

§ 56.62

the class, quality, quantity, or condition of product which has left the official plant where it was graded or which was graded other than in an official plant may request an appeal grading by filing such request in the area where the product is located or with the Chief of the Grading Branch.

§ 56.62 How to file an appeal.

Any request for an appeal grading or review of a grader's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the reasons for requesting the appeal service and a description of the product, or the decision which is questioned. If such appeal request is based on the results stated on an official certificate, the original and all available copies of the certificate shall be returned to the appeal grader assigned to make the appeal grading.

§ 56.63 When an application for an appeal grading 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 quality or condition of the product has undergone a material change since the original grading, 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 grading may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

§ 56.64 Who shall perform the appeal.

(a) An appeal grading or review of a decision requested under § 56.61(a) shall be made by the grader's immediate supervisor, or by a licensed grader assigned by the immediate supervisor other than the grader whose grading or decision is being appealed.

(b) Appeal gradings requested under § 56.61(b) shall be performed by a grader other than the grader who originally graded the product.

(c) Whenever practical, an appeal grading shall be conducted jointly by two graders. The assignment of the grader(s) who will make the appeal grading requested under § 56.61(b) shall

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be made by the regional director or the Chief of the Grading Branch.

[35 FR 9918, June 17, 1970, as amended at 40 FR 20056, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.65 Procedures for appeal gradings.

(a) When all of the originally graded and identified samples are available, the appeal sample shall consist of such samples plus an equal number of samples.

(b) When the original samples are not available, the appeal sample size for the lot shall consist of double the samples required in § 56.4(b).

(c) Shell eggs shall not have been moved from the original place of grading and must have been maintained under adequate refrigeration and humidity conditions.

[35 FR 9918, June 17, 1970. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

EFFECTIVE DATE NOTE: At 69 FR 76376, Dec. 21, 2004, § 56.65 was amended by revising paragraph (b), effective January 20, 2005. For the convenience of the user, the revised text is set forth as follows:

§ 56.65 Procedures for appeal gradings.

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(b) When the original samples are not available or have undergone a material change, the appeal sample size for the lot shall consist of double the samples required in § 56.4(b).

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§ 56.66 Appeal grading certificates.

Immediately after an appeal grading is completed, an appeal certificate shall be issued to show that the original grading 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