

## § 57.320

official plant may request an appeal inspection by filing such request with the Regional Director in the region where the product is located or with the Chief of the Grading Branch.

[63 FR 69971, Dec. 17, 1998]

### § 57.320 How to file an appeal.

The request for an appeal inspection or review of an inspector's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the identity of the product, the decision which is questioned, and the reason(s) for requesting the appeal service. If such appeal request is based on the results stated on an official certificate, the original and all copies of the certificate available at the appeal inspection site shall be provided to the inspector assigned to make the appeal inspection.

### § 57.330 When an application for an appeal grading or inspection may be refused.

When it appears to the official with whom an appeal request is filed that the reasons given in the request are frivolous or not substantial, or that the condition of the product has undergone a material change since the original grading or inspection, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal inspection may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

### § 57.340 Who shall perform the appeal.

The assignment of the inspector(s) who will make the appeal inspection under § 57.310 shall be made by the Regional Director or the Chief of the Grading Branch, Poultry Division, Agricultural Marketing Service.

[63 FR 69968, 69971, Dec. 17, 1998]

### § 57.350 Procedures for selecting appeal samples.

(a) *Prohibition on movement of product.* Products shall not have been moved from the place where the inspection being appealed was performed and must

## 7 CFR Ch. I (1-1-01 Edition)

have been maintained under adequate refrigeration when applicable.

(b) *Laboratory analyses.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. When the original sample containers cannot be located, the appeal sample shall consist of product taken at random from double the number of original sample containers.

(c) *Condition inspection.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. A condition appeal cannot be made unless all originally sampled containers are available.

### § 57.360 Appeal inspection certificates.

Immediately after an appeal inspection is completed, an appeal certificate shall be issued to show that the original inspection was sustained or was not sustained. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government. When the appeal inspector assigns a different class to the lot or determines that a net weight shortage exists, the lot shall be retained pending correction of the labeling or approval of the product disposition by the National Supervisor.

### § 57.370 Cost of appeals.

(a) There shall be no cost to the appellant when the appeal inspection discloses a material error was made in the original determination.

(b) The costs of an appeal shall be borne by the appellant at an hourly rate of \$27.36, including travel time and expenses if the appeal was frivolous, including but not being limited to the following: The appeal inspection discloses that no material error was made in the original inspection, the condition of the product has undergone a material change since the original inspection, the original lot has changed in some manner, or the Act or these

## Agricultural Marketing Service, USDA

## § 57.720

regulations have not been complied with.

### IDENTIFYING AND MARKING PRODUCT

#### § 57.410 Shell eggs required to be labeled.

All shell eggs packed into containers destined for the ultimate consumer shall be labeled to indicate that refrigeration is required, e.g., "Keep Refrigerated," or words of similar meaning.

[63 FR 69968, 69971, Dec. 17, 1998]

### RETENTION

#### § 57.426 Retention.

Retention tags or other devices and methods as may be approved by the Administrator shall be used for the identification and control of products which are not in compliance with the regulations or are held for further examination, and any equipment, utensils, rooms or compartments which are found to be unclean or otherwise in violation of the regulations. No product, equipment, utensil, room, or compartment shall be released for use until it has been made acceptable. Such identification shall not be removed by anyone other than an inspector.

### PROCESSING REQUIREMENTS

#### § 57.504 General operating procedures.

(a)-(b) [Reserved]

(c) All loss and inedible eggs or egg products shall be placed in a container clearly labeled "inedible" and containing a sufficient amount of approved denaturant or decharacterant, such as FD&C brown, blue, black, or green colors, meat and fish by-products, grain and milling by-products, or any other substance, as approved by the Administrator, that will accomplish the purposes of this section. Shell eggs shall be crushed and the substance shall be dispersed through the product in amounts sufficient to give the product a distinctive appearance or odor.

[63 FR 69971, Dec. 17, 1998]

### REGISTRATION OF SHELL EGG HANDLERS

#### § 57.690 Persons required to register.

Shell egg handlers, except for producer-packers with an annual egg pro-

duction from a flock of 3,000 hens or less, who grade and pack eggs for the ultimate consumer, and hatcheries are required to register with the U.S. Department of Agriculture by furnishing their name, place of business, and such other information as is requested on forms provided by or available from the U.S. Department of Agriculture. Completed forms shall be sent to the addressee indicated on the form. Persons as those listed above who are establishing a business will be required to register before they start operations.

[40 FR 20059, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 63 FR 45675, Aug. 27, 1998. Redesignated at 63 FR 69970, Dec. 17, 1998]

### INSPECTION AND DISPOSITION OF RESTRICTED EGGS

#### § 57.700 Prohibition on disposition of restricted eggs.

(a) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation in any business in commerce any restricted eggs, except as authorized in §§ 57.100 and 57.720.

(b) No egg handler shall possess any restricted eggs, except as authorized in §§ 57.100 and 57.720.

(c) No egg handler shall use any restricted eggs in the preparation of human food, except as provided in §§ 57.100 and 57.720.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and at 63 FR 69970, Dec. 17, 1998]

#### § 57.720 Disposition of restricted eggs.

(a) Eggs classified as checks, dirties, incubator rejects, inedibles, leakers, or loss shall be disposed of by one of the following methods at point and time of segregation:

(1) Checks and dirties shall be labeled in accordance with § 57.800 and shipped directly or indirectly to an official egg products plant for segregation and processing. Inedible and loss eggs shall not be intermingled in the same container with checks and dirties.

(2) By destruction in a manner approved by the Administrator, such as