

## § 55.390

retained in accordance with the disposition schedule for inspection program records.

[36 FR 11795, June 19, 1971. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 47 FR 46069, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

### § 55.390 Advance information.

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

## APPEALS

### § 55.400 Who may request an appeal grading or inspection or review of a grader's or inspector's decision.

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

### § 55.410 Where to file an appeal.

(a) *Appeal of resident grader's or inspector'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 or inspected by a grader or inspector 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 or inspector on any other matter relating to grading or inspection in such plant may request an appeal grading or inspection or review of the decision by the grader or inspector by filing such request with the grader's or inspector'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

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graded or inspected or which was graded or inspected other than in an official plant may request an appeal grading or inspection by filing such request with the Regional Director in the region where the product is located or with the Chief of the Grading Branch.

[36 FR 11795, June 19, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 60 FR 49168, Sept. 21, 1995]

### § 55.420 How to file an appeal.

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

[60 FR 49168, Sept. 21, 1995]

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

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

[36 FR 11795, June 19, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 60 FR 49168, Sept. 21, 1995]

### § 55.440 Who shall perform the appeal.

(a) An appeal grading or inspection or review of a decision requested under § 55.410(a) shall be made by the grader's