

§ 56.25

notified by registered mail of the reasons for the rejection. A written petition for reconsideration of such rejection may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after the receipt of notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant by registered mail of the reasons for the rejection thereof.

[28 FR 6342, June 20, 1963, as amended at 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.25 When application may be withdrawn.

An application for grading service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by the Service in connection with such application.

[20 FR 671, Feb. 1, 1955. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.26 Authority of applicant.

Proof of the authority of any person applying for any grading service may be required at the discretion of the Administrator.

[20 FR 671, Feb. 1, 1955. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.27 Order of service.

Grading service shall be performed, insofar as practicable, in the order in which applications therefor are made except that precedence may be given to any application for an appeal grading.

[20 FR 671, Feb. 1, 1955; 20 FR 757, Feb. 4, 1955, as amended at 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.28 Types of grading service.

(a) *Noncontinuous grading service.* This type of service is performed when an

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applicant requests grading of a particular lot of shell eggs. Requests are made not on a regular basis. Charges or fees are based on the time, travel, and expenses needed to perform the work. This service also may be called the fee grading service. Shell eggs graded under fee grading service are not eligible to be identified with the official grademarks shown in § 56.36.

(b) *Continuous grading service on a resident basis and continuous grading service on a nonresident basis.* Service on a resident basis has a scheduled tour of duty, while service on a nonresident basis has a nonscheduled tour of duty. Both of these services are performed when an applicant requests that a USDA licensed grader be stationed in the applicant's processing plant and grade shell eggs in accordance with U.S. Standards. The applicant agrees to comply with the facility, operating, and sanitary requirements of resident service. The charges for resident grading services are based on the hours of the regular tour of duty and the volume of shell eggs received into the plant, while nonscheduled service is based on the cumulative time required to perform the work and an administrative service charge. Shell eggs graded under resident grading service are only eligible to be identified with the official grademarks shown in § 56.36 when processed and graded under the supervision of a grader or quality assurance inspector as provided in § 56.39.

(c) *Temporary grading service.* This type of service is performed when an applicant requests resident grading on a fee basis. The applicant must meet all of the facility, operating, and sanitary requirements of resident service. Charges or fees are based on the time and expenses needed to perform the work. Shell eggs graded under temporary grading service are only eligible to be identified with the official grademarks when they are processed and graded under the supervision of a grader or quality assurance inspector as provided in § 56.39.

EFFECTIVE DATE NOTE: At 69 FR 76376, Dec. 21, 2004, § 56.28 was added, effective January 20, 2005.

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VIOLATIONS

§ 56.30 Report of violations.

Each grader, shall report in the manner prescribed by the Administrator, all violations and noncompliances under the Act and this part of which such grader, has knowledge.

[42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

DENIAL OF SERVICE

§ 56.31 Debarment.

(a) The following acts or practices or the causing thereof may be deemed sufficient cause for the debarment by the Administrator, of any person, including any agents, officers, subsidiaries or affiliates of such person, from all benefits of the act for a specific period. The rules of practice governing withdrawal of grading services in formal adjudicatory proceedings instituted by the Secretary (7 CFR, part 1, subpart H) shall be applicable to such debarment action.

(1) *Misrepresentation, deceptive, or fraudulent act or practice.* Any willful misrepresentation or any deceptive or fraudulent act or practice found to be made or committed by any person in connection with:

(i) The making or filing of an application for any grading service or appeal service;

(ii) The making of the product accessible for sampling or grading;

(iii) The making, issuing, or using or attempting to issue or use any grading certificate, symbol, stamp, label, seal, or identification authorized pursuant to the regulations in this part;

(iv) The use of the terms "United States" or "U.S." in conjunction with the grade of the product;

(v) The use of any of the aforesaid terms or any official stamp, symbol, label, seal, or identification in the labeling or advertising of any product; or

(vi) The use of the terms "Government Graded," "Federal-State Graded" or terms of similar import in the labeling or advertising of any product.

(2) *Use of facsimile forms.* Using or attempting to use a form which simulates in whole or in part any certificate, symbol, stamp, label, seal or

identification authorized to be issued or used under the regulations in this part.

(3) *Willful violation of the regulations.* Any willful violation of the regulations in this part or the act.

(4) *Interfering with a grader or employee of the Service.* Any interference with or obstruction or any attempted interference or obstruction of or assault upon any grader, licensee, or employee of the Service in the performance of his duties. The giving or offering, directly or indirectly, of any money, loan, gift, or anything of value to an employee of the Service or the making or offering of any contribution to or in any way supplementing the salary, compensation or expenses of an employee of the Service or the offering or entering into a private contract or agreement with an employee of the Service for any services to be rendered while employed by the Service.

(5) *Misleading labeling.* The use of the terms "Government Graded", "Federal-State Graded", or terms of similar import in the labeling or advertising of any product without stating in the label or advertisement the U.S. grade of the product as determined by an authorized grader.

(6) *Miscellaneous.* The existence of any of the conditions set forth in § 56.24 constituting the basis for the rejection of an application for grading service.

[20 FR 9895, Dec. 23, 1955, as amended at 28 FR 6343, June 20, 1963; 35 FR 5664, Apr. 8, 1970; 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 43 FR 60138, Dec. 26, 1978, and at 46 FR 63203, Dec. 31, 1981]

§ 56.32 Retention authorities.

A grader may use retention tags or other devices and methods as approved by the Administrator for the identification and control of shell eggs which are not in compliance with the regulations or are held for further examination and for any equipment, utensils, rooms or compartments which are found unclean or otherwise in violation of the regulations. Any such item shall not be released until in compliance with the regulations and retention