

§ 868.9

requests for retest inspection, appeal inspection, or Board appeal inspection services as set forth in these regulations.

(Approved by the Office of Management and Budget under control number 0580-0011)

§ 868.9 Provisions for hearings.

Opportunities shall be provided for hearings either in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes (7 CFR part 1, subpart H) or in accordance with FGIS procedures as appropriate.

§ 868.10 Information about the Service, Act, and regulations.

Information about the Service, Act, regulations, standards, rules of practice, instructions, and other matters related to the inspection of commodities may be obtained by telephoning or writing the U.S. Department of Agriculture, Federal Grain Inspection Service, P.O. Box 96454, Washington, DC 20090-6454, or any field office or co-operator.

§ 868.11 Public information.

(a) *General.* This section is issued in accordance with §§1.1 through 1.23 of the regulations of the Secretary in part 1, subpart A, of subtitle A of title 7 (7 CFR 1.1 through 1.23), and appendix A thereto, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by this section, govern the availability of records of the Service to the public.

(b) *Public inspection and copying.* Materials maintained by the Service, including those described in 7 CFR 1.5, will be made available, upon a request which has not been denied, for public inspection and copying at the U.S. Department of Agriculture, Federal Grain Inspection Service, 1400 Independence Avenue SW., Washington, DC 20250. The public may request access to these materials 8:00 a.m.-4:30 p.m. Monday through Friday except for holidays.

(c) *Indexes.* The Service shall maintain an index of all material required to be made available in 7 CFR 1.5. Copies of these indexes will be maintained at the location given in paragraph (b) of this section. Notice is hereby given

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that quarterly publication of these indexes is unnecessary and impracticable because the material is voluminous and does not change often enough to justify the expense of quarterly publication. However, upon specific request, copies of any index will be provided at a cost not to exceed the direct cost of duplication.

(d) *Requests for records.* Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.6 and shall be addressed as follows: Office of the Administrator, Federal Grain Inspection Service, FOIA Request, U.S. Department of Agriculture, P.O. Box 96454, Washington, DC 20090-6454.

(e) *FOIA Appeals.* Any person whose request, under paragraph (d) of this section, is denied shall have the right to appeal such denial in accordance with 7 CFR 1.13. Appeals shall be addressed to the Administrator, Federal Grain Inspection Service, FOIA Appeal, U.S. Department of Agriculture, P.O. Box 96454, Washington, DC 20090-6454.

(f) *Disclosure of information.* FGIS employees or persons acting for FGIS under the Act shall not, without the consent of the applicant, divulge or make known in any manner any facts or information acquired pursuant to the Act, regulations, or instructions except as authorized by the Administrator, by a court of competent jurisdiction, or otherwise by law.

[53 FR 3722, Feb. 9, 1988, as amended 54 FR 5923, Feb. 7, 1989. Redesignated at 60 FR 16364, Mar. 30, 1995]

§ 868.12 Identification.

All official personnel shall have in their possession and present upon request, while on duty, the means of identification furnished to them by the Department.

§ 868.13 Regulations not applicable for certain purposes.

These regulations do not apply to the inspection of grain under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) or the inspection of commodities under the United States Warehouse Act, as amended (7 U.S.C. 241 *et seq.*).

CONDITIONS FOR OBTAINING OR
WITHHOLDING SERVICE**§ 868.20 Availability of services.**

(a) *Original inspection service.* Original inspection services are available according to this section and §§ 868.40 through 868.44.

(b) *Retest inspection and appeal inspection services.* Retest inspection, appeal inspection, and Board appeal inspection services are available according to §§ 868.50 through 868.52 and §§ 868.60 through 868.63.

(c) *Proof of authorization.* A cooperator or the Service may request satisfactory proof that an applicant is an interested person or their authorized agent.

[53 FR 3722, Feb. 9, 1988. Redesignated and amended at 60 FR 16364, Mar. 30, 1995]

§ 868.21 Requirements for obtaining service.

(a) *Consent and agreement by applicant.* In submitting a request for inspection service, the applicant and the owner of the commodity consent to the requirements specified in paragraphs (b) through (j) of this section.

(b) *Written confirmation.* Verbal requests for inspection service shall be confirmed in writing upon request. Each written request shall be made in English and shall include:

- (1) The date filed;
- (2) The identification, quantity, and location of the commodity;
- (3) The type of service(s) requested;
- (4) The name and mailing address of the applicant and, if made by an authorized agent, the agent's name and mailing address; and
- (5) Any other relevant information that the official with whom the application is filed may request.

A written request or a written confirmation of a verbal request shall be signed by the applicant or a duly authorized agent.

(c) *Names and addresses of interested persons.* When requested, each applicant for inspection service shall show on the application form the name and mailing address of each known interested person.

(d) *Surrender of superseded certificates.* Superseded certificates must be promptly surrendered.

(e) *Accessibility.* (1) *Commodities.* Each commodity lot inspected shall be arranged so the entire lot may be examined or, if necessary, a representative sample, as appropriate, can be obtained. If the entire lot is not accessible for examination or a representative sample cannot be obtained, the inspection shall be restricted to an examination or sampling of the accessible portion and the results certified as stated in § 868.34.

(2) *Origin records.* When an applicant requests origin inspection, the records indicating the origin of the commodity to be inspected shall be made accessible for examination and verification by official personnel.

(f) *Plant examination.* Plant surveys shall be performed upon request. Survey results shall be reported in writing to a designated plant official. If the plant is approved as a result of the survey, inspection service may begin or continue at a time agreed upon by the plant management and the cooperator or Service. If the plant is not approved as a result of the survey, inspection service shall be conditionally withheld pursuant to the procedures in § 868.24.

(g) *Working space.* An applicant must provide adequate and separate space when inspection service is performed at a plant.

(h) *Loading and unloading conditions.* Each applicant for inspection service shall provide or arrange for suitable conditions in the—

- (1) Loading and unloading areas and the truck and railroad holding areas;
- (2) Pier or dock areas;
- (3) Deck and stowage areas of a carrier;
- (4) Other service areas; and
- (5) Equipment used in loading or unloading, processing, and handling the commodity.

Suitable conditions are those which will facilitate accurate inspection, maintain the quantity and the quality of the commodity that is to be inspected, and not be hazardous to the health and safety of official personnel as prescribed in the instructions.

(i) *Timely arrangements.* Requests for inspection service shall be made in a timely manner; otherwise, official personnel may not be available to provide