

§ 868.24

§ 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 to conditionally withhold service. The applicant will then be afforded reasonable time to take corrective action or to demonstrate that there is no basis for withholding service. If corrective action has not been adequate, the applicant will be notified of the decision to withhold service; and any results of service shall not be released.

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

§ 868.25 Denial or withdrawal of service.

(a) *General.* Service may be denied or withdrawn because of (1) any willful violation of the Act, regulations, standards, or instructions or (2) any interference with or obstruction of any official personnel in the performance of their duties by intimidation, threat, assault, or any other improper means.

(b) The Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes (7 CFR part 1, subpart H) shall be followed in the denial or withdrawal of service.

§ 868.26 Expenses of the cooperator or the Service.

For any request that has been withdrawn, dismissed, or withheld under §§ 868.22, 868.23, or 868.24, respectively, each applicant shall pay expenses incurred by the cooperator or the Service.

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

INSPECTION METHODS AND PROCEDURES

§ 868.30 Methods and order of performing inspection service.

(a) *Methods—(1) General.* All sampling and inspection services performed by official personnel shall be made in ac-

cordance with the regulations, standards, and the instructions.

(2) *Lot inspection service.* A lot inspection service shall be based on official personnel obtaining representative samples, examining the commodity in the entire lot, and making an accurate analysis of the commodity on the basis of the samples.

(3) *Submitted sample inspection service.* A submitted sample inspection service shall be based on a submitted sample of sufficient size to enable official personnel to perform an accurate, complete analysis. The sample size will be prescribed in the instructions. If a complete analysis cannot be performed because of an inadequate sample size or other conditions, the request shall be dismissed or a factor only inspection may be performed upon request.

(b) *Order of service.* Inspection services shall be performed, to the extent practicable, in the order in which requests for service are received.

(c) *Recording receipt of documents.* Each document submitted by or on behalf of an applicant for inspection service shall be promptly stamped or similarly marked by official personnel to show the date of receipt.

(d) *Conflicts of interest.* (1) Official personnel shall not perform or participate in performing an inspection service on a commodity or a carrier or container in which the official personnel have a direct or indirect financial interest.

(2) Official personnel shall not perform, participate in performing, or issue a certificate if the official personnel participated in a previous inspection or certification of the lot unless there is only one authorized person available at the time and place of the requested inspection service.

§ 868.31 Kinds of inspection services.

(a) *General.* The inspection of commodities shall be according to the—

(1) Standards of class, grade, other quality designation, quantity, or condition for such commodities promulgated by the Administrator; or

(2) Specifications prescribed by Federal agencies; or

(3) Specifications of trade associations or organizations; or