[Code of Federal Regulations]
[Title 7, Volume 3, Parts 53 to 209]
[Revised as of January 1, 1997]
From the U.S. Government Printing Office via GPO Access
[CITE: 7CFR56]

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TITLE 7--AGRICULTURE

CHAPTER I--AGRICULTURAL MARKETING SERVICE\1\ (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE (CONTINUED)

PART 56--GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

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Authority: 7 U.S.C. 1621-1627.

Subpart A--Grading of Shell Eggs

Definitions

Sec. 56.1 Meaning of words and terms defined.

For the purpose of the regulations in this part, words in the singular shall be deemed to import the plural and vice versa, as the case may demand, and unless the context otherwise requires, the following terms shall be construed, respectively, as follows:

Act means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U.S.C. 1621 et seq.), or any other act of Congress conferring like authority.

Administrator means the Administrator of the Agricultural Marketing Service of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

Applicant means an interested party who requests any grading service, appeal grading, or regrading with respect to any product.

Cage mark means any stain-type mark caused by an egg coming in contact with a material that imparts a rusty or blackish appearance to the shell.

Case means, when referring to containers, an egg case, as used in commercial practice in the United States, holding 30 dozens of shell eggs.

Chief of the Grading Branch means the Chief of the Poultry Grading Branch of the Poultry Division, Agricultural Marketing Service.

Class means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind, species, or method of processing.

Condition means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability.

Department means the United States Department of Agriculture.

Eggs of current production means shell eggs which have moved through usual marketing channels since the time they were laid and have not been held in refrigerated storage in excess of 30 days. ``Refrigerator or storage eggs'' means shell eggs which have been held under refrigeration

for a period of more than 30 days.

Grader means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to investigate and certify, in accordance with the act and this part, to shippers of products and other interested parties the class, quality, quantity, and condition of such products.

Grading or grading service means: (1) The act whereby a grader determines, according to the regulations in this part, the class, quality, quantity, or condition of any product by examining each unit thereof or each unit of the representative sample thereof drawn by a grader and issues a grading certificate with respect thereto, except that with respect to grading service performed on a resident basis the issuance of a grading certificate shall be pursuant to a request therefor by the applicant or the Service; (2) the act whereby the grader identifies, according to the regulations in this part, the graded product; (3) continuous supervision, in an official plant, of the handling or packaging of any product; and (4) any regrading or any appeal grading of a previously graded product.

Grading certificate means a statement, either written or printed, issued by a grader pursuant to the act and this part, relative to the class, quantity, quality, or condition of products.

Holiday or legal holiday shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, title 5, of the United States Code.

Interested party means any person financially interested in a transaction involving any grading, appeal grading, or regrading of any product.

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National supervisor means (1) the officer in charge of the shell egg grading service of the Agricultural Marketing Service, and (2) such other employees of the Service as may be designated by him.

Nest run eggs means eggs which are packed as they come from the production facilities without having been washed, sized and/or candled for quality, with the exception that some Checks, Dirties, or other obvious undergrades may have been removed.

Office of grading means the office of any grader.

Official plant means any plant in which the facilities and methods of operation therein have been found by the Administrator to be suitable and adequate for grading service in accordance with this part and in which grading service is carried on.

Origin grading is a grading made on a lot of eggs at a plant where the eggs are graded and packed.

Person means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

Potable water means water that has been approved by the State health authority or agency or laboratory acceptable to the Administrator as safe for drinking and suitable for food processing.

Product or products means shell eggs of the domesticated chicken.

Quality means the inherent properties of any product which determine its relative degree of excellence.

Quality assurance inspector means any designated company employee other than the plant owner, manager, foreman, or supervisor, authorized by the Secretary to examine product and to supervise the labeling,

dating, and lotting of officially graded shell eggs and to assure that such product is packaged under sanitary conditions, graded by authorized personnel, and maintained under proper inventory control until released by an employee of the Department.

Regional director means any employee of the Department in charge of the shell egg grading service in a designated geographical area.

Regulations means the provisions in this part.

Sampling means the act of taking samples of any product for grading.

Secretary means the Secretary of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

Service means the Agricultural Marketing Service of the Department.

Shell eggs means shell eggs of domesticated chickens.

Shell protected means eggs which have had a protective covering such as oil applied to the shell surface. The product used shall be acceptable to the Food and Drug Administration.

Washed ungraded eggs means eggs which have been washed but not sized or segregated for quality.

[20 FR 669, Feb. 1, 1955; 20 FR 757, Feb. 4, 1955]

Editorial Note: For Federal Register citations affecting Sec. 56.1, see the List of CFR Sections Affected in the Finding Aids section of this volume.

Sec. 56.2 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed in this section shall have the respective meanings specified:

(a) Official certificate means any form of certification, either written or printed, used under this part to certify with respect to the sampling, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) Official memorandum means any initial record of findings made by an authorized person in the process of grading or sampling pursuant to this

part, any processing or plant-operation report made by an authorized person in connection with grading or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

(c) Official mark means the grademark and any other mark, or any variations in such marks approved by the Administrator and authorized to

be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded, or indicating the appropriate U.S. grade or condition of the product, or for the purpose of maintaining the identity of products graded under this part, including but not limited to, those set forth in Sec. 56.36.

(d) Official identification means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label or seal indicating that the product has been officially graded and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) Official device means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

[28 FR 6341, June 20, 1963. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Administration

Sec. 56.3 Administration.

(a) The Administrator shall perform, for and under the supervision of the Secretary, such duties as the Secretary may require in the enforcement or administration of the provisions of the Act and this part. The Administrator is authorized to waive for limited periods any particular provisions of the regulations in this part to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of the regulations in this part. The Agricultural Marketing Service and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this part.

(b) The conduct of all services and the licensing of graders under these regulations shall be accomplished without discrimination as to race, color, national origin, religion, age, sex, or disability.

[20 FR 670, Feb. 1, 1955, as amended at 38 FR 26798, Sept. 26, 1973; 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981; 60 FR 12402, Mar. 7, 1995]

General

Sec. 56.4 Basis of grading service.

(a) Any grading service in accordance with the regulations in this part shall be for class, quality, quantity, or condition or any combination thereof. Grading service with respect to the determination of the quality of products shall be on the basis of the ``United States Standards, Grades, and Weight Classes'' as contained in subpart C of this part. However, grading service may be rendered with respect to products which are bought and sold on the basis of institutional contract specifications or specifications of the applicant and such

service, when approved by the Administrator, shall be rendered on the basis of such specifications. The supervision of packaging shall be in accordance with such instructions as may be approved or issued by the Administrator.

(b) Whenever grading service is performed on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of cases as indicated in the following table. A minimum of one hundred eggs shall be examined per sample case. For lots which consist of less than 1 case, a minimum of 50 eggs shall be examined. If the lot consists of less than 50 eggs, all eggs will be examined.

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Minimum Number of Cases Comprising a Representative Sample

Cases in lot	Cases in sample
1 case	1
2 to 10, inclusive	2
11 to 25, inclusive	3
26 to 50, inclusive	4
51 to 100, inclusive	5
101 to 200, inclusive	8
201 to 300, inclusive	11
301 to 400, inclusive	13
401 to 500, inclusive	14
501 to 600, inclusive	16

For each additional 50 cases, or fraction thereof, in excess of 600 cases, one additional case shall be included in the sample.

[20 FR 670, Feb. 1, 1955, as amended at 22 FR 8167, Oct. 16, 1957; 28 FR 6342, June 20, 1963; 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Sec. 56.5 Accessibility and condition of product.

Each product for which grading service is requested shall be so conditioned and placed as to permit a proper determination of the class, quality, quantity, or condition of such product.

[20 FR 670, Feb. 1, 1955, as amended at 27 FR 10317, Oct. 23, 1962. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Sec. 56.6 Supervision.

All grading service shall be subject to supervision at all times by the applicable State supervisor, regional director and national supervisor. Such service shall be rendered where the facilities and conditions are satisfactory for the conduct of the service and the requisite graders are available. Whenever the supervisor of a grader has

evidence that such grader incorrectly graded a product, such supervisor shall take such action as is necessary to correct the grading and to cause any improper grademarks which appear on the product or the containers thereof to be corrected prior to shipment of the product from the place of initial grading.

[40 FR 20055, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

Sec. 56.8 Other applicable regulations.

Compliance with the regulations in this part shall not excuse failure to comply with any other Federal, or any State, or municipal applicable laws or regulations.

[20 FR 670, Feb. 1, 1955. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Sec. 56.9 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) Purpose. This section collects and displays the control numbers assigned to information collection requirements by the Office of Management and Budget contained in 7 CFR part 56 pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511.

(b) Display.

7 CFR section where identified and described	Current OMB control number
56.3(a)	0581-0128
56.4(a)	0581-0128
56.10(a)	0581-0128
56.11	0581-0128
56.12	0581-0128
56.17(b)	0581-0128
56.18	0581-0128
56.21(a)	0581-0128
56.21(b)	0581-0128
56.23	0581-0128
56.24	0581-0128
56.25	0581-0128
56.26	0581-0128
56.30	0581-0128
56.31(a)	0581-0128
56.35(b)	0581-0128
56.35(c)	0581-0128
56.37	0581-0128
56.52(a)(1)	0581-0128
56.52(a)(4)	0581-0128
56.52(b)(1)	0581-0128
56.52(b)(3)(ii)	0581-0128
56.54(b)(1)	0581-0128

56.54(b)(3)(ii)..... 0581-0128
56.56(a)..... 0581-0128
56.57..... 0581-0128
56.58..... 0581-0128
56.60..... 0581-0128
56.62..... 0581-0128
56.76(e)(6)..... 0581-0128
56.76(g)..... 0581-0128

[48 FR 56565, Dec. 22, 1983, as amended at 52 FR 23935, June 26, 1987]

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Licensed Graders

Sec. 56.10 Who may be licensed.

(a) Except as otherwise provided in paragraph (c) of this section, any person who is a Federal or State employee, the employee of a local jurisdiction, or the employee of a cooperating agency possessing proper qualifications as determined by an examination for competency and who is to perform grading service under this part, may be licensed by the Secretary as a grader.

(b) All licenses issued by the Secretary shall be countersigned by the officer in charge of the poultry grading service of the Agricultural Marketing Service or any other designated officer of such Service.

(c) No person may be licensed to grade or sample any product in which he is financially interested.

[20 FR 670, Feb. 1, 1955, as amended at 28 FR 6342, June 20, 1963; 37 FR 12918, June 30, 1972. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Sec. 56.11 Authorization to perform limited grading services.

Any person who is employed by any official plant and possesses proper qualifications, as determined by the Administrator, may be authorized to candle and grade eggs on the basis of the ``U.S. Standards for Quality of Individual Shell Eggs,'' with respect to eggs purchased from producers or eggs to be packaged with official identification. In addition, such authorization may be granted to any qualified person to act as a ``quality assurance inspector'' in the packaging and grade labeling of products. No person to whom such authorization is granted shall have authority to issue any grading certificates, grading memoranda, or other official documents; and all eggs which are graded by any such person shall thereafter be check graded by a grader.

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

Sec. 56.12 Suspension of license; revocation.

Pending final action by the Secretary, any person authorized to countersign a license to perform grading service may, whenever he deems

such action necessary to assure that any grading service is properly performed, suspend any license to perform grading service issued pursuant to this part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons, the licensee may file an appeal in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be further suspended or revoked. After the expiration of the aforesaid 7-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 7 days, the license to perform grading service is revoked.

[35 FR 19327, Dec. 22, 1970. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Sec. 56.13 Cancellation of license.

Upon termination of his services as a grader, each licensee shall surrender his license immediately for cancellation.

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

Sec. 56.14 Surrender of license.

Each license which is canceled, suspended, or has expired shall immediately be surrendered by the licensee to the office of grading serving the area in which he is located.

[31 FR 2773, Feb. 16, 1966. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Sec. 56.15 Political activity.

All graders are forbidden during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any

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measure to be voted upon, is prohibited. This applies to all appointees, including, but not being limited to, temporary and cooperative employees, and employees on leave of absence with or without pay. Willful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

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

Sec. 56.16 Identification.

All graders shall each have in possession at all times, and present upon request, while on duty, the means of identification furnished by the Department to such person.

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

Sec. 56.17 Facilities and equipment for graders.

Facilities and equipment to be furnished by the applicant for use of graders in performing service on a resident basis shall include (when deemed necessary) the following:

(a)(1) An accurate metal stem thermometer;

(2) Scales to weigh individual eggs, cartons of eggs, and bulk eggs. Test weights for each type scale used;

(3) An acceptable candling light.

(b) Furnished office space, a desk and file or storage cabinets (equipped with a satisfactory locking device), suitable for the security and storage of official stamps and supplies, and other facilities and equipment as may otherwise be required. Such space and equipment must meet the approval of the National supervisor.

[32 FR 8230, June 8, 1967. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39570, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981; 60 FR 12402, Mar. 7, 1995]

Sec. 56.18 Schedule of operation of official plants.

Grading operating schedules for services performed pursuant to Secs. 56.52 and 56.54 shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the administrative workweek, Sunday through Saturday, for each shift required. Less than 8-hour schedules may be requested and will be approved if a grader is available. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management 1 day in advance of any change in the hours grading service is requested.

[48 FR 20683, May 9, 1983]

Application for Grading

Sec. 56.20 Who may obtain grading service.

An application for grading service may be made by any interested person, including, but not being limited to, the United States, any State, county, municipality, or common carrier, and any authorized agent of the foregoing.

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

Sec. 56.21 How application for service may be made; conditions of

service.

(a) Noncontinuous grading service on a fee basis. An application for any noncontinuous grading service on a fee basis may be made in any office of grading, or with any grader at or nearest the place where the service is desired. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If the application for grading service is made orally, the office of grading or the grader with whom such application is made, or the Administrator, may require that the application be confirmed in writing.

(b) Continuous grading service on a resident basis or continuous grading service on a nonresident basis. An application for continuous grading service on a resident basis or for continuous grading service on a nonresident basis must be made in writing on forms approved by the Administrator and filed with the Administrator. Such forms may be obtained at the national, regional, or State grading office. In making application, the applicant agrees to comply

with the terms and conditions of the regulations (including, but not being limited to, such instructions governing grading of products as may be issued from time to time by the Administrator). No member of or Delegate to Congress or Resident Commissioner shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit.

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

Sec. 56.22 Filing of application.

An application for grading or sampling of a specified lot of any product shall be regarded as filed only when made pursuant to this part.

[28 FR 6342, June 20, 1963. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Sec. 56.23 Form of application.

Each application for grading or sampling a specified lot of any product shall include such information as may be required by the Administrator in regard to the product and the premises where such product is to be graded or sampled.

[28 FR 6342, June 20, 1963. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Sec. 56.24 When application may be rejected.

An application for grading service may be rejected by the Administrator (a) whenever the applicant fails to meet the requirements of the regulations prescribing the conditions under which the service is made available; (b) whenever the product is owned by or located on the premises of a person currently denied the benefits of the act; (c) where any individual holding office or a responsible position with or having a

substantial financial interest or share in the applicant is currently denied the benefits of the act or was responsible in whole or in part for the current denial of the benefits of the act to any person; (d) where the Administrator determines that the application is an attempt on the part of a person currently denied the benefits of the act to obtain grading services; (e) whenever the applicant fails to bring the plant facilities, and operating procedures into compliance with the regulations within a reasonable period of time; (f) notwithstanding any prior approval whenever, before inauguration of service, the applicant fails to fulfill commitments concerning the inauguration of the service; (g) when it appears that to perform the services specified in this part would not be to the best interests of the public welfare or of the Government; or (h) when it appears to the Administrator that prior commitments of the Department necessitate rejection of the application. Each such applicant shall be promptly 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 at 46 FR 63203, Dec. 31, 1981]

Sec. 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 at 46 FR 63203, Dec. 31, 1981]

Sec. 56.26 Authority of applicant.

Proof of the authority of any person applying for any grading service may

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be required at the discretion of the Administrator.

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

Sec. 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 at 46 FR 63203, Dec. 31, 1981]

Violations

Sec. 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 at 46 FR 63203, Dec. 31, 1981]

Denial of Service

Sec. 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 Sec. 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 amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

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Sec. 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 identification shall not be removed by anyone other than a grader.

[35 FR 5664, Apr. 8, 1970. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Identifying and Marking Products

Sec. 56.35 Authority to use, and approval of official identification.

(a) Authority to use official identification. Authority to officially identify product graded pursuant to this part is granted only to applicants who make the services of a grader or quality assurance inspector available for use in accordance with this part. Packaging materials bearing official identification marks shall be approved pursuant to Secs. 56.35 to 56.37, inclusive, and shall be used only for the purpose for which approved and prescribed by the Administrator. Any unauthorized use or disposition of approved labels or packaging materials which bear any official identification may result in cancellation of the approval and denial of the use of labels or packaging materials bearing official identification or denial of the benefits of the Act pursuant to the provisions of Sec. 56.31.

(b) Approval of official identification. No label, container, or packaging material which bears official identification may contain any statement that is false or misleading. No label, container, or packaging material bearing official identification may be printed or prepared for use until the printers' or other final proof has been approved by the Administrator in accordance with the regulations in this part, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling

Act, and the regulations promulgated under these acts. The use of finished labels must be approved as prescribed by the Administrator. A grader may apply official identification stamps to shipping containers if they do not bear any statement that is false or misleading. If the label is printed or otherwise applied directly to the container, the principal display panels of such container shall for this purpose be considered as the label. The label shall contain the name, address, and ZIP Code of the packer or distributor of the product, the name of the product, a statement of the net contents of the container, and the U.S. grademark.

(c) Nutritional labeling. Nutrition information must be included with the labeling on each unit container of consumer packaged shell eggs in accordance with the provisions of Title 21, Chapter I, Part 101, Regulations for the Enforcement of the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act. The nutrition information included on labels is subject to review by the Food and Drug Administration prior to approval by the Department.

[40 FR 20055, May 8, 1975, as amended at 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981; 60 FR 12402, Mar. 7, 1995]

Sec. 56.36 Information required on and form of grademark.

(a) Information required on grademark. (1) Except as otherwise authorized, each grademark provided for in this section shall conspicuously and legibly indicate the letters ``USDA,'' and the U.S. grade of the product it identifies, such as ``A Grade'' (illustrated in Figure 2). The letters ``USDA'' shall be printed in a light color on and surrounded by a dark field, and the U.S. grade printed in a dark color on a light field.

(2) The size or weight class of the product such as ``Large'' and such terms as ``Federal-State Graded'' or words of similar import may be shown within the grademark (illustrated in Figure 3). This information shall be printed in a dark color on a light field. However, such terms as ``Federal-State Graded'' need not be shown. The grademark shall be printed on the carton.

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(3) The plant number of the official plant preceded by the letter ``P'' must be shown on each carton or packaging material.

(b) Form of official identification symbol and grademark. (1) The shield set forth in Figure 1 containing the letters ``USDA'' shall be the official identification symbol for purposes of this part and when used, imitated, or simulated in any manner in connection with shell eggs, shall be deemed to constitute a representation that the product has been officially graded for the purpose of Sec. 56.2.
[GRAPHIC] [TIFF OMITTED] TC25SE91.012

(2) Except as otherwise authorized, the grademark permitted to be used to officially identify cartons of shell eggs which are graded pursuant to the regulations in this part shall be contained in a shield and in the form and design indicated in Figures 2, 3, and 4 of this section. The shield shall be of sufficient size so that the print and other information contained therein is distinctly legible and in

approximately the same proportion and size as shown in Figures 2 and 3. The grademark shall be printed on the carton or on a tape used to seal the carton.
[GRAPHIC] [TIFF OMITTED] TC25SE91.013

[28 FR 6343, June 20, 1963, as amended at 32 FR 8230, June 8, 1967; 40 FR 20055, May 8, 1975; 42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39570, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981; 60 FR 12402, Mar. 7, 1995]

Sec. 56.37 Lot marking of officially identified product.

Each carton identified with the grademarks shown in Figures 2, 3, or 4 of Sec. 56.36 shall be legibly lot numbered on either the carton or the consumer package. The lot number shall be the consecutive day of the year on which the eggs were packed (e.g., 132), except other lot numbering systems may be used when submitted in writing and approved by the Administrator.

[35 FR 5664, Apr. 8, 1970. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39570, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981; 60 FR 12402, Mar. 7, 1995]
Sec. 56.38 [Reserved]

Prerequisites to Packaging Shell Eggs Identified With Consumer Grademarks

Sec. 56.39 Quality assurance inspector required.

The official identification of any graded product as provided in Secs. 56.35 to

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56.41, inclusive, shall be done only under the supervision of a grader or quality assurance inspector. The grader or quality assurance inspector shall have supervision over the use and handling of all material bearing any official identification.

[42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39570, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

Sec. 56.40 Grading requirements of shell eggs identified with consumer grademarks.

(a) Shell eggs to be identified with the marks illustrated in Figures 2, 3, and 4 of Sec. 56.36 must be individually graded by a grader or by authorized personnel pursuant to Sec. 56.11 and thereafter check graded by a grader.
(b) Shell eggs not graded in accordance with paragraph (a) of this section may be officially graded on a sample basis and the shipping containers may be identified with grademarks which contain the words ``Sample Graded'' and which are approved by the Administrator.
(c) Shell eggs which are to bear the U.S. consumer grademark shall

be packed only from eggs of current production. They shall not possess any undesirable odors or flavors.

[32 FR 8231, June 8, 1967. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39571, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

Sec. 56.41 Check grading officially identified product.

Officially identified shell eggs packed or received in an official plant may be subject to final check grading prior to their shipment. Such product found not to be in compliance with the assigned official grade shall be placed under a retention tag until it is regraded to comply with the grade assigned or until the official identification is removed.

[35 FR 5664, Apr. 8, 1970. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Secs. 56.42--56.43 [Reserved]

Fees and Charges

Sec. 56.45 Payment for fees and charges.

(a) Fees and charges for any grading service shall be paid by the interested party making the application for such grading service, in accordance with the applicable provisions of this section and Secs. 56.46 to 56.54, both inclusive; and, if so required by the grader, such fees and charges shall be paid in advance.

(b) Fees and charges for any grading service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, draft, or money order payable to the Agricultural Marketing Service and remitted promptly to the Service.

(c) Fees and charges for any grading service under a cooperative agreement with any State or person shall be paid in accordance with the terms of such cooperative agreement.

[33 FR 20004, Dec. 31, 1968 and 42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Sec. 56.46 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service (other than for an appeal grading) performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $33.64 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $35.52 per hour. Information on legal holidays is available from the Supervisor.

[33 FR 20004, Dec. 31, 1968. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 59 FR 52637, Oct. 18,

1994]

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Sec. 56.47 Fees for appeal grading or review of a grader's decision.

The cost of an appeal grading or review of a grader's decision shall be borne by the appellant at an hourly rate of $27.36 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

[59 FR 52637, Oct. 18, 1994]

Sec. 56.49 Travel expenses and other charges.

Charges are to be made to cover the cost of travel and other expenses incurred by the service in connection with rendering grading service. Such charges shall include the cost of transportation, per diem, and any other expenses.

[42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 8, Jan. 2, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

Sec. 56.52 Continuous grading performed on a resident basis.

Fees to be charged and collected for any grading service, other than for an appeal grading, on a resident grading basis, shall be those provided in this section. The fees to be charged for any appeal grading shall be as provided in Sec. 56.47.

(a) Charges. The charges for the grading of shell eggs shall be paid by the applicant for the service and shall include items listed in this section as are applicable. Payment for the full cost of the grading service rendered to the applicant shall be made by the applicant to Agricultural Marketing Service, U.S. Department of Agriculture (hereinafter referred to as ``AMS''). Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading service was rendered. Bills will be rendered by the 10th day following the end of the period in which the service was rendered and are payable upon receipt.

(1) An inauguration charge of $310 will be made at the time an application for service is signed except when the application is required because of a change in name or ownership. If service is not installed within 6 months from the date the application is filed, or if service is inactive due to an approved request for removal of a grader(s) for a period of 6 months, the application will be considered terminated, but a new application may be filed at any time. In addition there will be a charge of $300 if the application is terminated at the request of the applicant for reasons other than for a change in location, within 12 months from the date of the inauguration of service.

(2) A charge for the salary and other costs, as specified in this paragraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned

by AMS to perform grading service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders, State graders, or a combination of Federal and State graders are used, by averaging the salary rates paid to each Federal or State grader assigned to such plants. Charges to plants are as follows:

(i) For all regular hours of work scheduled and approved as an established tour of duty for a plant, the regular rate charge will be made. The regular rate charge will be determined by adding an amount to the base salary rate to cover the costs to AMS for such items as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for Old Age and Survivor's Benefits under the Social Security System, retirement benefits, group life insurance, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs.

(ii) All hours worked by an assigned grader or another grader in excess of the approved tour of duty, or worked on a nonscheduled workday, or actually worked on a holiday in excess of the tour of duty, will be considered as overtime. The charge for such overtime

will be 150 percent of the grader's base salary rate.

(iii) For work performed on a holiday which is within the established tour of duty approved for a plant, the added charge will be the same as the grader's base rate.

(iv) For work performed between 6 p.m. and 6 a.m., night differential charges (for regular, overtime, or holiday hours worked during this period) will be at the applicable rates established plus 10 percent of the base rate.

(v) For work performed on Sunday, Sunday differential charges (for regular, overtime, or holiday hours worked on Sunday) will be at the applicable rates established plus 25 percent of the base rate.

(vi) For all hours of work performed in a plant without an approved tour of duty, the charge will be one of the applicable hourly rates in Sec. 56.46.

(3) A charge at the hourly rates specified in Sec. 56.46, plus actual travel expenses incurred by AMS for intermediate surveys to firms without grading service in effect.

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $0.036, except that the minimum charge per billing period shall be $215 and the maximum charge shall be $2,150. The minimum charge also applies where an approved application is in effect and no product is handled.

(b) Other provisions. (1) The applicant shall designate in writing the employees of the applicant who will be required and authorized to furnish each grader with such information as may be necessary for the performance of the grading service.

(2) AMS will provide, as available, an adequate number of graders to perform the grading service. The number of graders required will be determined by AMS based on the expected demand for service.

(3) The grading service shall be provided at the designated plant and shall be continued until the service is suspended, withdrawn, or terminated by:

(i) Mutual consent;
(ii) Thirty (30) days' written notice, by either the applicant or AMS specifying the date of suspension, withdrawal, or termination;
(iii) One (1) day's written notice by AMS to the applicant if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading service; or
(iv) Action taken by AMS pursuant to the provisions of Sec. 56.31.
(4) Graders will be required to confine their activities to those duties necessary in the rendering of grading service and such closely related activities as may be approved by AMS: Provided, That in no instance may the graders assume the duties of management.

[34 FR 8232, May 28, 1969]

Editorial Note: For Federal Register citations to Sec. 56.52, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

Sec. 56.53 Fees or charges for grading service performed under cooperative agreement.

Fees or charges to be made to an applicant for grading service which differ from those listed in Secs. 56.45 through 56.54 shall be provided for by a cooperative agreement.

[36 FR 7894, Apr. 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Sec. 56.54 Charges for continuous grading performed on a nonresident basis.

Fees to be charged and collected for grading service on a nonresident grading basis, shall be those provided in this section. The fees to be charged for any appeal grading shall be as provided in Sec. 56.47.
(a) Charges. The charges for the grading of shell eggs shall be paid by the applicant for the service and shall include items listed in this section as are applicable. Payment for the full cost of the grading service rendered to the applicant shall be made by the applicant to the Agricultural Marketing Service, U.S. Department of Agriculture (hereinafter referred to as ``AMS''). Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading service was rendered. Bills will be rendered by the 10th day following the end of the billing period in

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which the service was rendered and are payable upon receipt.
(1) A charge for the salary and other costs, as specified in this paragraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by AMS to perform grading service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders, State graders, or a combination of Federal and State

graders are used, by averaging the salary rates paid to each Federal or State grader assigned to such plants. Charges to plants are as follows:

(i) For all regular hours of work scheduled and approved as an established tour of duty for a plant, the regular rate charge will be made. The regular rate charge will be determined by adding an amount to the base salary rate to cover the costs to AMS for such items as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for Old Age and Survivor's Benefits under the Social Security System, retirement benefits, group life insurance, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs.

(ii) All hours worked by an assigned grader or another grader in excess of the approved tour of duty, or worked on a nonscheduled workday, or actually worked on a holiday in excess of the tour of duty, will be considered as overtime. The charge for such overtime will be 150 percent of the grader's base salary rate.

(iii) For work performed on a holiday which is within the established tour of duty approved for a plant, the added charge will be the same as the grader's base rate.

(iv) For work performed between 6 p.m. and 6 a.m., night differential charges (for regular, overtime, or holiday hours worked during this period) will be at the applicable rates established plus 10 percent of the base rate.

(v) For work performed on Sunday, Sunday differential charges (for regular, overtime, or holiday hours worked on Sunday) will be at the applicable rates established plus 25 percent of the base rate.

(vi) For all hours of work performed in a plant without an approved tour of duty, the charge will be one of the applicable hourly rates in Sec. 56.46.

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $215 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

(b) Other provisions. (1) The applicant shall designate in writing the employees of the applicant who will be required and authorized to furnish each grader with such information as may be necessary for the performance of the grading service.

(2) AMS will provide, as available, an adequate number of graders to perform the grading service. The number of graders required will be determined by AMS based on the expected demand for service.

(3) The grading service shall be provided at designated locations and shall be continued until the service is suspended, withdrawn, or terminated by:

(i) Mutual consent;

(ii) Thirty (30) days' written notice, by either the applicant or AMS specifying the date of suspension, withdrawal, or termination;

(iii) One (1) day's written notice by AMS to the applicant if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading service; or

(iv) Action taken by AMS pursuant to the provisions of Sec. 56.31.

(4) Graders will be required to confine their activities to those duties necessary in the rendering of grading service and such closely related activities as may be approved by AMS: Provided, That in no instance may the graders assume the duties of management.

(5) When similar nonresident grading services are furnished to the

same applicant under part 55 or part 70 of this chapter, the charges listed in this section shall not be repeated.

[35 FR 19327, Dec. 22, 1970]

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Editorial Note: For Federal Register citations to Sec. 56.54, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

Grading Certificates

Sec. 56.55 Grading certificates and sampling report forms.

Grading certificates and sampling report forms shall be issued on forms approved by the Administrator.

[20 FR 673, Feb. 1, 1955. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Sec. 56.56 Grading certificate issuance.

(a) Resident grading basis. Certificates will be issued only upon request therefor by the applicant or the Service. When requested, a grader shall issue a certificate covering product graded by him. In addition, a grader may issue a grading certificate covering product graded in whole or in part by another grader when the grader has knowledge that the product is eligible for certification based on personal examination of the product or official grading records.

(b) Other than resident grading. Each grader shall, in person or by his authorized agent, issue a grading certificate covering each product graded by him. A grader's name may be signed on a grading certificate by a person other than the grader, if such person has been designated as the authorized agent of such grader by the National Supervisor: Provided, That the certificate is prepared from an official memorandum of grading signed by the grader: And provided further, That a notarized power of attorney authorizing such signature has been issued to such person by the grader and is on file in the office of grading. In such case, the authorized agent shall sign both his own and the grader's name, e.g., ``John Doe by Richard Roe.''

[36 FR 9841, May 29, 1971, as amended at 36 FR 10937, June 5, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Sec. 56.57 Disposition of grading certificates.

The original and a copy of each grading certificate, issued pursuant to Sec. 56.56, and not to exceed two additional copies thereof if requested by the applicant prior to issuance, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. Other copies shall be filed and retained in accordance with the disposition schedule for grading program records.

[36 FR 9842, May 29, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

Sec. 56.58 Advance information.

Upon request of an applicant, all or part of the contents of any grading certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at his expense.

[20 FR 673, Feb. 1, 1955. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Appeal of a Grading or Decision

Source: Sections 56.60 through 56.66 appear at 35 FR 9918, June 17, 1970, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

Sec. 56.60 Who may request an appeal grading or review of a grader's decision.

An appeal grading may be requested by any interested party who is dissatisfied with the determination by a grader of the class, quality, quantity, or condition of any product as evidenced by the USDA grademark and accompanying label, or as stated on a grading certificate and a review may be requested by the operator of an official plant with respect to a grader's decision or on any other matter related to grading in the official plant.

Sec. 56.61 Where to file an appeal.

(a) Appeal from resident grader's grading or decision in an official plant. Any interested party who is not satisfied with the determination of the class, quality, quantity, or condition of product which was graded by a grader in an official plant and has not left such plant, and the operator of any official plant who is not satisfied with a decision by a grader on any other matter related to grading in such plant may

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request an appeal grading or review of the decision by the grader by filing such request with the grader's immediate supervisor.

(b) All other appeal requests. Any interested party who is not satisfied with 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.

Sec. 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.

Sec. 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.

Sec. 56.64 Who shall perform the appeal.

(a) An appeal grading or review of a decision requested under Sec. 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 Sec. 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 Sec. 56.61(b) shall 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 at 46 FR 63203, Dec. 31, 1981]

Sec. 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 Sec. 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 at 46 FR 63203, Dec. 31, 1981, and as amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

Sec. 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 certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government. When the appeal grader assigns a different grade to the lot, the existing grade mark shall be changed or obliterated as necessary. When the appeal grader assigns a different class or quantity designation to the lot, the labeling shall be corrected.

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Facility Requirements

Sec. 56.75 Applicability of facility and operating requirements.

The provisions of Sec. 56.76 shall be applicable to any grading service that is provided on a resident basis.

[28 FR 6345, June 20, 1963. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Sec. 56.76 Minimum facility and operating requirements for shell egg grading and packing plants.

(a) General requirements for buildings and plant facilities. (1) Buildings shall be of sound construction so as to prevent, insofar as practicable, the entrance or harboring of vermin.

(2) Grading and packing rooms shall be of sufficient size to permit installation of necessary equipment and the conduct of grading and packing in a sanitary manner. These rooms shall be kept reasonably clean during grading and packing operations and shall be thoroughly cleaned at the end of each operating day.

(3) Adequate lavatory and toilet accommodations shall be provided. Toilet and locker rooms shall be maintained in a clean and sanitary condition. Hot and cold running water shall be provided. Rooms shall be ventilated to the outside of the building. Signs shall be posted in the rest rooms instructing employees to wash their hands before returning to work.

(4) A separate refuse room or a designated area for the accumulation of trash must be provided in plants which do not have a system for the daily removal or destruction of such trash.

(5) Wood benches, platforms, etc., in areas which are subjected to moisture and which develop odors shall be replaced with equipment of metal construction. Wood walls or partitions which develop odors shall be replaced with materials impervious to moisture. Newly constructed plants should be equipped with metal benches, platforms, etc., in areas which are subjected to moisture.

(b) Grading room requirements. (1) The egg grading or candling area shall be adequately darkened to make possible the accurate quality determination of the candled appearance of eggs. There shall be no other light source or reflections of light that interfere with, or prohibit the accurate quality determination of eggs in the grading or candling area.

(2) The grading and candling equipment shall provide adequate light to facilitate quality determinations. Other light sources and equipment or facilities shall be provided to permit the detection and removal of

stained and dirty eggs or other undergrade eggs.

(3) Adequate facilities, equipment, and light sources shall be provided to determine the condition of packing material.

(4) Egg weighing equipment shall be provided. The egg weighing equipment shall be constructed to permit cleaning; operation in a clean, sanitary manner; and shall be capable of ready adjustment.

(5) Adequate ventilation shall be provided.

(c) Cooler room requirements. (1) Cooler rooms shall have refrigeration facilities capable of reducing within 24 hours and holding the maximum volume of eggs handled to 60 deg.F. or below. Accurate thermometers shall be provided.

(2) Cooler rooms shall be free from objectionable odors and from mold, and shall be maintained in a sanitary condition.

(3) All shell egg coolers shall be equipped with a hygrometer or portable equipment such as a psychrometer shall be available to determine the relative humidity. Humidifying equipment capable of maintaining a relative humidity which will minimize shrinkage shall be provided.

(d) Shell egg protecting operations. Shell egg protecting (oil processing) operations shall be conducted in a manner to avoid contamination of the product and maximize conservation of its quality.

(1) Eggs with excess moisture on the shell shall not be shell protected.

(2) Oil having any off odor, or that is obviously contaminated, shall not be used in shell egg protection.

(3) Processing oil that has been previously used and which has become contaminated shall be filtered and heat treated at 180 deg.F. for 3 minutes prior to use.

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(4) Shell egg processing equipment shall be washed, rinsed, and treated with a bactericidal agent each time the oil is removed. It is preferable to filter and heat treat processing oil and clean processing equipment daily when in use.

(5) Adequate coverage and protection against dust and dirt shall be provided when the equipment is not in use.

(e) Shell egg cleaning operations. (1) Shell egg cleaning equipment shall be kept in good repair and shall be cleaned after each day's use or more frequently, if necessary.

(2) The temperature of the wash water shall be maintained at 90 deg.F. or higher, and shall be at least 20 deg.F. warmer than the temperature of the eggs to be washed. These temperatures shall be maintained throughout the cleaning cycle.

(3) An approved cleaning compound shall be used in the wash water. (The use of metered equipment for dispensing the compound into solution is recommended.)

(4) Wash water shall be changed approximately every 4 hours or more often if needed to maintain sanitary conditions, and at the end of each shift. Remedial measures shall be taken to prevent excess foaming during the egg washing operation.

(5) Replacement water shall be added continuously to the wash water of washers to maintain a continuous overflow. Rinse water, chlorine, or quaternary sanitizing rinse may be used as part of the replacement water, provided, they are compatible with the washing compound. Iodine sanitizing rinse may not be used as part of the replacement water.

(6) Only potable water may be used to wash eggs. Each official plant shall submit certification to the national office stating that their water supply is potable. An analysis of the iron content of the water supply, stated in parts per million, is also required. When the iron content exceeds 2 parts per million, equipment shall be provided to correct the excess iron content. Frequency of testing shall be determined by the Administrator. When the water source is changed, new tests are required.

(7) Waste water from the egg washing operation shall be piped directly to drains.

(8) The washing and drying operation shall be continuous and shall be completed as rapidly as possible. Eggs shall not be allowed to stand or soak in water. Immersion-type washers shall not be used.

(9) Prewetting shell eggs prior to washing may be accomplished by spraying a continuous flow of water over the eggs in a manner which permits the water to drain away or other methods which may be approved by the Administrator. The temperature of the water shall be the same as prescribed in this section.

(10) Washed eggs shall be spray-rinsed with water having a temperature equal to, or warmer than, the temperature of the wash water and contain an approved sanitizer of not less than 50 p/m nor more than 200 p/m of available chlorine or its equivalent. Alternate procedures, in lieu of a sanitizer rinse, may be approved by the National Supervisor.

(11) Test kits shall be provided and used to determine the strength of the sanitizing solution.

(12) During any rest period, eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a buildup of heat.

(13) Washed eggs shall be reasonably dry before cartoning or casing.

(14) When steam or vapors originate from the washing operation, they shall be continuously and directly removed to the outside of the building.

(f) Requirements for eggs which are to be marked with official U.S. identification mark. (1) Shell eggs held in the official plant shall be placed under refrigeration of 60 deg.F. or lower promptly after packaging. Officially identified shell eggs with an internal temperature of 70 deg.F. or higher when shipped from the official plant should be transported at a temperature of 60 deg.F. or less.

(2) Every reasonable precaution shall be exercised to prevent ``sweating'' of eggs.

(3) Eggs which are to be officially identified with consumer grademarks shall be packaged only in new or good used cases and packing materials.

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Cases and packing materials must be reasonably clean, free of mold, mustiness and off odors and must be of sufficient strength and durability to adequately protect the eggs during normal distribution.

(g) The following substances used in the plant shall be approved and handled in accordance with the manufacturer's instructions: Pesticides, insecticides, rodenticides, cleaning compounds, destaining compounds, foam control compounds, sanitizers, and inks and oils coming into contact with the product.

[20 FR 674, Feb. 1, 1955, as amended at 22 FR 8168, Oct. 16, 1957; 28 FR 6346, June 20, 1963; 32 FR 8232, June 8, 1967; 35 FR 5664, Apr. 8, 1970; 40 FR 20056, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39571, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982; 60 FR 12402, Mar. 7, 1995]

Sec. 56.77 Health and hygiene of personnel.

(a) No person known to be affected by a communicable or infectious disease shall be permitted to come in contact with the product.

(b) Plant personnel coming into contact with the product shall wear clean clothing.

[32 FR 8232, June 8, 1967. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]