

§ 56.28

may be given to any application for an appeal grading.

[20 FR 671, Feb. 1, 1955; 20 FR 757, Feb. 4, 1955, as amended at 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981 as amended at 71 FR 42009, July 24, 2006]

§ 56.28 Types of service.

(a) *Noncontinuous grading service.* This type of service is performed when an applicant requests grading of a particular lot of shell eggs. Requests are made not on a regular basis. Charges or fees are based on the time, travel, and expenses needed to perform the work. This service also may be called the fee grading service. Shell eggs graded under fee grading service are not eligible to be identified with the official grademarks shown in § 56.36.

(b) *Continuous grading service on a resident basis and continuous grading service on a nonresident basis.* Service on a resident basis has a scheduled tour of duty, while service on a nonresident basis has a nonscheduled tour of duty. Both of these services are performed when an applicant requests that a USDA licensed grader be stationed in the applicant's processing plant and grade shell eggs in accordance with U.S. Standards. The applicant agrees to comply with the facility, operating, and sanitary requirements of resident service. The charges for resident grading services are based on the hours of the regular tour of duty and the volume of shell eggs received into the plant, while nonscheduled service is based on the cumulative time required to perform the work and an administrative service charge. Shell eggs graded under resident grading service are only eligible to be identified with the official grademarks shown in § 56.36 when processed and graded under the supervision of a grader or quality assurance inspector as provided in § 56.39.

(c) *Temporary grading service.* This type of service is performed when an applicant requests resident grading on a fee basis. The applicant must meet all of the facility, operating, and sanitary requirements of resident service. Charges or fees are based on the time and expenses needed to perform the work. Shell eggs graded under temporary grading service are only eligible

7 CFR Ch. I (1–1–14 Edition)

to be identified with the official grademarks when they are processed and graded under the supervision of a grader or quality assurance inspector as provided in § 56.39.

(d) *Auditing service.* This type of service is performed when an applicant requests independent verification of written quality assurance and value added standards for production, processing, and distribution of shell eggs. Charges or fees are based on time, travel, and expenses needed to perform the work.

[69 FR 76375, Dec. 21, 2004, as amended at 72 FR 11775, Mar. 14, 2007]

§ 56.29 Suspension or withdrawal of plant approval for correctable cause.

(a) Any plant approval given pursuant to the regulations in this part may be suspended by the Administrator for:

(1) Failure to maintain grading facilities and equipment in a satisfactory state of repair, sanitation, or cleanliness;

(2) The use of operating procedures which are not in accordance with the regulations in this part; or

(3) Alterations of grading facilities or equipment which have not been approved in accordance with the regulations in this part.

(b) Whenever it is feasible to do so, written notice in advance of a suspension shall be given to the person concerned and shall specify a reasonable period of time in which corrective action must be taken. If advance written notice is not given, the suspension action shall be promptly confirmed in writing and the reasons therefor shall be stated, except in instances where the person has already corrected the deficiency. Such service, after appropriate corrective action is taken, will be restored immediately, or as soon thereafter as a grader can be made available. During such period of suspension, grading service shall not be rendered. However, the other provisions of the regulations pertaining to providing grading service on a resident basis will remain in effect unless such service is terminated in accordance with the provisions of this part.

(c) If the grading facilities or methods of operation are not brought into compliance within a reasonable period

Agricultural Marketing Service, USDA

§ 56.35

of time as specified by the Administrator, the Administrator shall initiate withdrawal action pursuant to the Rules of Practice Governing Formal Adjudicatory Proceedings (7 CFR part 1, subpart H), and the operator shall be afforded an opportunity for an oral hearing upon written request in accordance with such Rules of Practice, with respect to the merits or validity of the withdrawal action, but any suspension shall continue in effect pending the outcome of such hearing unless otherwise ordered by the Administrator. Upon withdrawal of grading service in an official plant, the plant approval shall also become terminated and all labels, seals, tags, or packaging material bearing official identification shall, under the supervision of a person designated by the AMS, either be destroyed or the official identification completely obliterated or sealed in a manner acceptable to the AMS.

(d) In any case where grading service is withdrawn under this section, the person concerned may thereafter apply for grading service as provided in §§ 56.20 through 56.29 of these regulations.

[71 FR 42009, July 24, 2006]

§ 56.30 Application for grading service in official plants; approval.

Any person desiring to process and pack products in a plant under grading service must receive approval of such plant and facilities as an official plant prior to the rendition of such service. An application for grading service to be rendered in an official plant shall be approved according to the following procedure: When application has been filed for grading service, as aforesaid, the State supervisor or the supervisor's assistant shall examine the grading office, facilities, and equipment and specify any facility or equipment modifications needed for the service. When the plant survey has been completed and approved in accordance with the regulations in this part, service may be installed.

[71 FR 42009, July 24, 2006]

REPORTS

§ 56.31 Report of grading work.

Reports of grading work performed within official plants shall be forwarded to the Administrator by the grader in a manner as may be specified by the Administrator.

[71 FR 42010, July 24, 2006]

§ 56.32 Information to be furnished to graders.

The applicant for grading service shall furnish to the grader rendering such service such information as may be required for the purposes of this part.

[71 FR 42010, July 24, 2006]

§ 56.33 Report of violations.

Each grader shall report, in the manner prescribed by the Administrator, all violations of and noncompliance with the Act and the regulations in this part of which such grader has knowledge.

[71 FR 42010, July 24, 2006]

IDENTIFYING AND MARKING PRODUCTS

§ 56.35 Authority to use, and approval of official identification.

(a) *Authority to use official identification.* Authority to officially identify product graded pursuant to this part is granted only to applicants who make the services of a grader or quality assurance inspector available for use in accordance with this part. Packaging materials bearing official identification marks shall be approved pursuant to §§ 56.35 to 56.37, inclusive, and shall be used only for the purpose for which approved and prescribed by the Administrator. Any unauthorized use or disposition of approved labels or packaging materials which bear any official identification may result in cancellation of the approval and denial of the use of labels or packaging materials bearing official identification or denial of the benefits of the Act pursuant to the provisions of § 56.31.

(b) *Approval of official identification.* No label, container, or packaging material which bears official identification may contain any statement that