

Agricultural Marketing Service, USDA

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on file in Washington and no copies of official certificates issued at shipping point need be so forwarded. In the case of any product covered by a marketing agreement and/or order effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), at least one copy of each certificate covering the inspection of such product shall, on request, be delivered to the administrative agency established thereunder, subject to such terms and conditions as the Administrator may prescribe. Copies may be furnished to other interested parties as outlined in § 51.41.

(b) [Reserved]

[63 FR 15277, Mar. 31, 1998]

§ 51.22 Disposition of samples.

If it is necessary to take samples of the product to the inspection office for further examination, the inspector, after completion of inspection of such samples shall dispose of them or any usable portion as follows: (a) Ascertain from the applicant if the owner wants the samples returned to him at his expense, (b) if he does not want them returned at his expense, give them to a nonsectarian charitable organization or, (c) if they have a substantial monetary value, sell them and remit the proceeds to the Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, or if applicable, to the cooperating State Agency. Such proceeds shall be deposited to the credit of the Inspection Trust Fund, Federal or cooperating agency, whichever is applicable.

§ 51.23 Report of inspection results prior to issuance of formal report.

Upon request of an applicant, all or any part of the contents of a certificate covering an inspection requested by him may be telegraphed or telephoned to him, or to any person designated by him, at his expense. If the application for such information is received after the certificate has been issued, it will be considered as an application for an extra copy of the certificate, and the fees prescribed in § 51.41 shall apply.

APPEAL INSPECTION

§ 51.24 When appeal inspection may be requested.

An application for appeal inspection may be made by any financially interested person who is dissatisfied with the results of an inspection as stated in an inspection certificate, if the lot can be positively identified by the Inspection Service as the lot which was previously inspected.

§ 51.25 Where to file for an appeal inspection and information required.

An appeal inspection may be obtained by the applicant, or other person financially interested in the product, by filing a request (a) with the Inspection Office nearest the point where the product is located, or (b) with the inspector who made the original inspection, or (c) with any district supervisory inspection office, or (d) with the Administrator. The application for the appeal inspection shall state the reasons therefor, and shall be accompanied by a copy of any previous inspection certificate or inspection report, and any other information which the applicant received regarding the quality or condition of the product at the time of the original inspection. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation shall be made promptly.

§ 51.26 Record of filing time.

A record showing the date and time of filing an application for appeal inspection shall be made promptly by the receiving office.

§ 51.27 When appeal inspection may be refused.

An application for an appeal inspection may be refused if: (a) The reasons for the appeal inspection are frivolous or not substantial; (b) the quality or condition of the product has undergone a material change since the inspection covering the product on which the appeal inspection is requested; (c) the lot in question is not, or cannot be, made accessible for the inspection; (d) the lot relative to which appeal inspection is requested cannot be identified positively by the inspector as the lot which

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was previously inspected; or (e) there is noncompliance with the regulations in this part. Such an applicant shall be notified promptly of the reason for refusal.

§ 51.28 When an application for an appeal inspection may be withdrawn.

An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided*, That the applicant shall pay any travel expenses, telephone, telegraph or other expenses which have been incurred by the Inspection Service in connection with such application.

§ 51.29 Order in which made.

Appeal inspections shall be made, as soon as practicable, following the time requested by the applicant and in the order in which applications are received. They shall take precedence over all other pending applications, except applications for inspections covering lots involved in complaints filed pursuant to the Perishable Agricultural Commodities Act, 1930 as amended (7 U.S.C. 499a *et seq.*).

§ 51.30 Who shall perform appeal inspections.

Appeal inspections shall be performed by an inspector or inspectors authorized for this purpose by the Administrator and whenever practical, such appeal inspections shall be made by two inspectors.

§ 51.31 Appeal inspection certificate.

After an appeal inspection has been completed, an appeal inspection certificate shall be issued showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the product involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality described therein. The inspector or inspectors issuing an appeal inspection certificate shall sign the certificate and forward notice of such issuance to such persons

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as considered necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the inspector or inspectors issuing the appeal inspection certificate. The provisions in the regulations in this part concerning forms of certificates and issuance of certificates, shall apply to appeal inspection certificates, except that copies of such appeal inspection certificates shall be furnished all interested parties who receive copies of the superseded certificate.

LICENSING OF INSPECTORS

§ 51.32 Who may be licensed.

Persons who are employed by a cooperative Federal-State Inspection Agency and possess adequate qualifications, as determined by such examinations as the Administrator may consider to be appropriate, may be licensed as inspectors of products which may be inspected under the regulations in this part. Such license shall bear the printed signature of the Secretary and shall be countersigned by an authorized employee of the Department. A licensed inspector shall perform his duties pursuant to the regulations in this subpart as directed by the Administrator.

§ 51.33 Application to become a licensed inspector.

Application to become a licensed inspector shall be made to the Administrator on forms furnished for that purpose. Each such application shall be filled in and signed by the applicant in his own handwriting, and the application shall contain or be accompanied by:

(a) A statement of present address, age, height, and weight of the applicant;

(b) A statement showing education and present and previous occupations, together with names of all employers for whom he has worked with periods of service, during the last 5 years previous to the date of his application;

(c) A statement by the applicant that he agrees to comply with all terms and conditions of the regulations in this part relating to the duties of inspectors; and