and ''Corrected Copy,''

(ii) A statement identifying the superseded certificate and the corrections,

(iii) A statement indicating the superseded certificate was not surrendered when the incorrect certificate was not submitted; and

(iv) A new serial number.

In addition, the incorrect certificate shall be marked ''Void'' when submitted.

(e) *Limitations.* Corrected certificates cannot be issued for a certificate that has been superseded by another certificate or on the basis of a subsequent analysis for quality.

§ 868.74 Divided-lot certificates.

(a) *General.* When commodities are offered for inspection and are certificated as a single lot, the applicant may exchange the inspection certificate for two or more divided-lot certificates.

(b) *Application.* Requests for divided-lot certificates shall be made—

(1) In writing;

(2) By the applicant who made the initial request;

(3) To the office that issued the outstanding certificate;

(4) Within 5 business days of the outstanding certificate date; and

(5) Before the identity of the commodity has been lost.

(c) *Quantity restrictions.* Divided-lot certificates shall not show an aggregate quantity different than the total quantity shown on the superseded certificate.

(d) *Surrender of certificate.* The certificate that will be superseded shall—

(1) Be in the custody of the cooperator or the Service;

(2) Be marked ''Void,'' and

(3) Show the identification of the divided-lot certificates.

(e) *Certification requirements.* The same information and statements, including permissive statements, that were shown on the superseded certificate shall be shown on each divided-lot certificate. Divided-lot certificates shall show—

(1) A statement indicating the commodity was inspected as an undivided lot;

(2) The terms ''Divided-Lot Original,'' and the copies shall show ''Divided-Lot Copy;''

(3) The same serial number with numbered suffix (for example, 1764–1, 1764–2, 1764–3, and so forth); and

(4) The quantity specified by the request.

(f) *Issuance and distribution.* Divided-lot certificates shall be issued no later than the close of business on the next business day after the request and be distributed according to § 868.70(b).

(g) *Limitations.* After divided-lot certificates have been issued, further dividing or combining is prohibited except with the approval of the Service.

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[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.75 Duplicate certificates.

Upon request, a duplicate certificate may be issued for a lost or destroyed official certificate.

(a) *Application.* Requests for duplicate certificates shall be filed—

(1) In writing;

(2) By the applicant who requested the service covered by the lost or destroyed certificate; and

(3) With the office that issued the initial certificate.

(b) *Certification requirements.* The same information and statements, including permissive statements, that were shown on the lost or destroyed certificate shall be shown on the duplicate certificate. Duplicate certificates shall show: (1) The terms ''Duplicate Original,'' and the copies shall show ''Duplicate Copy'' and (2) a statement that the certificate was issued in lieu of a lost or destroyed certificate.

(c) *Issuance.* Duplicate certificates shall be issued as promptly as possible and distributed according to § 868.70(b).

(d) *Limitations.* Duplicate certificates shall not be issued for certificates that have been superseded.

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[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

LICENSED INSPECTORS, TECHNICIANS, AND SAMPLERS

§ 868.80 Who may be licensed.

(a) *Inspectors.* The Administrator may license any person to inspect commodities and to perform related services if the individual—

(1) Is employed by a cooperator, is a contractor, or is employed by a contractor;

(2) Possesses the qualifications prescribed in the instructions; and

(3) Has no interest, financial or otherwise, direct or indirect in merchandising, handling, storing, or processing the kind of commodities or related products to be inspected.

The Administrator may require applicants to be examined for competency at a specific time and place and in a prescribed manner.

(b) *Technicians or samplers.* The Administrator may license any person as a technician to perform official specified laboratory functions, including sampling duties and related services, or as a sampler to draw samples of commodities and perform related services if the individual: (1) Possesses proper qualifications as prescribed in the instructions and (2) has no interest, financial or otherwise direct or indirect in merchandising, handling, storing, or processing the kind of commodities or related products to be chemically analyzed, mechanically tested, sampled, and so forth. The Administrator may require applicants to be examined for competency at a specific time and place and in a prescribed manner.

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[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995; 63 FR 29531, June 1, 1998]

§ 868.81 Licensing procedures.

(a) *Application.* An application for a license, the renewal of a license, or the return of a suspended license shall be submitted to the Service on forms furnished by the Service. Each application shall be in English, be typewritten or legibly written in ink, show all information prescribed by the application form, and be signed by the applicant.

(b) *Examinations and reexaminations.* Applicants for a license and individuals who are licensed to perform any or all inspection services shall, at the discretion of the Service, submit to examinations or reexaminations to determine their competency to perform the inspection functions for which they desire to be or are licensed.

(c) *Termination*—(1) *Procedure.* Each license shall terminate according to the termination date shown on the license and as specified by the schedule in this paragraph. The termination date for a license shall be no less than 3 years or more than 4 years after the issuance date for the initial license; thereafter, every 3 years. Upon request of a licensee and for good cause shown, the termination date may be advanced or delayed by the Administrator for a period not to exceed 60 days.

TERMINATION SCHEDULE

Last name beginning with	Termination date
A	January.
B	February.
C, D	March.
E, F, G	April.
H, I, J	May.
K, L	June.
M	July.
N, O, P, Q	August.
R	September.
S, T, U, V	October.

TERMINATION SCHEDULE—Continued

Last name beginning with	Termination date
W	November.
X, Y, Z	December.

The Service shall issue a termination notice 60 days before the termination date. The notice shall give detailed instructions for requesting renewal of license, state whether a reexamination is required, and, if a reexamination is required, give the scope of the examination. Failure to receive a notice from the Service shall not exempt a licensee from the responsibility of having the license renewed by the termination date.

(2) *Exception.* The license of an individual under contract with the Service shall terminate upon termination of the contract.

(d) *Surrender of license.* Each license that is terminated or which is suspended or revoked under § 868.84 shall be promptly surrendered to the Administrator or other official of the Service designated by the Administrator.

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[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.82 Voluntary cancellation or suspension of license.

Upon request by a licensee, the Service may cancel a license or suspend a license for a period of time not to exceed 1 year. A license that has been voluntarily suspended shall be returned by the Service upon request by the licensee within 1 year, subject to the provisions of § 868.81(a) and (b); a license that has been cancelled shall be considered void and shall not be subject to return or renewal.

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, 16365, Mar. 30, 1995]

§ 868.83 Automatic suspension of license by change in employment.

A license issued to an individual shall be automatically suspended when the individual ceases to be employed by the cooperator. If the individual is reemployed by the cooperator or employed by another cooperator within 1 year of the suspension date and the license has not terminated in the interim, upon request of the licensee, the license will be reinstated subject to the provisions of § 868.81(a) and (b).

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, 16365, Mar. 30, 1995]

§ 868.84 Suspension or revocation of license.

(a) *General.* (1) An inspector's, technician's, or sampler's license may be suspended or revoked if the licensee:

(i) Willfully, carelessly, or through incompetence fails to perform the duties specified in the Act, regulations, standards, or the instructions or

(ii) Becomes incapable of performing required duties.

(2) A license may not be suspended or revoked until the individual:

(i) Has been served notice, in person or by registered mail, that suspension or revocation of the license is under consideration for reasons set out in the notice and

(ii) Has been given an opportunity for a hearing.

(b) *Procedure for summary action.* In cases where the public health, interest, or safety require, the Administrator may summarily suspend an inspector's, technician's, or sampler's license without prior hearing. In such cases, the licensee shall be advised of the factors which appear to warrant suspension or revocation of the license. The licensee shall be accorded an opportunity for a hearing before the license is finally suspended or revoked.

(c) *Procedures for other than summary action.* Except in cases of willfulness or those described in paragraph (b) of this section, the Administrator, before instituting proceedings for the suspension or revocation of a license, shall provide the licensee an opportunity to demonstrate or achieve compliance with the Act, regulations, standards, and instructions. If the licensee does not demonstrate or achieve compliance, the Administrator may institute proceedings to suspend or revoke the license.

(The information collection requirements contained in paragraph (c) have been approved by the Office of Management and Budget under control number 0580–0012)

FEES

§ 868.90 Fees for certain Federal inspection services.

(a) The fees shown in Table 1 apply to Federal Commodity Inspection Services specified below.

TABLE 1—HOURLY RATES [1,3]

[Fees for inspection of commodities other than rice]

Hourly Rates (per service representative):	
Monday to Friday	$34.20
Saturday, Sunday, and Holidays	44.40
Miscellaneous Processed Commodities: [2]	
(1) Additional Tests (cost per test, assessed in addition to the hourly rate):	
(i) Aflatoxin Test (Thin Layer Chromatography)	51.40
(ii) Falling Number	12.50
(iii) Aflatoxin Test Kit	7.50
Graded Commodities (Beans, Peas, Lentils, Hops, and Pulses):	
(1) Additional Tests—Unit Rates (Beans, Peas, Lentils):	
(i) Field run (per lot or sample)	23.00
(ii) Other than field run (per lot or sample)	13.75
(iii) Factor analysis (per factor)	5.65
(2) Additional Tests—Unit Rates (Hops): (i) Lot or sample (per lot or sample)	29.30
(3) Additional Tests—Unit Rates (Nongraded Nonprocessed Commodities): (i) Factor analysis (per factor)	5.65
(4) Stowage Examination (service-on-request) [4] (i) Ship (per stowage space) (minimum $252.50 per ship)	50.50
(ii) Subsequent ship examinations (same as original) (minimum $151.50 per ship)	
(iii) Barge (per examination)	40.50
(iv) All other carriers (per examination)	15.50

[1] Fees for original commodity inspection and appeal inspection services include, but are not limited to, sampling, grading, weighing, stowage examinations, pre-inspection conferences, sanitation inspections, and other services requested by the applicant and that are performed within 25 miles of the field office. Travel and related expenses (commercial transportation costs, mileage, and per diem) will be assessed in addition to the hourly rate for service beyond the 25-mile limit. Refer to § 868.92. Explanation of service fees and additional fees, for all other service fees except travel and per diem.

[2] When performed at a location other than the Commodity Testing Laboratory.

[3] Faxed and extra copies of certificates will be charged at $1.50 per copy.

[4] If performed outside of normal business hours, 1½ times the applicable unit fee will be charged.

(b) In addition to the fees, if any, for sampling or other requested service, a fee will be assessed for each laboratory test (original, retest, or appeal) listed in table 2 of this section.

(c) If a requested test is to be reported on a specified moisture basis, a fee for a moisture test will also be assessed.

(d) Laboratory tests referenced in table 2 of this section will be charged at the applicable laboratory fee.

TABLE 2—FEES FOR LABORATORY TEST SERVICES [1]

Laboratory tests	Fees
(1) Aflatoxin (Quantitative—HPLC)	$182.00
(2) Aflatoxin (Quantitative—Test Kit)	87.00
(3) Aflatoxin (Qualitative—Test Kit)	47.00
(4) Appearance and odor	7.00
(5) Ash	17.00
(6) Brix	16.00
(7) Calcium	27.00
(8) Carotenoid Color	27.00
(9) Cold test (oil)	20.00
(10) Color test (syrups)	13.00
(11) Cooking tests (pasta)	13.00
(12) Crude fat	20.00
(13) Crude fiber	27.00
(14) Falling number	24.00
(15) Free fatty acid	24.00
(16) Insoluble impurities (oils and shortenings)	9.00
(17) Iron enrichment	30.00
(18) Lovibond color	20.00
(19) Moisture	13.00
(20) Moisture and volatile matter	17.00
(21) Oxidative stability index (OSI)	54.00
(22) Peroxide Value	27.00
(23) Popping ratio	38.00
(24) Protein	16.00
(25) Sanitation (light filth)	47.00
(26) Sieve test	11.00
(27) Smoke Point	43.00
(28) Solid fat index	168.00
(29) Visual exam	22.00
(30) Vomitoxin (Qualitative—Test Kit)	61.00
(31) Vomitoxin (Quantitative—Test Kit)	81.00

TABLE 2—FEES FOR LABORATORY TEST SERVICES [1]—Continued

Laboratory tests	Fees
(32) Other laboratory analytical services (per hour per service representative)	67.00

[1] When laboratory tests/services are provided for AMS by a private laboratory, the applicant will be assessed a fee, which, as nearly as practicable, covers the costs to AMS for the service provided.

[61 FR 66535, Dec. 18, 1996, as amended 66 FR 17777, Apr. 4, 2001; 69 FR 1894, Jan. 13, 2004]

§ 868.91 Fees for certain Federal rice inspection services.

The fees for services in paragraph (a) apply to Federal inspection services. Starting with fiscal year 2022, calculations provided in paragraph (b) will be used to determine annual fee rates.

(a) Fees for services are published on the Service's website.

(b) For each fiscal year, starting with 2022, the Administrator will calculate the rates for services, issue a public notice, and publish fees on the Service's website with an effective date of October 1 of each year.

(1) For each year, the Administrator will calculate the rates for services, per hour per inspection program employee using the following formulas:

(i) *Regular rate.* The Service's total inspection program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, actual travel expenses may also be added to the cost of providing the service.

(ii) *Overtime rate.* The Service's total inspection program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, actual travel expenses may also be added to the cost of providing the service.

(iii) *Holiday rate.* The Service's total inspection program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, actual travel expenses may also be added to the cost of providing the service.

(2) For each year, based on previous year/historical actual costs, the Administrator will calculate the benefits, operating, and allowance for bad debt components of the regular, overtime, and holiday rates as follows:

(i) *Benefits rate.* The Service's total inspection program direct benefits costs divided by the total hours (regular, overtime, holiday) worked, which is then multiplied by the next year's percentage of cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(ii) *Operating rate.* The Service's total inspection program operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(iii) *Allowance for bad debt rate.* Total allowance for bad debt, divided by total hours (regular, overtime, holiday) worked.

(3) The Administrator will use the most recent economic factors released by the Office of Management and Budget for budget development purposes to derive the cost of living expenses and percentage of inflation factors used in the formulas in this section.

[85 FR 5302, Jan. 30, 2020]

§ 868.92 Explanation of service fees and additional fees.

(a) *Costs included in the fees.* Fees for official services in §§ 868.90 and 868.91 include—

(1) The cost of performing the service and related supervision and administrative costs;

(2) The cost of first-class mail service;

(3) The cost of overtime and premium pay; and

(4) The cost of certification except as provided in § 868.92(c).

(b) *Computing hourly rates.* Hourly fees will be assessed in quarter hour increments for—

(1) Travel from the FGIS field office or assigned duty location to the service point and return; and

(2) The performance of the requested service, less mealtime.

(c) *Additional fees.* Fees in addition to the applicable hourly or unit fee will be assessed when—

(1) An applicant requests more than the original and three copies of a certificate;

(2) An applicant requests onsite typing of certificates or typing of certificates at the FGIS field office during other than normal working hours; and

(3) An applicant requests the use of express-type mail or courier service.

(d) *Application of fees when service is delayed by the applicant.* Hourly fees will be assessed when—

(1) Service has been requested at a specified location;

(2) A Service representative is on duty and ready to provide service but is unable to do so because of a delay not caused by the Service; and

(3) FGIS officials determine that the Service representative(s) cannot be utilized elsewhere or cannot be released without cost to the Service.

(e) *Application of fees when an application for service is withdrawn or dismissed.* Hourly fees will be assessed to the applicant for the scheduled service if the request is withdrawn or dismissed after the Service representative departs for the service point or if the request for service is not withdrawn or dismissed by 2 p.m. of the business day preceding the date of scheduled service. However, hourly fees will not be assessed to the applicant if FGIS officials determine that the Service representative can be utilized elsewhere or if the Service representative can be released without cost to the Service.

(f) *To whom fees are assessed.* Fees for official services including additional fees as provided in §868.92(c) shall be assessed to and paid by the applicant for the Service.

(g) *Advance payment.* As necessary, the Administrator may require that fees shall be paid in advance of the performance of the requested service. Any fees paid in excess of the amount due shall be used to offset future billings, unless a request for a refund is made by the applicant.

(h) *Time and form of payment*—(1) *Fees for Federal inspection service.* Bills for fees assessed under the regulations for official services performed by FGIS shall be paid by check, draft, or money order, payable to U.S. Department of Agriculture, Federal Grain Inspection Service.

(2) *Fees for cooperator inspection service.* Fees for inspection services provided by a cooperator shall be paid by the applicant to the cooperator in accordance with the cooperator's fee schedule.

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, 16365, Mar. 30, 1995; 61 FR 66536, Dec. 18, 1996; 85 FR 5302, Jan. 30, 2020]

Subpart B—Marketing Standards

SOURCE: 62 FR 6706, Feb. 13, 1997, unless otherwise noted.

§ 868.101 General information.

The Agricultural Marketing Service, (AMS) of the U.S. Department of Agriculture (USDA) facilitates the fair and efficient marketing of agricultural products by maintaining voluntary grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils, which provide a uniform language for describing the quality of these commodities in the marketplace. These standards may cover (but are not limited to) terms, classes, quality levels, performance criteria, and inspection requirements. Procedures contained in this part set forth the process which AMS will follow in developing, issuing, revising, suspending, or terminating the U.S. standards for Beans, Whole Dry Peas, Split Peas, and Lentils. Communications about AMS standards in general should be addressed to the Administrator, AMS, USDA, 1400 Independence Avenue, SW., Washington, DC 20250–3601.

§ 868.102 Procedures for establishing and revising grade standards.

(a) AMS will develop, revise, suspend, or terminate grade standards if it determines that such action is in the public interest. AMS encourages interested parties to participate in the review, development, and revision of

grade standards. Interested parties include growers, producers, processors, shippers, distributors, consumers, trade associations, companies, and State or Federal agencies. Such persons may at any time recommend that AMS develop, revise, suspend, or terminate a grade standard. Requests for action should be in writing, and should be accompanied by a draft of the suggested change, as appropriate.

(b) AMS will:

(1) Determine the need for new or revised standards;

(2) Collect technical, marketing, or other appropriate data;

(3) Conduct research regarding new or revised standards, as appropriate; and

(4) Draft the proposed standards.

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

§ 868.103 Public notification of grade standards action.

(a) After developing a standardization proposal, AMS will publish a notice in the FEDERAL REGISTER proposing new or revised standards or suspending or terminating existing standards. The notice will provide a sufficient comment period for interested parties to submit comments.

(b) AMS will simultaneously issue a news release about these actions, notifying the affected industry and general public. AMS will also distribute copies of proposals to anyone requesting a copy or to anyone it believes may be interested, including other Federal, State, or local government agencies.

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

(d) Based on the comments received, AMS'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.

(e) If AMS concludes that the changes as proposed or with appropriate modifications should be adopted, AMS will publish the final changes in the FEDERAL REGISTER as a final notice. AMS will make the grade standards and related information available in printed form and electronic media.

(f) If AMS determines that proposed changes are not warranted, or otherwise are not in the public interest, AMS will either publish in the FEDERAL REGISTER a notice withdrawing the proposal, or will revise the proposal and again seek public input.

Subpart C—United States Standards for Rough Rice

NOTE TO THE SUBPART: Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

SOURCE: 42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, unless otherwise noted.

TERMS DEFINED

§ 868.201 Definition of rough rice.

Rice (*Oryza sativa* L.) which consists of 50 percent or more of paddy kernels (see § 868.202(i)) of rice.

[34 FR 7863, May 17, 1969. Redesignated and amended at 60 FR 16364, 16365, Mar. 30, 1995]

§ 868.202 Definition of other terms.

For the purposes of these standards, the following terms shall have the meanings stated below:

(a) *Broken kernels.* Kernels of rice which are less than three-fourths of whole kernels.

(b) *Chalky kernels.* Whole or large broken kernels of rice which are one-half or more chalky.

(c) *Classes.* The following four classes:

Long Grain Rough Rice
Medium Grain Rough Rice
Short Grain Rough Rice
Mixed Rough Rice

Classes shall be based on the percentage of whole kernels, large broken kernels, and types of rice.

(1) ''Long grain rough rice'' shall consist of rough rice which contains more than 25 percent of whole kernels and

which after milling to a well-milled degree, contains not more than 10 percent of whole or broken kernels of medium or short grain rice.

(2) ''Medium grain rough rice'' shall consist of rough rice which contains more than 25 percent of whole kernels and which after milling to a well-milled degree, contains not more than 10 percent of whole or large broken kernels of long grain rice or whole kernels of short grain rice.

(3) ''Short grain rough rice'' shall consist of rough rice which contains more than 25 percent of whole kernels and which, after milling to a well-milled degree, contains not more than 10 percent of whole or large broken kernels of long grain rice or whole kernels of medium grain rice.

(4) ''Mixed rough rice'' shall consist of rough rice which contains more than 25 percent of whole kernels and which, after milling to a well-milled degree, contains more than 10 percent of ''other types'' as defined in paragraph (h) of this section.

(d) *Damaged kernels.* Whole or broken kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means, and whole or large broken kernels of parboiled rice in non-parboiled rice. ''Heat-damaged kernels'' (see paragraph (e) of this section) shall not function as damaged kernels.

(e) *Heat-damaged kernels.* Whole or large broken kernels of rice which are materially discolored and damaged as a result of heating, and whole or large broken kernels of parboiled rice in non-parboiled rice which are as dark as, or darker in color than, the interpretive line for heat-damaged kernels.

(f) *Milling yield.* An estimate of the quantity of whole kernels and total milled rice (whole and broken kernels combined) that are produced in the milling of rough rice to a well-milled degree.

(g) *Objectionable seeds.* Seeds other than rice, except seeds of *Echinochloa crusgalli* (commonly known as barnyard grass, watergrass, and Japanese millet).

(h) *Other types.* (1) Whole kernels of:

(i) Long grain rice in medium or short grain rice,

(ii) Medium grain rice in long or short grain rice,

(iii) Short grain rice in long or medium grain rice, and

(2) Large broken kernels of long grain rice in medium or short grain rice and large broken kernels of medium or short grain rice in long grain rice.

NOTE: Broken kernels of medium grain rice in short grain rice and large broken kernels of short grain rice in medium grain rice shall not be considered other types.

(i) *Paddy kernels.* Whole or broken unhulled kernels of rice.

(j) *Red rice.* Whole or large broken kernels of rice on which there is an appreciable amount of red bran.

(k) *Seeds.* Whole or broken seeds of any plant other than rice.

(l) *Smutty kernels.* Whole or broken kernels of rice which are distinctly infected by smut.

(m) *Types of rice.* The following three types:

Long grain
Medium grain
Short grain

Types shall be based on the length-width ratio of kernels of rice that are unbroken and the width, thickness, and shape of kernels of rice that are broken as prescribed in FGIS instructions.

(n) *Ungelatinized kernels.* Whole or large broken kernels of parboiled rice with distinct white or chalky areas due to incomplete gelatinization of the starch.

(o) *Whole and large broken kernels.* Rice (including seeds) that (1) passes over a 6 plate (for southern production), or (2) remains on top of a 6 sieve (for western production).

(p) *Whole kernels.* Unbroken kernels of rice and broken kernels of rice which are at least three-fourths of an unbroken kernel.

(q) *6 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0938 (6⁄64) inch in diameter.

(r) *6 plate.* A laminated metal plate 0.142-inch thick, with a top lamina 0.051-inch thick, perforated with rows

of round holes 0.0938 (6/64) inch in diameter, and a bottom lamina 0.091-inch thick, without perforations.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982; 54 FR 21403, May 18, 1989; 54 FR 51344, Dec. 14, 1989. Redesignated at 60 FR 16364, Mar. 30, 1995]

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 868.203 Basis of determination.

The determination of seeds, objectionable seeds, heat-damaged kernels, red rice and damaged kernels, chalky kernels, other types, color, and the special grade Parboiled rough rice shall be on the basis of the whole and large broken kernels of milled rice that are produced in the milling of rough rice to a well-milled degree. When determining class, the percentage of (a) whole kernels of rough rice shall be determined on the basis of the original sample, and (b) types of rice shall be determined on the basis of the whole and large broken kernels of milled rice that are produced in the milling of rough rice to a well-milled degree. Smutty kernels shall be determined on the basis of the rough rice after it has been cleaned and shelled as prescribed in FGIS instructions, or by any method that is approved by the Administrator as giving equivalent results. All other determinations shall be on the basis of the original sample. Mechanical sizing of kernels shall be adjusted by handpicking as prescribed in FGIS instructions, or by any method that is approved by the Administrator as giving equivalent results.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982; 54 FR 21403, May 18, 1989. Redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.204 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual examinations shall be maintained by the Federal Grain Inspection Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade rice.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982. Redesignated at 54 FR 21403, May 18, 1989, and 60 FR 16364, Mar. 30, 1995]

§ 868.205 Milling requirements.

In determining milling yield (see § 868.202(f)) in rough rice, the degree of milling shall be equal to, or better than, that of the interpretive line sample for ''well-milled'' rice.

[42 FR 40869, Aug. 12, 1977. Redesignated at 54 FR 21413, May 18, 1989, and further redesignated and amended at 60 FR 16364, 16365, Mar. 30, 1995]

§ 868.206 Milling yield determination.

Milling yield shall be determined by the use of an approved device in accordance with procedures prescribed in FGIS instructions. For the purpose of this paragraph, ''approved device'' shall include the McGill Miller No. 3 and any other equipment that is approved by the Administrator as giving equivalent results.

NOTE: Milling yield shall not be determined when the moisture content of the rough rice exceeds 18.0 percent.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982; Redesignated and amended at 54 FR 21403, May 18, 1989, and further redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.207 Moisture.

Water content in rough rice as determined by an approved device in accordance with procedures prescribed in the FGIS instructions. For the purpose of this paragraph, ''approved device'' shall include the Motomco Moisture Meter and any other equipment that is approved by the Administrator as giving equivalent results.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982. Redesignated at 54 FR 21403, May 18, 1989, as amended at 54 FR 51344, Dec. 14, 1989. Redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.208 Percentages.

(a) *Rounding.* Percentages are determined on the basis of weight and are rounded as follows:

(1) When the figure to be rounded is followed by a figure greater than or

equal to 5, round to the next higher figure; e.g., report 6.36 as 6.4, 0.35 as 0.4, and 2.45 as 2.5.

(2) When the figure to be rounded is followed by a figure less than 5, retain the figure; e.g., report 8.34 as 8.3 and 1.22 as 1.2.

(b) *Recording.* All percentages, except for milling yield, are stated in whole and tenth percent to the nearest tenth percent. Milling yield is stated to the nearest whole percent.

[54 FR 21403, May 18, 1989. Redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.209 Information.

Requests for the Rice Inspection Handbook, Equipment Handbook, or for information concerning approved devices and procedures, criteria for approved devices, and requests for approval of devices should be directed to the U.S. Department of Agriculture, Federal Grain Inspection Service, P.O. Box 96454, Washington, DC 20090–6454, or any field office or cooperator.

[54 FR 21404, May 18, 1989. Redesignated at 60 FR 16364, Mar. 30, 1995]

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 868.210 Grades and grade requirements for the classes of Rough Rice. (See also § 868.212.)

Grade	Maximum limits of—							Color requirements [1] (minimum)
	Seeds and heat-damaged kernels			Red rice and damaged kernels (singly or combined) (Percent)	Chalky kernels [1,2]		Other types [3] (Percent)	
	Total (singly or combined) (Number in 500 grams)	Heat-damaged kernels and objectionable seeds (singly or combined) (Number in 500 grams)	Heat-damaged kernels (Number in 500 grams)		In long grain rice (Percent)	In medium or short grain rice (Percent)		
U.S. No. 1	4	3	1	0.5	1.0	2.0	1.0	Shall be white or creamy.
U.S. No. 2	7	5	2	1.5	2.0	4.0	2.0	May be slightly gray.
U.S. No. 3	10	8	5	2.5	4.0	6.0	3.0	May be light gray.
U.S. No. 4	27	22	15	4.0	6.0	8.0	5.0	May be gray or slight rosy.
U.S. No. 5	37	32	25	6.0	10.0	10.0	10.0	May be dark gray or rosy.
U.S. No. 6	75	75	75	[4] 15.0	15.0	15.0	10.0	May be dark gray or rosy.
U.S. Sample grade	U.S. Sample grade shall be rough rice which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 6, inclusive; (b) contains more than 14.0 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; or (e) is otherwise of distinctly low quality.							

[1] For the special grade Parboiled rough rice, see § 868.212(b).
[2] For the special grade Glutinous rough rice, see § 868.212(d).
[3] These limits do not apply to the class Mixed Rough Rice.
[4] Rice in grade U.S. No. 6 shall contain not more than 6.0 percent of damaged kernels.

[56 FR 55978, Oct. 31, 1991. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.211 Grade designation and other certificate information.

(a) *Rough rice.* The grade designation for all classes of Rough rice shall be included on the certificate grade-line in the following order:

(1) The letters ''U.S.;''

(2) The number of the grade or the words ''Sample grade,'' as warranted;

(3) The words ''or better,'' when applicable and requested by the applicant prior to inspection;

(Approved by the Office of Management and Budget under control number 0580–0013)

(4) The class;

(5) Each applicable special grade (see § 868.213); and

(6) A statement of the milling yield.

(b) *Mixed rough rice information.* For the class Mixed Rough rice, the following information shall be included in the Results section of the certificate in the following order:

(1) The percentage of whole kernels of each type in the order of predominance;

(2) The percentage of large broken kernels of each type in the order of predominance;

(3) The percentage of material removed by the No. 6 sieve or the No. 6 sizing plate; and

(4) The percentage of seeds, when applicable.

(c) *Large broken kernels.* Large broken kernels, other than long grain, in Mixed Rough rice shall be certified as ''medium or short grain.''

[74 FR 55442, Oct. 28, 2009]

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 868.212 Special grades and requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 868.210. Such special grades for rough rice are established and determined as follows:

(a) *Infested rough rice.* Tolerances for live insects for infested rough rice are defined according to sampling designations as follows:

(1) *Representative sample.* The representative sample consists of the work portion, and the file sample if needed and when available. The rough rice (except when examined according to paragraph (a)(3) of this section will be considered infested if the representative sample contains two or more live weevils, or one live weevil and one or more other live insects injurious to stored rice or five or more other live insects injurious to stored rice.

(2) *Lot as a whole (stationary).* The lot as a whole is considered infested when two or more live weevils, or one live weevil and one or more other live insects injurious to stored rice, or five or more other live insects injurious to stored rice, or 15 or more live Angoumois moths or other live moths injurious to stored rice are found in, on, or about the lot.

(3) *Sample as a whole during continuous loading/unloading.* The minimum sample size for rice being sampled during continuous loading/unloading is 500 grams per each 100,000 pounds of rice. The sample as a whole is considered infested when a component (as defined in FGIS instructions) contains two or more live weevils, or one live weevil and one or more other live insects injurious to stored rice, or five or more other live insects injurious to stored rice.

(b) *Parboiled rough rice.* Parboiled rough rice shall be rough rice in which the starch has been gelatinized by soaking, steaming, and drying. Grades U.S. No. 1 to U.S. No. 6 inclusive, shall contain not more than 10.0 percent of ungelatinized kernels. Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 0.1 percent, grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent, and grades U.S. No. 5 and U.S. No. 6 not more than 0.5 percent of nonparboiled rice. If the rice is: (1) Not distinctly colored by the parboiling process, it shall be considered ''Parboiled Light''; (2) distinctly but not materially colored by the parboiling process, it shall be considered ''Parboiled''; (3) materially colored by the parboiling process, it shall be considered ''Parboiled Dark.'' The color levels for ''Parboiled Light,'' ''Parboiled,'' and ''Parboiled Dark'' rice shall be in accordance with the interpretive line samples for parboiled rice.

NOTE: The maximum limits for ''Chalky kernels,'' ''Heat-damaged kernels,'' ''Kernels damaged by heat,'' and the ''Color requirements'' shown in § 868.210 are not applicable to the special grade ''Parboiled rough rice.''

(c) *Smutty rough rice.* Smutty rough rice shall be rough rice which contains more than 3.0 percent of smutty kernels.

(d) *Glutinous rough rice.* Glutinous rough rice shall be special varieties of rice (Oryza sativa L. glutinosa) which contain more than 50 percent chalky kernels. Grade U.S. No. 1 shall contain not more than 1.0 percent of nonchalky kernels, grade U.S. No. 2 not more than 2.0 percent of nonchalky kernels, grade U.S. No. 3 not more than 4.0 percent of nonchalky kernels, grade U.S. No. 4 not more than 6.0 percent of nonchalky kernels, grade U.S. No. 5 not more than 10.0 percent of nonchalky kernels, and grade U.S. No. 6 not more than 15.0 percent of nonchalky kernels.

NOTE: The maximum limits for ''Chalky kernels'' in § 868.210 are not applicable to the special grade ''Glutinous rough rice.''

(e) *Aromatic rough rice.* Aromatic rough rice shall be special varieties of rice (Oryza sativa L. scented) that have a distinctive and characteristic aroma; e.g., basmati and jasmine rice.

[42 FR 40869, Aug. 12, 1977, as amended at 54 FR 21406, May 18, 1989; 56 FR 55978, Oct. 31, 1991; 58 FR 68016, Dec. 23, 1993. Redesignated and amended at 60 FR 16364, 16365, Mar. 30, 1995]

§ 868.213 Special grade designation.

The grade designation for infested, parboiled, smutty, glutinous, or aromatic rough rice shall include, following the class, the word(s) ''Infested,'' ''Parboiled Light,'' ''Parboiled,'' ''Parboiled Dark,'' ''Smutty,'' ''Glutinous,'' or ''Aromatic,'' as warranted, and all other information prescribed in § 868.211.

[58 FR 68016, Dec. 23, 1993. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

Subpart D—United States Standards for Brown Rice for Processing

NOTE TO THE SUBPART: Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

SOURCE: 42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, unless otherwise noted. Redesignated at 60 FR 16364, Mar. 30, 1995.

TERMS DEFINED

§ 868.251 Definition of brown rice for processing.

Rice (*Oryza sativa* L.) which consists of more than 50.0 percent of kernels of brown rice, and which is intended for processing to milled rice.

§ 868.252 Definition of other terms.

For the purposes of these standards, the following terms shall have the meanings stated below:

(a) *Broken kernels.* Kernels of rice which are less than three-fourths of whole kernels.

(b) *Brown rice.* Whole or broken kernels of rice from which the hulls have been removed.

(c) *Chalky kernels.* Whole or broken kernels of rice which are one-half or more chalky.

(d) *Classes.* There are four classes of brown rice for processing.

Long Grain Brown Rice for Processing.
Medium Grain Brown Rice for Processing.
Short Grain Brown Rice for Processing.
Mixed Brown Rice for Processing.

Classes shall be based on the percentage of whole kernels, broken kernels, and types of rice.

(1) ''Long-grain brown rice for processing'' shall consist of brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and not more than 10.0 percent of whole or broken kernels of medium- or short-grain rice.

(2) ''Medium-grain brown rice for processing'' shall consist of brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and not more than 10.0 percent of whole or broken kernels of long-grain rice or whole kernels of short-grain rice.

(3) ''Short-grain brown rice for processing'' shall consist of brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and not more than 10.0 percent of whole or broken kernels of long-grain rice or whole kernels of medium-grain rice.

(4) ''Mixed brown rice for processing'' shall be brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and

more than 10.0 percent of ''other types'' as defined in paragraph (i) of this section.

(e) *Damaged kernels.* Whole or broken kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means (including parboiled kernels in nonparboiled rice and smutty kernels). ''Heat-damaged kernels'' (see paragraph (f) of this section) shall not function as damaged kernels.

(f) *Heat-damaged kernels.* Whole or broken kernels of rice which are materially discolored and damaged as a result of heating and parboiled kernels in nonparboiled rice which are as dark as, or darker in color than, the interpretive line for heat-damaged kernels.

(g) *Milling yield.* An estimate of the quantity of whole kernels and total milled rice (whole and broken kernels combined) that is produced in the milling of brown rice for processing to a well-milled degree.

(h) *Objectionable seeds.* Whole or broken seeds other than rice, except seeds of *Echinochloa crusgalli* (commonly known as barnyard grass, watergrass, and Japanese millet).

(i) *Other types.* (1) Whole kernels of:

(i) Long grain rice in medium or short grain rice and medium or short grain rice in long grain rice,

(ii) Medium grain rice in long or short grain rice,

(iii) Short grain rice in long or medium grain rice,

(2) Broken kernels of long grain rice in medium or short grain rice and broken kernels of medium or short grain rice in long grain rice.

NOTE: Broken kernels of medium grain rice in short grain rice and broken kernels of short grain rice in medium grain rice shall not be considered other types.

(j) *Paddy kernels.* Whole or broken unhulled kernels and whole or broken kernels of rise having a portion or portions of the hull remaining which cover one-half (½) or more of the whole or broken kernel.

(k) *Red rice.* Whole or broken kernels of rice on which the bran is distinctly red in color.

(l) *Related material.* All by-products of a paddy kernel, such as the outer glumes, lemma, palea, awn, embryo, and bran layers.

(m) *Seeds.* Whole or broken seeds of any plant other than rice.

(n) *Smutty kernels.* Whole or broken kernels of rice which are distinctly infected by smut.

(o) *Types of rice.* There are three types of brown rice for processing:

Long grain
Medium grain
Short grain

Types shall be based on the length/width ratio of kernels of rice that are unbroken and the width, thickness, and shape of kernels of rice that are broken as prescribed in FGIS instructions.

(p) *Ungelantinized kernels.* Whole or broken kernels of parboiled rice with distinct white or chalky areas due to incomplete gelatization of the starch.

(q) *Unrelated material.* All matter other than rice, related material, and seeds.

(r) *Well-milled kernels.* Whole or broken kernels of rice from which the hulls and practically all of the embryos and the bran layers have been removed.

(s) *Whole kernels.* Unbroken kernels of rice and broken kernels of rice which are at least three-fourths of an unbroken kernel.

(t) *6 plate.* A laminated metal plate 0.142-inch thick, with a top lamina 0.051-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter, and a bottom lamina 0.091-inch thick, without perforations.

(u) *6½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.1016 (6½/64) inch in diameter.

[13 FR 9479, Dec. 31, 1948, as amended at 44 FR 73008, Dec. 17, 1979; 47 FR 34516, Aug. 10, 1982; 54 FR 21403, 21406, May 18, 1989; 54 FR 51344, Dec. 14, 1989. Redesignated at 60 FR 16364, Mar. 30, 1995]

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 868.253 Basis of determination.

The determination of kernels damaged by heat, heat-damaged kernels, parboiled kernels in nonparboiled rice, and the special grade Parboiled brown rice for processing shall be on the basis of the brown rice for processing after it has been milled to a well-milled degree. All other determinations shall be on

the basis of the original sample. Mechanical sizing of kernels shall be adjusted by handpicking as prescribed in FGIS instructions, or by any method which gives equivalent results.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982; 54 FR 21403, 21406, May 18, 1989, and further redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.254 Broken kernels determination.

Broken kernels shall be determined by the use of equipment and procedures prescribed in FGIS instructions, or by any method which gives equivalent results.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982; 54 FR 21403, May 18, 1989. Redesignated at 54 FR 21406, May 18, 1989, and further redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.255 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual observation shall be maintained by the Federal Grain Inspection Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade rice.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982; 54 FR 21403, May 18, 1989. Redesignated at 54 FR 21406, May 18, 1989, and further redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.256 Milling requirements.

In determining milling yield (see § 868.252(g)) in brown rice for processing, the degree of milling shall be equal to, or better than, that of the interpretive line sample for ''well-milled'' rice.

[42 FR 40869, Aug. 12, 1977. Redesignated at 21406, May 18, 1989, and further redesignated and amended at 60 FR 16364, 16365, Mar. 30, 1995]

§ 868.257 Milling yield determination.

Milling yield shall be determined by the use of an approved device in accordance with procedures prescribed in FGIS instructions. For the purpose of this paragraph, ''approved device'' shall include the McGill Miller No. 3 and any other equipment that is approved by the Administrator as giving equivalent results.

NOTE: Milling yield shall not be determined when the moisture content of the brown rice for processing exceeds 18.0 percent.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982; 54 FR 21403, May 18, 1989. Redesignated at 54 FR 21406, May 18, 1989, and further redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.258 Moisture.

Water content in brown rice for processing as determined by an approved device in accordance with procedures prescribed in FGIS instructions. For the purpose of this paragraph, ''approved device'' shall include the Motomco Moisture Meter and any other equipment that is approved by the Administrator as giving equivalent results.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982; 54 FR 21403, May 18, 1989. Redesignated at 54 FR 21406, May 18, 1989, and further redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.259 Percentages.

(a) *Rounding.* Percentages are determined on the basis of weight and are rounded as follows:

(1) When the figure to be rounded is followed by a figure greater than or equal to 5, round to the next higher figure; e.g., report 6.36 as 6.4, 0.35 as 0.4, and 2.45 as 2.5.

(2) When the figure to be rounded is followed by a figure less than 5, retain the figure, e.g., report 8.34 as 8.3 and 1.22 and 1.2.

(b) *Recording.* All percentages, except for milling yield, are stated in whole and tenth percent to the nearest whole percent. Milling yield is stated to the nearest whole percent.

[54 FR 21406, May 18, 1989. Redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.260 Information.

Requests for the Rice Inspection Handbook, Equipment Handbook, or for information concerning approved devices and procedures, criteria for approved devices, and requests for approval of devices should be directed to the U.S. Department of Agriculture, Federal Grain Inspection Service, P.O.

Box 96454, Washington, DC 20090–6454, or any field office or cooperator.

[54 FR 21406, May 18, 1989. Redesignated at 60 FR 16364, Mar. 30, 1995]

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 868.261 Grade and grade requirements for the classes of brown rice for processing. (See also § 868.263.)

Grade	Maximum limits of—									
	Paddy kernels		Seeds and heat-damaged kernels			Red rice and damaged kernels (singly or combined) (percent)	Chalky kernels [1,2] (percent)	Broken kernels removed by a 6 plate or a 6½ sieve [3] (percent)	Other types [4]	Wellmilled kernels (percent)
	Percent	Number in 500 grams	Total (singly or combined) (number in 500 grams)	Heat-damaged kernels (number in 500 grams)	Objectionable seeds (number in 500 grams)					
U.S. No. 1	—	20	10	1	2	1.0	2.0	1.0	1.0	1.0
U.S. No. 2	2.0	—	40	2	10	2.0	4.0	2.0	2.0	3.0
U.S. No. 3	2.0	—	70	4	20	4.0	6.0	3.0	5.0	10.0
U.S. No. 4	2.0	—	100	8	35	8.0	8.0	4.0	10.0	10.0
U.S. No. 5	2.0	—	150	15	50	15.0	15.0	6.0	10.0	10.0

U.S. Sample grade	U.S. Sample grade shall be brown rice for processing which (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; (b) contains more than 14.5 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.2 percent of related material or more than 0.1 percent of unrelated material; (f) contains two or more live weevils or other live insects; or (g) is otherwise of distinctly low quality.

[1] For the special grade Parboiled brown rice for processing, see § 868.263(a).
[2] For the special grade Glutinous brown rice for processing, see § 868.263(c).
[3] Plates should be used for southern production rice and sieves should be used for western production rice, but any device or method which gives equivalent results may be used.
[4] These limits do not apply to the class Mixed Brown Rice for Processing.

[56 FR 55979, Oct. 31, 1991. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.262 Grade designation and other certificate information.

(a) *Brown rice for processing.* The grade designation for all classes of Brown rice for processing shall be included on the certificate grade-line in the following order:

(1) The letters ''U.S.;''

(2) The number of the grade or the words ''Sample grade,'' as warranted;

(3) The words ''or better,'' when applicable and requested by the applicant prior to inspection;

(Approved by the Office of Management and Budget under control number 0580–0013)

(4) The class; and

(5) Each applicable special grade (see § 868.264).

(b) *Mixed Brown rice for Processing information.* For the class Mixed Brown rice for processing, the following information shall be included in the Results section of the certificate in the following order:

(1) The percentage of whole kernels of each type in the order of predominance;

(2) The percentage of broken kernels of each type in the order of predominance, when applicable; and

(3) The percentage of seeds, related material, and unrelated material.

(c) *Broken kernels.* Broken kernels, other than long grain in Mixed Brown rice for processing shall be certified as ''medium or short grain.''

[74 FR 55442, Oct. 28, 2009]

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 868.263 Special grades and special grade requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 868.262. Such special grades for brown rice for processing are established and determined as follows:

(a) *Parboiled brown rice for processing.* Parboiled brown rice for processing shall be rice in which the starch has been gelatinized by soaking, steaming, and drying. Grades U.S. Nos. 1 to 5, inclusive, shall contain not more than 10.0 percent of ungelatinized kernels. Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 0.1 percent, grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent, and grade U.S. No. 5 not more than 0.5 percent of nonparboiled rice.

NOTE: The maximum limits for ''chalky kernels,'' ''Heat-damaged kernels,'' and ''Kernels damaged by heat'' shown in § 868.261 are not applicable to the special grade ''Parboiled brown rice for processing.''

(b) *Smutty brown rice for processing.* Smutty brown rice for processing shall be rice which contains more than 3.0 percent of smutty kernels.

(c) *Glutinous brown rice for processing.* Glutinous brown rice for processing shall be special varieties of rice (Oryza sativa L. glutinosa) which contain more than 50 percent chalky kernels. Grade U.S. No. 1 shall contain not more than 1.0 percent of nonchalky kernels, grade U.S. No. 2 not more than 2.0 percent of nonchalky kernels, grade U.S. No. 3 not more than 4.0 percent of nonchalky kernels, grade U.S. No. 4 not more than 6.0 percent of nonchalky kernels, and grade U.S. No. 5 not more than 10.0 percent of nonchalky kernels.

NOTE: The maximum limits for ''Chalky kernels'' in § 868.261 are not applicable to the special grade ''Glutinous brown rice for processing.''

(d) *Aromatic brown rice for processing.* Aromatic brown rice for processing shall be special varieties of rice (Oryza sativa L. scented) that have a distinctive and characteristic aroma; e.g., basmati and jasmine rice.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 56 FR 55979, Oct. 31, 1991; 58 FR 68016, Dec. 23, 1993. Redesignated and amended at 60 FR 16364, 16365, Mar. 30, 1995]

§ 868.264 Special grade designation.

The grade designation for parboiled, smutty, glutinous, or aromatic brown rice for processing shall include, following the class, the word(s) ''Parboiled,'' ''Smutty,'' ''Glutinous,'' or ''Aromatic,'' as warranted, and all other information prescribed in § 868.262.

[58 FR 68016, Dec. 23, 1993. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

Subpart E—United States Standards for Milled Rice

NOTE TO THE SUBPART: Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

SOURCE: 42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, unless otherwise noted. Redesignated at 60 FR 16364, Mar. 30, 1995.

TERMS DEFINED

§ 868.301 Definition of milled rice.

Whole or broken kernels of rice (*Oryza sativa* L.) from which the hulls and at least the outer bran layers have been removed and which contain not more than 10.0 percent of seeds, paddy kernels, or foreign material, either singly or combined.

[48 FR 24859, June 3, 1983. Redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.302 Definition of other terms.

For the purposes of these standards, the following terms shall have the meanings stated below:

(a) *Broken kernels.* Kernels of rice which are less than three-fourths of whole kernels.

(b) *Brown rice.* Whole or broken kernels of rice from which the hulls have been removed.

(c) *Chalky kernels.* Whole or broken kernels of rice which are one-half or more chalky.

(d) *Classes.* There are seven classes of milled rice. The following four classes shall be based on the percentage of whole kernels, and types of rice:

Long Grain Milled Rice.
Medium Grain Milled Rice.
Short Grain Milled Rice.
Mixed Milled Rice.

The following three classes shall be based on the percentage of whole kernels and of broken kernels of different size:

Second Head Milled Rice.
Screenings Milled Rice.
Brewers Milled Rice.

(1) ''Long grain milled rice'' shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and in U.S. Nos. 1 through 4 not more than 10.0 percent of whole or broken kernels of medium or short grain rice. U.S. No. 5 and U.S. No. 6 long grain milled rice shall contain not more than 10.0 percent of whole kernels of medium or short grain milled rice (broken kernels do not apply).

(2) ''Medium grain milled rice'' shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and in U.S. Nos. 1 through 4 not more than 10.0 percent of whole or broken kernels of long grain rice or whole kernels of short grain rice. U.S. No. 5 and U.S. No. 6 medium grain milled rice shall contain not more than 10.0 percent of whole kernels of long or short grain milled rice (broken kernels do not apply).

(3) ''Short grain milled rice'' shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and in U.S. Nos. 1 through 4 not more than 10.0 percent of whole or broken kernels of long grain rice or whole kernels of medium grain rice. U.S. No. 5 and U.S. No. 6 short grain milled rice shall contain not more than 10.0 percent of whole kernels of long or medium grain milled rice (broken kernels do not apply).

(4) ''Mixed milled rice'' shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and more than 10.0 percent of ''other types'' as defined in paragraph (i) of this section. U.S. No. 5 and U.S. No. 6 mixed milled rice shall contain more than 10.0 percent of whole kernels of ''other types'' (broken kernels do not apply).

(5) ''Second head milled rice'' shall consist of milled rice which, when determined in accordance with § 868.303, contains:

(i) Not more than (*a*) 25.0 percent of whole kernels, (*b*) 7.0 percent of broken kernels removed by a 6 plate, (*c*) 0.4 percent of broken kernels removed by a 5 plate, and (*d*) 0.05 percent of broken kernels passing through a 4 sieve (southern production); or

(ii) Not more than (*a*) 25.0 percent of whole kernels, (*b*) 50.0 percent of broken kernels passing through a 6½ sieve, and (*c*) 10.0 percent of broken kernels passing through a 6 sieve (western production).

(6) ''Screenings milled rice'' shall consist of milled rice which, when determined in accordance with § 868.303, contains:

(i) Not more than (*a*) 25.0 percent of whole kernels, (*b*) 10.0 percent of broken kernels removed by a 5 plate, and (*c*) 0.2 percent of broken kernels passing through a 4 sieve (southern production); or

(ii) Not more than (*a*) 25.0 percent of whole kernels and (*b*) 15.0 percent of broken kernels passing through a 5½ sieve; and more than (*c*) 50.0 percent of broken kernels passing through a 6½ sieve and (*d*) 10.0 percent of broken kernels passing through a 6 sieve (western production).

(7) ''Brewers milled rice'' shall consist of milled rice which, when determined in accordance with § 868.303, contains not more than 25.0 percent of whole kernels and which does not meet the kernel-size requirements for the class Second Head Milled Rice or Screenings Milled Rice.

(e) *Damaged kernels.* Whole or broken kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means, and parboiled kernels in nonparboiled rice. ''Heat-damaged kernels'' (see paragraph (g) of this section) shall not function as damaged kernels.

(f) *Foreign material.* All matter other than rice and seeds. Hulls, germs, and bran which have separated from the kernels of rice shall be considered foreign material.

(g) *Heat-damaged kernels.* Whole or broken kernels of rice which are materially discolored and damaged as a result of heating and parboiled kernels in nonparboiled rice which are as dark as, or darker in color than, the interpretive line for heat-damaged kernels.

(h) *Objectionable seeds.* Seeds other than rice, except seeds of *Echinochloa crusgalli* (commonly known as barnyard grass, watergrass, and Japanese millet).

(i) *Other types.* (1) Whole kernels of: (i) Long grain rice in medium or short grain rice, (ii) medium grain rice in long or short grain rice, (iii) Short grain rice in long or medium grain rice, and (2) broken kernels of long grain rice in medium or short grain rice and broken kernels of medium or short grain rice in long grain rice, except in U.S. No. 5 and U.S. No. 6 milled rice. In U.S. No. 5 and U.S. No. 6 milled rice, only whole kernels will apply.

NOTE: Broken kernels of medium grain rice in short grain rice and broken kernels of short grain rice in medium grain rice shall not be considered other types.

(j) *Paddy Kernels.* Whole or broken unhulled kernels of rice; whole or broken kernels of brown rice, and whole or broken kernels of milled rice having a portion or portions of the hull remaining which cover one-eighth (⅛) or more of the whole or broken kernel.

(k) *Red rice.* Whole or broken kernels of rice on which there is an appreciable amount of red bran.

(l) *Seeds.* Whole or broken seeds of any plant other than rice.

(m) *Types of rice.* There are three types of milled rice as follows:

Long grain.
Medium grain.
Short grain.

Types shall be based on the length-width ratio of kernels of rice that are unbroken and the width, thickness, and shape of kernels that are broken, prescribed in FGIS instructions.

(n) *Ungelatinized kernels.* Whole or broken kernels of parboiled rice with distinct white or chalky areas due to incomplete gelatinization of the starch.

(o) *Well-milled kernels.* Whole or broken kernels of rice from which the hulls and practically all of the germs and the bran layers have been removed.

NOTE: This factor is determined on an individual kernel basis and applies to the special grade Undermilled milled rice only.

(p) *Whole kernels.* Unbroken kernels of rice and broken kernels of rice which are at least three-fourths of an unbroken kernel.

(q) *5 plate.* A laminated metal plate 0.142–inch thick, with a top lamina, 0.051–inch thick, perforated with rows of round holes 0.0781 (5/64) inch in diameter, 5/32 inch from center to center, with each row staggered in relation to the adjacent rows, and a bottom lamina 0.091-inch thick, without perforations.

(r) *6 plate.* A laminated metal plate 0.142-inch thick, with a top lamina 0.051-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter, 5/32 inch from center to center, with each row staggered in relation to the adjacent rows, and a bottom lamina 0.091–inch thick, without perforations.

(s) *2½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0391 (2½/64) inch in diameter, 0.075-inch from center to center, with each row staggered in relation to the adjacent rows.

(t) *4 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0625 (4/64) inch in diameter, 1/8 inch from center to center, with each row staggered in relation to the adjacent rows.

(u) *5 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0781 (5/64) inch in diameter, 5/32 inch from center to center, with each row staggered in relation to the adjacent rows.

(v) *5½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0859 (5½/64) inch in diameter, 9/64 inch from center to center, with each row staggered in relation to the adjacent rows.

(w) *6 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter, 5/32 inch from center to center, with each row staggered in relation to the adjacent rows.

(x) *6½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.1016 (6½/64) inch in diameter, 5/32 inch from center to center, with each

row staggered in relation to the adjacent rows.

(y) *30 sieve*. A woven wire cloth sieve having 0.0234-inch openings, with a wire diameter of 0.0153 inch, and meeting the specifications of American Society for Testing and Materials Designation E–11–61, prescribed in FGIS instructions.

[13 FR 9479, Dec. 31, 1948, as amended at 44 FR 73008, Dec. 17, 1979; 47 FR 34516, Aug. 10, 1982; 54 FR 21403, 21406, May 18, 1989; 54 FR 51345, Dec. 14, 1989. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 868.303 Basis of determination.

All determinations shall be on the basis of the original sample. Mechanical sizing of kernels shall be adjusted by handpicking, as prescribed in FGIS instructions, or by any method which gives equivalent results.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982; 54 FR 21403, 21406, May 18, 1989. Redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.304 Broken kernels determination.

Broken kernels shall be determined by the use of equipment and procedures prescribed in FGIS instructions or by any method which gives equivalent results.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982; 54 FR 21403, May 18, 1989. Redesignated at 54 FR 21406, May 18, 1989 and 60 FR 16364, Mar. 30, 1995]

§ 868.305 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual observation shall be maintained by the Federal Grain Inspection Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade rice.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982. Redesignated at 54 FR 21406, May 18, 1989 and 60 FR 16364, Mar. 30, 1995]

§ 868.306 Milling requirements.

The degree of milling for milled rice; *i.e.*, ''hard milled,'' ''well-milled,'' and ''reasonably well-milled,'' shall be equal to, or better than, that of the interpretive line samples for such rice.

[67 FR 61250, Sept. 30, 2002]

§ 868.307 Moisture.

Water content in milled rice as determined by an FGIS approved device in accordance with procedures prescribed in FGIS instructions.

[67 FR 61250, Sept. 30, 2002]

§ 868.308 Percentages.

(a) *Rounding*. Percentages are determined on the basis of weight and are rounded as follows:

(1) When the figure to be rounded is followed by a figure greater than or equal to 5, round to the next higher figure; e.g., report 6.36 as 6.4, 0.35 as 0.4, and 2.45 as 2.5.

(2) When the figure to be rounded is followed by a figure less than 5, retain the figure, e.g., report 8.34 as 8.3 and 1.22 and 1.2.

(b) *Recording*. The percentage of broken kernels removed by a 5 plate in U.S. Nos. 1 and 2 Milled Rice and the percentage of objectionable seeds in U.S. No. 1 Brewers Milled Rice is reported to the nearest hundredth percent. The percentages of all other factors are recorded to the nearest tenth of a percent.

[54 FR 21406, May 18, 1989. Redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.309 Information.

Requests for the Rice Inspection Handbook, Equipment Handbook, or for information concerning approved devices and procedures, criteria for approved devices, and requests for approval of devices should be directed to the U.S. Department of Agriculture, Federal Grain Inspection Service, P.O. Box 96454, Washington, DC 20090–6454, or any field office or cooperator.

[54 FR 21407, May 18, 1989. Redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.310 Grades and grade requirements for the classes Long Grain Milled Rice, Medium Grain Milled Rice, Short Grain Milled Rice, and Mixed Milled Rice. (See also § 868.315.)

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

Grade	Maximum limits of—											Color requirements[1]	Minimum milling requirements[5]
	Seeds, heat damaged, and paddy kernels (singly or combined)		Red rice and damaged kernels (singly or combined) (percent)	Chalky kernels[1,2]		Broken kernels				Other types[4]			
	Total (number in 500 grams)	Heat damaged kernels and objectionable seeds (number in 500 grams)		In long grain rice (percent)	In medium or short grain rice (percent)	Total (percent)	Removed by a 5 plate[3] (percent)	Removed by a 6 plate[3] (percent)	Through a 6 sieve[3] (percent)	Whole kernels (percent)	Whole and broken kernels (percent)		
U.S. No. 1	2	1	0.5	1.0	2.0	4.0	0.04	0.1	0.1	.....	1.0	White or creamy.	Well Milled.
U.S. No. 2	4	2	1.5	2.0	4.0	7.0	0.06	0.2	0.2	.....	2.0	Slightly gray.	Well Milled.
U.S. No. 3	7	5	2.5	4.0	6.0	15.0	0.1	0.8	0.5	.....	3.0	Light gray	Reasonably well milled.
U.S. No. 4	20	15	4.0	6.0	8.0	25.0	0.4	1.0	0.7	.....	5.0	Gray or slightly rosy.	Reasonably well milled.
U.S. No. 5	30	25	[5]6.0	10.0	10.0	35.0	0.7	3.0	1.0	10.0	.....	Dark gray or rosy.	Reasonably well milled.
U.S. No. 6	75	75	[6]15.0	15.0	15.0	50.0	1.0	4.0	2.0	10.0	.....	Dark gray or rosy.	Reasonably well milled.
U.S. Sample grade:													

U.S. Sample grade shall be milled rice of any of these classes which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 6, inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.1 percent of foreign material; (f) Contains two or more live or dead weevils or other insects, insect webbing, or insect refuse; (g) is otherwise of distinctly low quality.

[1] For the special grade Parboiled milled rice, see §868.315(c).
[2] For the special grade Glutinous milled rice, see §868.315(e).
[3] Plates should be used for southern production rice; and sieves should be used for western production rice, but any device or method which gives equivalent results may be used.
[4] These limits do not apply to the class Mixed Milled Rice.
[5] For the special grade Undermilled milled rice, see §868.315(d).
[6] Grade U.S. No. 6 shall contain not more than 6.0 percent of damaged kernels.

[67 FR 61250, Sept. 30, 2002, as amended at 70 FR 37255, June 29, 2005]

§ 868.311 Grades and grade requirements for the class Second Head Milled Rice. (See also § 868.315.)

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

Grade	Maximum limits of—					
	Seeds, heat-damaged, and paddy kernels (singly or combined)		Red rice and damaged kernels (singly or combined) (percent)	Chalky kernels [1,3] (percent)	Color requirements [1]	Minimum milling requirements [2]
	Total (number in 500 grams)	Heat-damaged kernels and objectionable seeds (number in 500 grams)				
U.S. No. 1	15	5	1.0	4.0	White or Creamy.	Well milled.
U.S. No. 2	20	10	2.0	6.0	Slightly gray	Well milled.
U.S. No. 3	35	15	3.0	10.0	Light gray	Reasonably well milled.
U.S. No. 4	50	25	5.0	15.0	Gray or slightly gray.	Reasonably well milled.
U.S. No. 5	75	40	10.0	20.0	Dark gray or rosy.	Reasonably well milled.

U.S. Sample grade:

U.S. Sample grade shall be milled rice of this class which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.1 percent of foreign material; (f) contains two or more live or dead weevils or other insects, insect webbing, or insect refuse; or (g) is otherwise of distinctly low quality.

[1] For the special grade Parboiled milled rice, see § 868.315(c).
[2] For the special grade Undermilled milled rice, see § 868.315(d).
[3] For the special grade Glutinous milled rice, see § 868.315(e).

[67 FR 61251, Sept. 30, 2002]

§ 868.312 Grade and grade requirements for the class Screenings Milled Rice. (See also § 868.315.)

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

Grade	Maximum limits of—				
	Paddy kernels and seeds		Chalky kernels [1,3] (percent)	Color requirements [1]	Minimum milling requirements [2]
	Total (number in 500 grams)	Objectionable seeds (number in 500 grams)			
U.S. No. 1 [4,5]	30	20	5.0	White or Creamy	Well milled.
U.S. No. 2 [4,5]	75	50	8.0	Slightly gray	Well milled.
U.S. No. 3 [4,5]	125	90	12.0	Light gray or slightly rosy	Reasonably well milled.
U.S. No. 4 [4,5]	175	140	20.0	Gray or rosy	Reasonably well milled.
U.S. No. 5	250	200	30.0	Dark gray or very rosy	Reasonably well milled.

U.S. Sample grade:

U.S. Sample grade shall be milled rice of this class which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty or sour, or heating; (d) has any commercially objectionable foreign odor; (e) has a badly damaged or extremely red appearance (f) contains more than 0.1 percent of foreign material; (g) contains two or more live or dead weevils or other insects, insect webbing, or insect refuse; or (h) is otherwise of distinctly low quality.

[1] For the special grade Parboiled milled rice, see § 868.315(c).
[2] For the special grade Undermilled milled rice, see § 868.315(d).
[3] For the special grade Glutinous milled rice, see § 868.315(e).
[4] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 3.0 percent of heat-damaged kernels, kernels damaged by heat and/or parboiled kernels in nonparboiled rice.
[5] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 1.0 percent of material passing through a 30 sieve.

[67 FR 61251, Sept. 30, 2002]

§ 868.313 Grades and grade requirements for the class Brewers Milled Rice. (See also § 868.315.)

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

Grade	Maximum limits of—paddy kernels and seeds		Color requirements [1]	Minimum milling requirements [2]
	Total (singly or combined) (percent)	Objectionable seeds (percent)		
U.S. No. 1 [3,4]	0.5	0.05	White or Creamy	Well milled.
U.S. No. 2 [3,4]	1.0	0.1	Slightly gray	Well milled.
U.S. No. 3 [3,4]	1.5	0.2	Light gray or slightly rosy	Reasonably well milled.
U.S. No. 4 [3,4]	3.0	0.4	Gray or rosy	Reasonably well milled.
U.S. No. 5	5.0	1.5	Dark gray or very rosy	Reasonably well milled.

U.S. Sample grade:

U.S. Sample grade shall be milled rice of this class which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty or sour, or heating; (d) has any commercially objectionable foreign odor; (e) has a badly damaged or extremely red appearance; (f) contains more than 0.1 percent of foreign material; (g) contains more than 15.0 percent of broken kernels that will pass through a 2½ sieve; (h) contains two or more live or dead weevils or other insects, insect webbing, or insect refuse; or (h) is otherwise of distinctly low quality.

[1] For the special grade Parboiled milled rice, see § 868.315(c).
[2] For the special grade Undermilled milled rice, see § 868.315(d).
[3] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 3.0 percent of heat-damaged kernels, kernels damaged by heat and/or parboiled kernels in nonparboiled rice.
[4] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 1.0 percent of material passing through a 30 sieve. This limit does not apply to the special grade Granulated brewers milled rice.

[67 FR 61252, Sept. 30, 2002]

§ 868.314 Grade designation and other certificate information.

(a) *Milled rice*. The grade designation for all classes of Milled rice shall be included on the certificate grade-line in the following order:

(1) The letters ''U.S.;''

(2) The number of the grade or the words ''Sample grade,'' as warranted;

(3) The words ''or better,'' when applicable and requested by the applicant prior to inspection;

(Approved by the Office of Management and Budget under control number 0580–0013)

(4) The class; and

(5) Each applicable special grade (see § 868.316).

(b) *Mixed Milled rice information*. For the class Mixed Milled rice, the following information shall be included in the Results section of the certificate in the following order:

(1) The percentage of whole kernels of each type in the order of predominance;

(2) The percentage of broken kernels of each type in the order of predominance, when applicable; and

(3) The percentage of seeds and foreign material.

(c) *Broken kernels*. Broken kernels, other than long grain in Mixed Milled rice shall be certified as ''medium or short grain.''

[74 FR 55442, Oct. 28, 2009]

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 868.315 Special grades and special grade requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 868.314. Such special grades for milled rice are established and determined as follows:

(a) *Coated milled rice*. Coated milled rice shall be rice which is coated, in whole or in part, with substances that are safe and suitable as defined in the regulation issued pursuant to the Federal Food, Drug, and Cosmetic Act at 21 CFR 130.3(d).

(b) *Granulated brewers milled rice*. Granulated brewers milled rice shall be milled rice which has been crushed or granulated so that 95.0 percent or more will pass through a 5 sieve, 70.0 percent or more will pass through a 4 sieve, and not more than 15.0 percent will pass through a 2½ sieve.

(c) *Parboiled milled rice.* Parboiled milled rice shall be milled rice in which the starch has been gelatinized by soaking, steaming, and drying. Grades U.S. No. 1 to U.S. No. 6, inclusive, shall contain not more than 10.0 percent of ungelatinized kernels. Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 0.1 percent, grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent, and grades U.S. No. 5 and U.S. No. 6 not more than 0.5 percent of nonparboiled rice. If the rice is: (1) Not distinctly colored by the parboiling process, it shall be considered ''Parboiled Light''; (2) distinctly but not materially colored by the parboiling process, it shall be considered ''Parboiled''; (3) materially colored by the parboiling process, it shall be considered ''Parboiled Dark.'' The color levels for ''Parboiled Light,'' ''Parboiled,'' and ''Parboiled Dark'' shall be in accordance with the interpretive line samples for parboiled rice.

NOTE: The maximum limits for ''Chalky kernels,'' ''Heat-damaged kernels,'' ''Kernels damaged by heat,'' and the ''Color requirements'' in §§ 868.310, 868.311, 868.312, and 868.313 are not applicable to the special grade ''Parboiled milled rice.''

(d) *Undermilled milled rice.* Undermilled milled rice shall be milled rice which is not equal to the milling requirements for ''hard milled,'' ''well milled,'' and ''reasonably well milled'' rice (see § 868.306). Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 2.0 percent, grades U.S. No. 3 and U.S. No. 4 not more than 5.0 percent, grade U.S. No. 5 not more than 10.0 percent, and grade U.S. No. 6 not more than 15.0 percent of well-milled kernels. Grade U.S. No. 5 shall contain not more than 10.0 percent of red rice and damaged kernels (singly or combined) and in no case more than 6.0 percent of damaged kernels.

(e) *Glutinous milled rice.* Glutinous milled rice shall be special varieties of rice (Oryza sativa L. glutinosa) which contain more than 50 percent chalky kernels. For long grain, medium grain, and short grain milled rice, grade U.S. No. 1 shall contain not more than 1.0 percent of nonchalky kernels, grade U.S. No. 2 not more than 2.0 percent of nonchalky kernels, grade U.S. No. 3 not more than 4.0 percent of nonchalky kernels, grade U.S. No. 4 not more than 6.0 percent of nonchalky kernels, grade U.S. No. 5 not more than 10.0 percent of nonchalky kernels, and grade U.S. No. 6 not more than 15.0 percent of nonchalky kernels. For second head milled rice, grade U.S. No. 1 shall contain not more than 4.0 percent of nonchalky kernels, grade U.S. No. 2 not more than 6.0 percent of nonchalky kernels, grade U.S. No. 3 not more than 10.0 percent of nonchalky kernels, grade U.S. No. 4 not more than 15.0 percent of nonchalky kernels, and grade U.S. No. 5 not more than 20.0 percent of nonchalky kernels. For screenings milled rice, there are no grade limits for percent of nonchalky kernels. For brewers milled rice, the special grade ''Glutinous milled rice'' is not applicable.

NOTE: The maximum limits for ''Chalky kernels,'' shown in §§ 868.310, 868.311, and 868.312 are not applicable to the special grade ''Glutinous milled rice.''

(f) *Aromatic milled rice.* Aromatic milled rice shall be special varieties of rice (Oryza sativa L. scented) that have a distinctive and characteristic aroma; e.g., basmati and jasmine rice.

(Secs. 203, 205, 60 Stat. 1087, 1090 as amended; 7 U.S.C. 1622, 1624)

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 48 FR 24859, June 3, 1983; 54 FR 21403, 21407, May 18, 1989; 56 FR 55981, Oct. 31, 1991; 58 FR 68016, Dec. 23, 1993. Redesignated and amended at 60 FR 16364, 16365, Mar. 30, 1995; 67 FR 61252, Sept. 30, 2002]

§ 868.316 Special grade designation.

The grade designation for coated, granulated brewers, parboiled, undermilled, glutinous, or aromatic milled rice shall include, following the class, the word(s) ''Coated,'' ''Granulated,'' ''Parboiled Light,'' ''Parboiled,'' ''Parboiled Dark,'' ''Undermilled,'' ''Glutinous,'' or ''Aromatic,'' as warranted, and all other information prescribed in § 868.314.

[58 FR 68016, Dec. 23, 1993. Redesignated and amended at 60 FR 16364, 16365, Mar. 30, 1995]