

**§ 592.440**

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

**§ 592.440 Who shall perform the appeal.**

(a) An appeal inspection or review of a decision requested under §592.410(a) shall be made by the inspection program employee's immediate supervisor or by an inspection program employee assigned by the immediate supervisor other than the inspection program employee whose inspection or decision is being appealed.

(b) Appeal inspections requested under §592.410(b) shall be performed by an inspection program employee other than the inspection program employee who originally inspected the product.

(c) Whenever practical, an appeal inspection shall be conducted jointly by two inspection program employees. The assignment of the inspection program personnel who will make the appeal inspection under §592.410(b) shall be made by the District Manager.

**§ 592.450 Procedures for selecting appeal samples.**

(a) *Prohibition on movement of product.* 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) *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.

**§ 592.460 Appeal 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. Such certificate shall supersede any previously issued certificate

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for the product involved and shall clearly identify the number and date of the superseded certificate.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 inspection program employee 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 District Office.

**FEEs AND CHARGES**

**§ 592.500 Payment of fees and charges.**

(a) Fees and charges for voluntary base time rate, overtime inspection service, and holiday inspection service shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of this section and §592.510 through §592.530, both inclusive. If so required by the Inspection program personnel, 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 Food Safety Inspection Service and remitted promptly to FSIS.

(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.

**§ 592.510 Basetime rate.**

(a) For each calendar year, FSIS will calculate the basetime rate for inspection services, per hour per program employee, using the following formula: The quotient of dividing the Office of Field Operations plus Office of International Affairs inspection program personnel's previous fiscal year's regular direct pay by the previous fiscal year's regular hours, plus the quotient multiplied by the calendar year's percentage of cost of living increase, plus the benefits rate, plus the travel and operating rate, plus the overhead rate, plus the allowance for bad debt rate.