

Agricultural Marketing Service, USDA

§ 55.510

or inspector's immediate supervisor or by a licensed grader or inspector assigned by the immediate supervisor other than the grader or inspector whose grading or inspection or decision is being appealed.

(b) Appeal gradings or inspections requested under §55.410(b) shall be performed by a grader or inspector other than the grader or inspector who originally graded or inspected the product.

(c) Whenever practical, an appeal grading or inspection shall be conducted jointly by two graders or inspectors. The assignment of the grader(s) or inspector(s) who will make the appeal grading or inspection under §55.410(b) shall be made by the Regional Director or the Chief of the Grading Branch.

§ 55.450 Procedures for selecting appeal samples.

(a) Prohibition on movement of product. Products shall not have been moved from the place where the grading or inspection being appealed was performed and must have been maintained under adequate refrigeration, when applicable.

(b) *Laboratory analyses.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. When the original sample containers cannot be located, the appeal sample shall consist of product taken at random from double the number of original sample containers.

(c) *Condition inspection.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. A condition appeal cannot be made unless all originally sampled containers are available.

[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]

§ 55.460 Appeal certificates.

Immediately after an appeal grading or inspection is completed, an appeal certificate shall be issued to show that the original grading or inspection was sustained or was not sustained. Such certificate shall supersede any previously issued certificate for the prod-

uct involved and shall clearly identify the number and date of the superseded certificate.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 or inspector assigns a different class to the lot or determines that a net weight shortage exists, the lot shall be retained pending correction of the labeling or approval of the product disposition by the National Supervisor.

[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]

FEEES AND CHARGES

§ 55.500 Payment of fees and charges.

(a) Fees and charges for any service shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of this section and §§55.510 through 55.560, both inclusive. If so required by the grader or inspector, such fees and charges shall be paid in advance.

(b) Fees and charges for any 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 AMS.

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

[36 FR 11795, June 19, 1971, as amended at 42 FR 2969, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

§ 55.510 Fees and charges for services other than on a continuous resident basis.

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

§ 55.530

7 CFR Ch. I (1-1-03 Edition)

in §§ 55.510 through 55.560, both inclusive.

(b) Fees for product inspection and sampling for laboratory analysis 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 sampling and inspection, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) 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.

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

[36 FR 11795, June 19, 1971. Redesignated at 42 FR 32514, June 27, 1977, as amended at 46 FR 8, Jan. 2, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 59 FR 52637, Oct. 18, 1994]

§ 55.530 Travel expenses and other charges.

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

[42 FR 2969, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, as amended at 46 FR 8, Jan. 2, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 55.560 Charges for continuous inspection and grading service on a resident basis.

Fees to be charged and collected for service on a resident basis shall be those provided in this section. The fees to be charged for any appeal grading or

inspection shall be as provided in § 55.510.

(a) *Charges.* The charges for the service shall be paid by the applicant and shall include items listed in this section as are applicable. Payment for the full cost of the service rendered to the applicant shall be made by the applicant to the Agricultural Marketing Service, U.S. Department of Agriculture. 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 and inspection service was rendered. Bills will be rendered by the 10th day following the end of the billing 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) or inspector(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 subparagraph, for each grader or inspector while assigned to a plant, except that no charge will be made when the assigned grader or inspector is temporarily reassigned by AMS to perform grading or inspection 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: