

§ 57.300

shall in no way derogate from authority for condemnation or seizure conferred by other provisions of the Act, the regulations in this part, or other laws.

[63 FR 69968, 69971, Dec. 17, 1998]

APPEAL OF AN INSPECTION

§ 57.300 Who may request an appeal inspection.

An appeal inspection may be requested by any interested party who is dissatisfied with the determination by an inspector of the class, quality, quantity, or condition of any product.

[69 FR 57167, Sept. 24, 2004]

§ 57.310 Where to file an appeal.

Any interested party that is not satisfied with the determination of the class, quality, quantity, or condition of product which was inspected may request an appeal 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.

[63 FR 69971, Dec. 17, 1998, as amended at 69 FR 57167, Sept. 24, 2004]

§ 57.320 How to file an appeal.

The request for an appeal inspection 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 that is questioned, and the reason(s) for requesting the appeal service.

[69 FR 57167, Sept. 24, 2004]

§ 57.330 When an application for an appeal 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, or that the condition of the product has undergone a material change since the original 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 inspection may be refused. In such case, the applicant

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shall be promptly notified of the reason(s) for such refusal.

[63 FR 69968, Dec. 17, 1998, as amended at 69 FR 57167, Sept. 24, 2004]

§ 57.340 Who shall perform the appeal.

The assignment of the inspector(s) who will make the appeal inspection under § 57.310 shall be made by the Regional Director or the Chief of the Grading Branch.

[63 FR 69968, 69971, Dec. 17, 1998, as amended at 69 FR 57167, Sept. 24, 2004]

§ 57.350 Procedures for selecting appeal samples.

(a) Products shall not have been moved from the place where the inspection being appealed was performed and must have been maintained under adequate refrigeration when applicable.

(b) 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 samples are not available or have been altered, such as removing the undergrades, the sample size shall be double the number of samples required in 7 CFR 56.4.

[63 FR 69968, 69971, Dec. 17, 1998, as amended at 69 FR 57167, Sept. 24, 2004]

§ 57.360 Appeal inspection certificates.

Immediately after an appeal inspection is completed, an appeal certificate shall be issued to show that the original inspection was sustained or was not sustained.

[63 FR 69968, Dec. 17, 1998, as amended at 69 FR 57167, Sept. 24, 2004]

§ 57.370 Cost of appeals.

The costs of an appeal inspection shall be borne by the appellant on a fee basis at rates set forth in 7 CFR 56.46, plus any travel and additional expenses. If the appeal inspection or review of an inspector's decision discloses that a material error was made in the original determination, no fee or expense will be charged.

[69 FR 57157, Sept. 24, 2004]