

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(d) *Surrender of superseded certificates.* Superseded certificates must be promptly surrendered.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

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the requested service. “Timely manner” shall mean not later than 2 p.m., local time, of the preceding business day.

(j) *Payment of bills.* Each applicant for inspection service shall pay bills for the service pursuant to §§ 868.90–868.92.

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§ 868.22 Withdrawal of request for inspection service by applicant.

An applicant may withdraw a request for inspection service any time before official personnel release results, either verbally or in writing. Reimbursement of expenses, if any, shall be made pursuant to § 868.26.

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§ 868.23 Dismissal of request for inspection service.

(a) *Conditions for dismissal.* (1) *General.* A cooperator or the Service shall dismiss requests for inspection service when:

(i) Performing the requested service is not practicable or possible.

(ii) The cooperator or the Service lacks authority under the Act or regulations to provide the inspection service requested or is unable to comply with the Act, regulations, standards, or instructions.

(iii) Sufficient information is not available to make an accurate determination.

(2) *Original inspection service.* A request for original inspection service shall be dismissed if an original inspection has already been performed and circumstances do not prevent a retest inspection, appeal inspection, or Board appeal inspection from being performed on the same lot.

(3) *Retest inspection service.* A request for a retest inspection service shall be dismissed by official personnel when:

(i) The factor requested was not tested during the original inspection;

(ii) The condition of the commodity has undergone a material change;

(iii) A representative file sample is not available;

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(iv) The applicant requests that a new sample be obtained;

(v) The request is for a graded commodity; or

(vi) The reasons for the retest inspection are frivolous.

(4) *Appeal inspection service.* A request for an appeal inspection service shall be dismissed by official personnel when:

(i) The scope is different from the scope of the original inspection service;

(ii) The condition of the commodity has undergone a material change;

(iii) The request specifies a file sample and a representative file sample is not available;

(iv) The applicant requests that a new sample be obtained and a new sample cannot be obtained; or

(v) The reasons for the appeal inspection are frivolous.

(5) *Board appeal inspection service.* A request for a Board appeal inspection service shall be dismissed by official personnel when:

(i) The scope is different from the scope of the original inspection service;

(ii) The condition of the commodity has undergone a material change;

(iii) A representative file sample is not available;

(iv) The applicant requests that a new sample be obtained; or

(v) The reasons for the Board appeal inspection are frivolous.

(b) *Procedure for dismissal.* The cooperator or the Service shall notify the applicant of the proposed dismissal of service. If correctable, the applicant will be afforded reasonable time to take corrective action or to demonstrate there is no basis for the dismissal. If corrective action has not been adequate, the applicant will be notified of the decision to dismiss the request for service, and any results of service shall not be released.

§ 868.24 Conditional withholding of service.

(a) *Conditional withholding.* A cooperator or the Service shall conditionally withhold service when an applicant fails to meet any requirement prescribed in § 868.21.

(b) *Procedure for withholding.* The cooperator or the Service shall notify the applicant of the reason for the proposal