

through 70.77, shall be provided for by a cooperative agreement.

GRADING

§ 70.80 General.

Whenever grading service is provided for examination of quality, condition, or for test weighing on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of containers indicated in the following table. The number of representative samples for large bulk containers (combo bins, tanks, etc.) may be reduced by one-half. For quality or condition, all of the poultry and rabbits in each representative sample shall be examined except for individual ready-to-cook carcasses weighing under 6 pounds in large bulk containers. For individual carcasses weighing under 6 pounds in large bulk containers, 100 carcasses shall be examined for quality or condition. Procedures for test weighing shall be in accordance with those prescribed by the Administrator.

Containers in lot	Containers in sample
3 or less	All
4 to 20	4
21 to 100	6
101 to 500	8
501 to 1,000	15
1,001 to 2,000	25
2,001 to 4,000	40
Over 4,000	60

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 51 FR 17280, May 9, 1986]

§ 70.81 Ready-to-cook poultry and rabbits and specified poultry food products.

(a) Ready-to-cook poultry or rabbit carcasses or parts or specified poultry food products may be graded only if they have been inspected and certified by the poultry inspection service of the U.S. Department of Agriculture, or inspected and passed by any other inspection system which is acceptable to the Department.

(b) Only when ready-to-cook poultry carcasses, parts, poultry food products, including those used in preparing raw poultry food products, have been grad-

ed on an individual basis by a grader or by an authorized person pursuant to § 70.20(c) and thereafter checkgraded by a grader, and when poultry food products have been prepared under the supervision of a grader, may the individual container, carcass, part, or poultry food product be identified with the appropriate official letter grademark. Checkgrading will be accomplished in accordance with a statistical sampling plan prescribed by the Administrator. Grading with respect to quality factors for freezing defects and appearance of the finished products may be done on a sample basis in accordance with a plan prescribed by the Administrator.

(c) Only when ready-to-cook rabbit carcasses or parts have been graded on an individual basis by a grader or by an authorized person pursuant to § 70.20(c) and thereafter checkgraded by a grader, may the container or the individual carcass or part be identified with the appropriate official letter grademark. Checkgrading will be accomplished in accordance with a statistical sampling plan prescribed by the Administrator. Grading with respect to quality factors for freezing defects and appearance of the finished products may be done on a sample basis in accordance with a plan prescribed by the Administrator.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 51 FR 17281, May 9, 1986]

GRADING CERTIFICATES

§ 70.90 Forms.

Grading certificates (including appeal grading certificates and regrading certificates) shall be issued on forms approved by the Administrator.

§ 70.91 Issuance and disposition.

(a) *Resident grading basis.* Certificates will be issued only upon a 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.

(c) The original and a copy of each grading certificate, issued pursuant to §§ 70.90 through 70.92, 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.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 30514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46071, Oct. 15, 1982 and 47 FR 54421, Dec. 3, 1982; 51 FR 17281, May 9, 1986]

§ 70.92 Advance information.

Upon the 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.

APPEAL OF A GRADING OR DECISION

§ 70.100 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 on any other matter relating to grading in an official plant.

§ 70.101 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 made by a grader or any other matter relating to grading in such plant, may request an appeal grading or review of the decision by filing such request with the grader's immediate supervisor.

(b) *All other appeal requests.* Any interested party who is not satisfied with the determination of 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 with the regional director in the area where the product is located or with the Chief of the Grading Branch.

§ 70.102 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.

§ 70.103 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 for an appeal grading 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