

The General Grading and Marking Rules, 1988

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Rule THE-GENERAL-GRADING-AND-MARKING-RULES-1988 of 1988

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The General Grading and Marking Rules, 1988Published vide Notification No. G.S.R. 434 (E), dated 17.5.1989The Directorate of Marketing & Inspection under the Department of Rural Development in the Ministry of Agriculture is vested with the responsibility to enforce and implement the Agricultural Produce (Grading and Marking) Act, 1937 (as amended in 1986). As per Section 3 of the above Act, the General Grading and Making Rules, 1988 have been notified in which the detailed procedures of licensing, setting up of laboratories, consumer protection measures etc. have been given. These Rules are reproduced below: (Department of Rural Development) G.S.R. 434. - Whereas the draft General Grading and Marking Rules, 1988 were published, as required by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937) under the notification of the Government of India, Ministry of Agriculture (Department of Rural Development) GSR No. 206 dated 26-3-88 in the Gazette of India, Part-II Section-3, Sub-Section (i) dated 26th March, 1988 inviting objections and suggestions from all the persons likely to be affected thereby, before the expiry of the period of forty-five days from the date on which copies of the Gazette, containing the said notification are made available to the public; And, whereas, the said Gazette was made available to the public on 19-4-88; And, whereas, the objections/suggestions received in respect of the said draft rules have been considered by the Central Government; Now therefore, in exercise of the powers conferred by section-3 of the said Act and in supersession of the General Grading and Marking Rules, 1937, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

1. Short title and application.

(1) These rules may be called the General Grading and Marking Rules, 1988. (2) [They shall apply to all articles of agricultural and other produce included in the Schedule to the Act.] [Enforced w.e.f. 17th June, 1989.] (3) They shall come into force on the date of their publication in the official gazette.

2. Definitions.

- In these rules, unless the context otherwise requires:-(a)"Act" means the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937);(b)"Agmark grading" means grading of an article in accordance with the grade standards prescribed under the provisions of the Act;(c)"Agmark label" means the label specifying name of commodity, grade designation and bearing prescribed insignia;(d)"Agmark replica" means a grade designation mark in lieu of Agmark label consisting of prescribed design with the word "AGMARK" and the Certificate of Authorisation number;(e)"Agricultural Marketing Adviser" means the Agricultural Marketing Adviser to the Government of India;(f)"Authorised packer" means a person or a body of persons who has been granted Certificate of Authorisation to grade and mark an article under provisions of the Act;(g)"Authorised premises" means the premises specified in the Certificate of Authorisation where alone the grade designation marks may be applied;(h)"Approved Chemist" means Chemist approved by the competent authority to undertake Agmark grading;(i)"Approved laboratory" means laboratory approved by the competent authority for testing of an article for Agmark grading;(j)"Central Agmark Laboratory" means the apex laboratory of the Directorate of Marketing and Inspection;(k)"Certificate of Authorisation" means a certificate in prescribed proforma issued under these rules authorising a person or body of persons to grade and mark an article with grade designation mark;(l)"Certificate of Agmark Grading" means a certificate in prescribed proforma issued by an authorised Officer in respect of Agmark graded consignment meant for export;(m)"Consumer" means a person or a body of persons who has purchased the article for personal, domestic or household use or consumption;(n)"Directorate" means Directorate of Marketing and Inspection of the Government of India;(o)"Marking" includes stamping grade designation mark on an article or affixation of Agmark labels or printing/stencilling of Agmark replica on the covering or container;(p)"Prescribed" means prescribed under Rules of instructions issued under the provisions of the Act;(q)"Regional Agmark Laboratory" means a laboratory set up by the Directorate of Marketing and Inspection for testing scheduled articles;(r)"Trade Brand Label" includes private marks, brand, label, pictorial representation, used or proposed to be used by an authorised packer; and(s)"Date of expiry" means the date by which the product should be consumed.

3. Grant of Certificate of Authorisation.

(1)Any person or body of persons desirous of being authorised to grade and mark an article under the provisions of the Act shall apply to the Agricultural Marketing Adviser or any other officer of the Central or State Government authorised by the Agricultural Marketing Adviser.(2)An application for authorisation shall be accompanied by:-(a)Proprietorship declaration or partnership deed or Memorandum and Articles of Association or Bye-laws of the Society, as the case may be;(b)Blue print of the premises proposed to be used to grade and mark the commodity;(c)Ownership declaration on non-judicial stamp paper about the premises or the consent of the owner of the premises;(d)Consent of approved laboratory, grinding mill etc., wherever applicable;(e)Specimen copies of trade brand label, if any, alongwith declaration about ownership of the trade brand label and an undertaking to use the same, on permission, for Agmark graded product only;(f)Prescribed fee, if any, for grant of Certificate of Authorisation; and(g)Any other particulars as may be specified

from time to time.(3)An application for authorisation shall be signed by the proprietor, partner or the Managing Director of the firm or by any other person authorised to sign any declaration on behalf of the firm. The name and designation of the person signing the application shall be clearly recorded in the application.(4)The application for authorisation shall be submitted through-(a)the concerned State authority and/or office of the Directorate in respect of grading for domestic market ; and(b)the nearest office of the Directorate in respect of grading for export.(5)On receipt of the application for authorisation, the concerned authority shall make necessary arrangements for verification of the bonafides of the applicant and inspection of the premises, laboratory, processing units etc., and on being satisfied that the applicant is a fit and proper person to receive the Certificate of Authorisation, shall forward the application with recommendation for issue of Certificate of Authorisation to the competent Authority.(6)A Certificate of Authorisation shall be issued to the applicant by the Agricultural Marketing Adviser or any officer of the Central or State Government authorised by the Agricultural Marketing Adviser.(7)Each Certificate of Authorisation shall state-(a)the name, style and address of the authorised packer;(b)the article to which alone the grade designation marks may, under the Certificate, be applied;(c)the premises at which alone the grade designation marks may be applied;(d)the period for which the Certificate is valid; and(e)the name of approved laboratory, processing unit, trade brand label, etc., wherever applicable.(8)It shall be the condition of every certificate of authorisation-(a)that grade designation marks shall be applied only to the article(s) mentioned in the Certificate of Authorisation, during the validity period and at the premises therein mentioned:(b)that during the operation of the certificate, the authorised packer shall, at all reasonable times, give access to the premises named therein to any person duly authorised by the Agricultural Marketing Adviser and shall provide him facilities for ascertaining the marking is correctly performed;(c)that the authorised packer shall keep a record of the number of packages marked with each grade designation mark and will permit any person duly authorised by the Agricultural Marketing Adviser to examine the record;(d)that the authorised packer shall permit any person duly authorised by the Agricultural marketing Adviser to open and inspect any package bearing a grade designation mark or to take samples of any graded produce, provided that all samples shall be paid for;(e)that any person duly authorised by the Agricultural Marketing Adviser may cancel or remove a grade designation mark from any produce, should such produce be found to be not conforming to the definition of quality prescribed for the grade designation assigned;(f)that all the rules made under the Act and all instructions relating to grading and marking of an article under provisions of the Act which may be issued by the Agricultural Marketing Adviser or the officer authorised by him/her from time to time shall be observed;(g)that the authorised packer shall be responsible to prohibit the sale and arrange for withdrawing from market, after the date of expiry, wherever prescribed all the packages graded and marked by him;(h)that the authorised packer shall be responsible if any person representing the firm indulges in any malpractices or obstructs the authorised officer in discharge of his official duties; and(i)that the authorised packer shall hand over the Certificate of Authorisation to Agricultural Marketing Adviser or any officer authorised by him/her on demand in writing at any time and obtain a proper receipt therefor.

4. Renewal of Certificate of Authorisation.

(1)The Certificate of Authorisation shall be valid for a period of five years from the date of issue and thereafter, will be renewed on the basis of grading performance and on application by the packer, for subsequent financial years.(2)The application for renewal of the certificate shall be submitted in the prescribed form alongwith the certificate of authorisation and fee for renewal, as may be prescribed not later than 30 days before expiry of the validity and no application for renewal of Certificate of Authorisation shall be entertained beyond 30 days of expiry of validity period.(3)On receipt of the application for renewal and after verifying the grading performance and payment of Government dues, the competent authority, namely, Agricultural Marketing Adviser or any officer of the Directorate or State Government authorised by the Agricultural Marketing Adviser in this behalf, will renew the Certificate of Authorisation for a period of five years at a time and return the same to the packer.(4)The authorised packer, having submitted the application for renewal within the prescribed period, and unless specifically informed otherwise, may continue the grading beyond validity period of the certificate in anticipation of its renewal.(5)If the authorised packer is not desirous of continuing grading work, the Certificate of Authorisation shall be returned within one month after expiry of validity period to the issuing authority for cancellation.

5. Changes in the Certificate of Authorisation.

(1)Any change in the name , style or address of the authorised packer shall be communicated, alongwith the Certificate of Authorisation, to the certificate issuing authority, within a period of 30 days, for incorporating the same in the certificate.(2)If the authorised packer desires any change in the premises, an application alongwith the requisite documents shall be submitted to the Agricultural Marketing Adviser or any other officer of the Central or State Government authorised in this behalf by the Agricultural Marketing Adviser, who after ascertaining suitability of proposed premises shall record the same in the certificate.

6. Issue of duplicate Certificate of Authorisation.

- If the Certificate of Authorisation is damaged, mutilated or lost, the authorised packer shall apply, in the prescribed form, to the Certificate issuing authority for issue of duplicate certificate alongwith the damaged/mutilated certificate or an affidavit in prescribed form and copy of the F.I.R. for lost certificate and prescribed fee, if any. A duplicate certificate shall accordingly be issued to the authorised packer.

7. Suspension or Cancellation of Certificate of Authorisation.

(1)Any Certificate of Authorisation may be suspended or cancelled by the Agricultural Marketing Adviser or any other officer of the Directorate or State Government authorised by the Agricultural Marketing Adviser in this behalf, if he is satisfied,-(a)that the authorised packer has not applied the grade designation marks correctly; or(b)that the authorised packer has contravened any of the provisions of the Act ;or(c)that the authorised packer has violated any rule or has failed to comply

with any of the instructions issued under the provisions of the Act.(2)No Certificate of Authorisation shall be suspended or cancelled, unless;(a)a notice in writing has been given to the authorised packer, at the address stated in the Certificate of Authorisation, conveying the intention to do so stating the grounds for the proposed action; and(b)giving him an opportunity to furnish the explanation, if any, within a period of 14 days from the date of receipt of the notice.(3)If after careful consideration of the explanation furnished, if any, by the authorised packer, the competent authority decides to suspend or cancel the Certificate, the concerned packer shall be so intimated with instructions to discontinue forthwith grading and marking of the commodity and to surrender Certificate of Authorisation, grading and marking equipments, Agmark labels and containers bearing Agmark replica etc. to the Directorate.

8. Approval of laboratory.

(1)In respect of commodity which requires laboratory testing for quality assessment, the applicant/ authorised packer shall , with the approval of Agricultural Marketing Adviser or any other officer of the Directorate or State Government authorised by the Agricultural Marketing adviser in this behalf, either-(a)set up his own laboratory as per prescribed norms, or(b)have access to an approved State Grading Laboratory or Cooperative/Association Laboratory or a Private Commercial Laboratory.(2)Private commercial laboratory shall be accorded approval for grading and marking of an article under provisions of the Act:Provided there is no State Grading Laboratory at the centre and/or on specific recommendations of the concerned state authorities.Provided further that the owner of the private commercial laboratory executes a surety bond or gives security deposit for an amount as may be prescribed by the Central Government.(3)Approval of a laboratory, whether packer's own laboratory, or State grading laboratory , or Cooperative/Association laboratory, or private commercial laboratory, may be withdrawn by the competent authority if there are sufficient reasons to believe that the grading and marking is not correctly done and or that the rules and instructions issued thereof are not followed provided that a 14 days' notice, in writing, shall be given to the owner of the laboratory, and an opportunity given for showing cause why the approval should not be withdrawn.

9. Training and approval of chemist.

(1)A chemist may be approved by approved by the Agricultural Marketing Adviser or any other officer of the Directorate or the State Government authorised by the Agricultural Marketing Adviser for grading and marking of an article under provisions of the Act provided-(a)he/she possesses the minimum prescribed qualification; and(b)he/she successfully completes the prescribed training in the analysis and procedure for grading and marking of the commodity.(2)It shall be a condition of approval of Chemist:-(a)that the approved Chemist shall strictly follow the instructions issued for inspection, sampling, analysis, packing, marking and sealing of the article;(b)that the approved Chemist shall maintain grading record in the prescribed manner and ensure timely submission of the periodical returns as may be specified from time to time; and(c)that the approved Chemist shall be responsible for safe custody and proper accounting of Agmark labels, Agmark replica bearing containers, sealing pliers, etc., and for realization and timely remittance of Government dues.(3)The services of an approved Chemist shall not be terminated without prior approval of the Agricultural

Marketing Adviser or any other duly authorised officer, in this behalf.(4)Resignation tendered by an approved Chemist may be accepted only after written intimation to the concerned Regional Officer of the Directorate and after getting a clearance from that officer in respect of surrendering Agmark labels and sealing pliers, etc., by the Chemist alongwith upto date grading returns to the Directorate.(5)The approval accorded to the Chemist may be withdrawn by the Agricultural Marketing Adviser or any other officer duly authorised in this behalf if there are reasons to believe that the Chemist has failed to comply with the prescribed instructions or procedures for grading and marking or violated any of the conditions of approval:Provided that an opportunity shall be given to the approved Chemist for showing cause as to why the approval should not be withdrawn.

10. Grade designation marks.

(1)Grade designation marks shall consist of Agmark labels of different types, namely, tie-on-labels, paste-on-labels, benderol labels, etc. Each Agmark label shall carry letters indicating series and serial number.(2)The State authorities and the approved laboratories shall obtain their requirements of Agmark labels from Directorate.(3)Use of "Agmark Replica" in lieu of Agmark labels will be allowed only by such authorised packers to whom specific permission to this effect has been granted by the Agriculture Marketing Adviser or an officer authorised by him in this behalf.(4)The permission to use "Agmark Replica" in lieu of Agmark labels may, on receipt of application in the prescribed form, be granted provided that the applicant has been holder of Certificate of Authorisation for at least two preceding years and during which the grading performance has been satisfactory and has used not less than 50 thousand Agmark labels per annum. However, depending on the merit of individual case, these conditions may be relaxed.(5)The "Agmark replica" bearing containers shall be printed and/or manufactured only by such printing press or manufacturing unit which has been permitted for the purpose by the Agricultural Marketing Adviser or an officer authorised by him in this behalf.(6)It shall be the condition for use of Agmark Replica that the detailed instructions issued for the purpose shall be strictly adhered to and any violation thereof shall lead to withdrawal of permission so granted without any notice.

11. Packing and marking.

(1)An article graded in accordance with the provisions of the Act, shall be packed in the manner and using the type of packaging material and the pack sizes, by weight or number as prescribed for the said article:Provided that relaxation/modification in the mode of packing of a graded article may be allowed, on receipt of written request from the authorised packer, by the Agricultural Marketing Adviser or any other officer authorised by him in this behalf, to meet the specific requirement of the buyer.(2)Every package containing Agmark graded article will, in addition to the grade designation mark, carry such details like Certificate of Authorisation, number, lot/batch number, date of packing, place of packing, net weight etc. as prescribed for the said article.(3)Private marks, if any, applied on the packages of Agmark graded article shall not represent quality or grade different from that indicated by the grade designation mark affixed thereon.(4)In respect of such articles where expiry period has been prescribed, the 'date of expiry' shall be prominently marked on the packages.

12. Suspension of Grading under Agmark.

- With-holding issue of grade designation marks-The issue or use of grade designation marks i.e. Agmark labels or Agmark replica bearing containers, may be with-held or withdrawn by the Agricultural Marketing Adviser or a person authorised by him in this behalf without any notice, for such a period as he may consider expedient in the interest of better marketing if he is satisfied or has reasons to believe that the authorised packer is not applying or is not likely to apply, grade designation marks correctly.

13. Payment of Charges/ fees.

- The authorised packer shall pay such charges as may be prescribed by the Central Government from time to time towards the expenses incurred in connection with the-(a)grant and periodical renewal of Certificate of Authorisation ;(b)issue of duplicate Certificate of Authorisation;(c)training of Chemists employed by the authorised packer; and(d)measures for enforcing the quality control of scheduled articles marked with grade designation mark including testing of samples and inspection of such articles; or(e)with any publicity work carried out to promote the sale of any class of articles.

14. Power to obtain information.

- Every authorised packer shall furnish, on demand, to the Agricultural Marketing Adviser or any other duly authorised officer such information, return or report in respect of any of the scheduled articles which the authority may consider necessary for carrying out the provisions of the Act.

15. Certificate of Agmark grading.

(1)Every consignment of a scheduled article graded and marked, under the provisions of the Act, for export shall be covered by a Certificate of Agmark Grading which shall be issued in prescribed form on request, to the authorised packer by an officer authorised in this behalf by the Agricultural Marketing Adviser.(2)In the event of sale of Agmark graded consignment to an exporter who is not an authorised packer, the Certificate of Agmark Grading may, on written request of the authorised packer, be endorsed in favour of the exporter provided-(a)that the authorised packer furnish an undertaking about the responsibility of the graded packages even after sale; and(b)that the exporter furnishes a declaration that the graded consignment has been examined and found to be conforming to the quality requirements of the importer as specified in the contract.

16. Redressal of Consumers' grievances and complaints.

(1)Complaints and grievances of the consumers in respect of Agmark graded products shall be made to the Agricultural Marketing Adviser giving full particulars regarding Agmark label number, place of packing, trade brand etc., of the concerned product and the name and address of the seller.(2)Wherever the complaint is found to be genuine, the Agricultural Marketing Adviser or an officer duly authorised in this behalf shall, without prejudice to other action as may be taken for

misgrading etc., direct the concerned authorised packer and or the seller of graded product, as may be decided for free-of-cost replacement of the product to the complainant within 30 days of the issue of such direction.(3)The complainant, if so desires, may also get the sample analysed from any other laboratory recognised by the Directorate.(4)In case he is not satisfied with the result of the investigation of the Directorate, the complainant may ask for analysis of the sample by the Central Agmark Laboratory, whose decision shall be final.

17. Norms for compensation.

(1)Wherever an Agmark graded produce is found to be not conforming to the definition of the quality prescribed for the grade designation marks on the produce and the grade designation marks are cancelled or removed from such produce belonging to the distributors and not to authorised packers, the latter shall, when so directed by the Agricultural Marketing Adviser, make good to the former any loss sustained as a result of the removal of grade designation mark, the loss being estimated on the basis of the additional value that the properly graded produce would have obtained in the market over and above the current market value of the corresponding quantity of the ungraded produce.(2)In respect of complaint of an individual consumer where free of cost replacement may not be possible for any reason whatsoever, the authorised packer and/or the seller of graded product, as may be decided, shall, when so directed by the Agricultural Marketing Adviser, reimburse to the complainant the actual price paid as per cash memo or on the basis of current market price of comparable quality and corresponding quantity of the produce.

18. Powers of entry, inspection and search.

- Any officer duly authorised by the Agricultural Marketing Adviser may, in exercise of the powers conferred under Section 3 (A) of the Act, enter any premises at any reasonable time, and inspect in storage, processing, packaging and transit and search for the Agricultural produce against any contravention of the provisions of this Act or the rules made thereunder.

19. Seizure, detention and disposal.

(1)An officer duly authorised by the Agricultural Marketing Adviser may, in exercise of the powers conferred under Section 3 (B) of the Act, seize any article in relation to which the Officer has reason to believe that any provision of the Act or rules made thereunder has been or is being or appears to have been contravened.(2)The provisions of Section 102 of the Code of Criminal Procedure, 1973, relating to seizure, shall apply to every seizure made under sub-rule (1).(3)If the authorised officer finds it not practicable to seize any such article, the said officer may serve on the owner or authorised representative of the owner of the concerned premises or establishment, a written order that he/she shall not remove or part with or otherwise deal with the article except with the previous permission of the said officer.(4)If the authorised officer is of the opinion that the article so seized or detained is subject to speedy or natural decay or it is otherwise expedient in the public interest to do so, he may dispose of such article in the manner as prescribed, namely:-(a)The authorised officer shall prepare a detailed report in respect of the consignment/packages article seized or detained indicating the date, place, name and address of person from whom the material is seized/or

detained, name of the commodity, number of packages, size of packing, mode of packing, particulars of trade brand label/private trade marks on the containers, particulars of the grade designation marks affixed on the packages, etc., and obtain signature of the person concerned and two witnesses on the report;(b)Out of the total packages so seized/detained, the officer may select, at random, three packages and get the same suitably sealed, individual and separately, bearing signatures of the officer, the owner of authorised representative of the owner of premises/establishments and two witnesses. One sealed package shall be handed over to the owner or his authorised representative under proper acknowledgement and the remaining two sealed packages shall be retained by the said officer for proceeding under the Act;(c)Where the article is seized for suspected counterfeiting of grade designation marks, attracting action under section 5 of the Act or suspected unauthorised marking with grade designation mark, attracting action under section 4 of the Act, the said officer may, after completing action as per (a) and (b) above, allow the remaining containers/packages to be opened in such a manner that the grade designation marks affixed on the containers/packages remain intact and the contents thereof may be returned to the concerned person from whom the consignment is seized. The empty containers bearing the grade designation mark shall be taken in custody by the said officer for proceeding under the Act;(d)Where the consignment seized or detained has been declared or suspected to be "misgraded", attracting action under Section 5(A) of the Act, the officer may, after completing action as prescribed under (a) and (b) above, get the grade designation marks and seals removed from the remaining packages, and return the packages or contents thereof to the person from whom seized. The grade designation marks and seals or the empty containers with the grade designation marks and seals or the empty containers with the grade designation marks, printed thereon shall be retained by the officer for proceeding under the Act;(e)Where the Agmark graded packages are seized from the market for being sold after the lapse of the expiry period indicated thereon, the authorised officer may serve a written order on the concerned person not to sell the said packages and issue a registered notice to the concerned authorised packer to withdraw the said packages from the market immediately or if the concerned person from whom the packages are seized, so desires, the officer may remove the grade designation marks from all the packages so seized/detained and thereafter return such packages to the concerned person from whom they were seized.

20. Appeal.

(1)An appeal may be preferred to the Agricultural Marketing Adviser within 15 days from the date of decision of the concerned competent authority by the person aggrieved by the said decision.(2)The Agricultural Marketing Adviser may call for such documents from the concerned authority and may after such enquiry as considered necessary pass suitable orders which shall be final and binding on all parties concerned;Provided in the cases where Agricultural Marketing Adviser is the competent authority, the appellate authority will be the Central Government.