

(34) *Origin*. The geographical area or place where the commodity is grown.

(35) *Original inspection service*. An initial inspection of a community.

(36) *Person*. Any individual, partnership, association, corporation, or other business entity.

(37) *Plant*. The premises, buildings, structure, and equipment (including but not limited to machines, utensils, vehicles, and fixtures located in or about the premises) used or employed in the preparation, processing, handling, transporting, and storage of commodities.

(38) *Regular workday*. Any Monday through Saturday that is not a holiday.

(39) *Regulations*. The regulations in this part.

(40) *Reimbursable agreement*. An agreement between the Service and State agencies to conduct commodity inspection services authorized pursuant to the Act.

(41) *Retest inspection service*. To test, using the same laboratory procedures, a factor(s) of nongraded commodities previously tested.

(42) *Secretary*. The Secretary of Agriculture of the United States or any person to whom the Secretary's authority has been delegated.

(43) *Service*. The Federal Grain Inspection Service of the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture.

(44) *Service representative*. An employee authorized by the Service or a person licensed by the Administrator.

(45) *Specification*. A document which clearly and accurately describes the essential and technical requirements for items, materials, or services including requested inspection procedures.

(46) *Standards*. The commodity standards in this part that describe the physical and biological condition of a commodity at the time of inspection.

(47) *Submitted sample*. A sample submitted by or for an applicant for inspection.

(48) *Test*. A procedure to measure a factor using specialized laboratory equipment involving the application of

established scientific principles and laboratory procedures.

[53 FR 3722, Feb. 9, 1988, as amended at 60 FR 5835, Jan. 31, 1995. Redesignated at 60 FR 16364, Mar. 30, 1995, and amended at 63 FR 29531, June 1, 1998]

ADMINISTRATION

§ 868.5 Administrator.

The Administrator, under the authority delegated by the Secretary, is charged with administering the programs and functions authorized under the Act and the regulations concerning those commodities assigned by the Secretary to the Service.

§ 868.6 Nondiscrimination—policy and provisions.

In implementing, administering, and enforcing the Act and the regulations, standards, and instructions, it is the policy of the Service to promote adherence to the provisions of the Civil Rights Act of 1964 (42 U.S.C. 2000a *et seq.*).

§ 868.7 Procedures for establishing regulations and standards.

Notice of proposals to prescribe, amend, or revoke regulations and standards shall be published in accordance with applicable provisions of the Administrative Procedures Act (5 U.S.C. 551 *et seq.*). Any interested person desiring to file a petition for the issuance, amendment, or revocation of regulations or standards may do so in accordance with 7 CFR 1.28 of the regulations of the Office of the Secretary of Agriculture.

§ 868.8 Complaints and reports of alleged violations.

(a) *General*. Except as provided in paragraph (b) of this section, complaints and reports of violations involving the Act or the regulations, standards, and instructions issued under the Act should be filed with the Service in accordance with 7 CFR 1.133 of the regulations of the Office of the Secretary of Agriculture and these regulations and the instructions.

(b) *Retest inspection and appeal inspection service*. Complaints involving the results of inspection services shall, to the extent practicable, be submitted as

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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.*).