

for the purposes by the Director, or his representatives.

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PART 62—LIVESTOCK, MEAT, AND OTHER AGRICULTURAL COMMODITIES (QUALITY SYSTEMS VERIFICATION PROGRAMS)

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Subpart A—Quality Systems Verification Programs Definitions

§ 62.000 Meaning of terms.

Words used in this subpart in the singular form shall be deemed to impart the plural, and vice versa, as the case may demand. For the purposes of such regulations, unless the context other-

wise requires, the following terms shall be construed, respectively, to mean:

Administrator. The Administrator of the Agricultural Marketing Service (AMS), or any officer or employee of AMS to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in the Administrator's stead.

Agricultural Marketing Service. The Agricultural Marketing Service of the U.S. Department of Agriculture.

Applicant. Any individual or business with financial interest in QSVP services who has applied for service under this part.

Assessment. A systematic review of the adequacy of program or system documentation, or the review of the completeness of implementation of a documented program or system.

Auditor. Person authorized by the Livestock and Seed Program to conduct official assessments.

Branch. The Audit, Review, and Compliance Branch of the Livestock and Seed Program.

Chief. The Chief of the ARC Branch, or any officer or employee of the Branch to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Chief's stead.

Conformance. A user's quality manual and supporting documentation.

Deputy Administrator. The Deputy Administrator of the Livestock and Seed Program, or any officer or employee of the Livestock and Seed Program to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Deputy Administrator's stead.

Financially interested person. Any individual, partnership, corporation, other legal entity, or Government agency having a financial interest in the involved product or service.

Livestock. Bovine, ovine, porcine, caprine, bison or class of Osteichthyes.

Official mark. Official mark or other official identification means any form of mark or other identification, used under the regulations to show the conformance of products with applicable program requirements, or to maintain the identity of products for which service is provided under the regulations.

Official memoranda or assessment reports. Official memorandum means any assessment report of initial or final record of findings made by an authorized person of services performed pursuant to the regulations.

Products. Includes all agricultural commodities and services within the scope of the Livestock and Seed Program. This includes livestock, meat, meat products, seed, feedstuffs, as well as processes involving the production of these products, agricultural product data storage, product traceability and identification.

QSVP Procedures. Audit rules and guidelines set forth by the Agricultural Marketing Service regarding the development, documentation, and implementation of QSVP.

Quality Manual. A collection of documents that describe the applicant's quality management system, as it applies to the requested service.

Quality Systems Verification Programs (QSVP). A collection of voluntary, audit-based, user-fee programs that allow applicants to have program documentation and program processes assessed by AMS auditor(s) and other USDA officials under this part.

Regulations. The regulations in this part.

USDA. The U.S. Department of Agriculture.

ADMINISTRATION

§ 62.100 Administrator.

The LS Program Deputy Administrator is charged with the administration of official assessments conducted according to the regulations in this part and approved LS Program QSVP procedures.

SERVICE

§ 62.200 Services.

QSVP, under this regulation, provide applicants, the ability to have USDA assess documented processes or systems.

(a) Assessment services provided under the regulations shall consist of:

(1) A review of the adequacy of an applicant's quality manual against LS Program QSVP procedures, internationally recognized guidelines, or

other requirements as approved by the LS Program;

(2) An onsite assessment of the applicant's program to ensure implementation of provisions within the quality manual and the applicant's conformance with applicable program requirements and LS Program QSVP procedures; and

(3) A reassessment of the applicant's program to ensure continued implementation of provisions within the quality manual and the applicant's conformance with program requirements and applicable LS Program QSVP procedures;

(b) Developmental assistance in the form of training to explain LS Program QSVP procedures is available upon request.

§ 62.201 Availability of service.

QSVP services under these regulations are available to international and domestic government agencies, private agricultural businesses and any financially interested person.

§ 62.202 How to apply for service.

Applicants may apply for QSVP services by submitting the following information to the ARC Branch headquarters office at USDA, AMS, LSP, ARC Branch, 1400 Independence Avenue, SW., STOP 0294, Room 2627-S, Washington, DC 20250-0294; by fax to: (202) 690-1038, or e-mail to: ARCBranch@usda.gov.

(a) The original completed form LS-313, Application for Service;

(b) A letter requesting QSVP services; and

(c) A complete copy of the applicant's program documentation, as described in the LS Program QSVP procedures.

§ 62.203 How to withdraw service.

Service may be withdrawn by the applicant at any time; provided that, the applicant notifies the ARC Branch in writing of his/her desire to withdraw the application for service and pays any expenses the Department has incurred in connection with such application.

§ 62.204 Authority to request service.

Any person requesting service may be required to prove his/her financial interest in the product or service at the discretion of the Deputy Administrator.

§ 62.205 Conflict of interest.

No USDA official shall review any program documentation or determine conformance of any documented process or system in which the USDA official has financial holdings.

§ 62.206 Access to program documents and activities.

(a) The applicant shall make its products and program documentation available and easily accessible for assessment, with respect to the requested service. Auditors and other USDA officials responsible for maintaining uniformity and accuracy of service under the regulations shall have access to all parts of facilities covered by approved applications for service under the regulations, during normal business hours or during periods of production, for the purpose of evaluating products or processes. This includes products in facilities which have been or are to be examined for program conformance or which bear any official marks of conformance. This further includes any facilities or operation that is part of an approved program.

(b) Documentation and records relating to an applicant's program must be retained for at least one calendar year following the calendar year during which the record was created.

§ 62.207 Official assessment.

Official assessment of an applicant's program shall include:

(a) *Documentation assessment.* Auditors and other USDA officials shall review the applicant's program documentation and issue finding of the review to the applicant.

(b) *Program assessment.* Auditors and USDA officials shall conduct an onsite assessment of the applicant's program to ensure provisions of the applicant's program documentation have been implemented and conform to LS Program QSVP procedures.

(c) *Program Determination.* Applicant's determined to meet or not meet LS

Program QSVP procedures or the applicant's program requirements shall be notified of their program's approval or disapproval.

(d) *Corrective and/or preventative actions.* Applicants may be required to implement corrective and/or preventative actions upon completion of assessment. After implementation of corrective and/or preventative actions, the applicant may request another assessment.

§ 62.208 Publication of QSVP assessment status.

Approved programs shall be posted for public reference on the ARC Branch Web site: <http://www.ams.usda.gov/lsg/arc/audit.htm>. Such postings shall include:

(a) Program name and contact information,

(b) Products or services covered under the scope of approval,

(c) Effective dates of approval, and

(d) Control numbers of official assessments, as appropriate, and

(e) Any other information deemed necessary by the Branch Chief.

§ 62.209 Reassessment.

Approved programs are subject to periodic reassessments to ensure ongoing conformance with the LS Program QSVP procedures covered under the scope of approval. The frequency of reassessments shall be based on the LS Program QSVP procedures, or as determined by the Deputy Administrator.

§ 62.210 Denial, suspension, or cancellation of service.

(a) QSVP services may be denied if an applicant fails to meet its program requirements, or conform to LS Program QSVP procedures, such as:

(1) Adequately address any program requirement resulting in a major non-conformance or an accumulation of minor non-conformances that result in the assignment of a major non-conformance for the program.

(2) Demonstrate capability to meet any program requirement resulting in a major non-conformance.

(3) Present truthful and accurate information to any auditor or other USDA official; or

(4) Allow access to facilities and records within the scope of the program.

(b) QSVP services may be suspended if the applicant fails to meet its program requirements, or conform to LS Program QSVP procedures; such as failure to:

(1) Adequately address any program requirement resulting in a major non-conformance;

(2) Demonstrate capability to meet any program requirement resulting in a major non-conformance;

(3) Follow and maintain its approved program or QSVP procedures;

(4) Provide corrective actions and correction as applicable in the time-frame specified;

(5) Submit significant changes to and seek approval from the Chief prior to implementation of significant changes to an approved program;

(6) Allow access to facilities and records within the scope of the approved program;

(7) Accurately represent the eligibility of agricultural products or services distributed under an approved program;

(8) Remit payment for QSVP services;

(9) Abstain from any fraudulent or deceptive practice in connection with any application or request for service under the rule; or

(10) Allow any auditor or other USDA official to perform their duties under the regulations of this part.

(c) QSVP services maybe be cancelled, an application may be rejected, or program assessment may be terminated if the Deputy Administrator or his designee determines that a non-conformance has remained uncorrected beyond a reasonable amount of time.

§62.211 Appeals.

Appeals of adverse decisions under this part, may be made in writing to the Livestock and Seed Program Deputy Administrator at STOP 0249, Room 2092-South, 1400 Independence Avenue, SW., Washington, D.C. 20250-0249. Appeals must be made within 30 days of receipt of adverse decision.

(a) *Procedure for Appeals.* Actions under this subparagraph concerning decision of appeals of the Deputy Admin-

istrator shall be conducted in accordance with the Rule of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth at 7 CFR §1.130 through §1.151 and the Supplemental Rules of Practice in 7 CFR part 50.

(b) [Reserved]

§62.212 Official assessment reports.

Official QSVP assessment reports shall be generated by the auditor at the conclusion of each assessment and a copy shall be provided to the applicant.

§62.213 Official identification.

The following, as shown in figure 1, constitutes official identification to show product or services produced under an approved USDA, Process Verified Program (PVP):

Figure 1.



(a) Products or services produced under an approved USDA, PVP may use the "USDA Process Verified" statement and the "USDA Process Verified" shield, so long as, both the statement and shield are used in direct association with a clear description of the process verified points that have been approved by the Branch.

(b) Use of the "USDA Process Verified" statement and the "USDA Process Verified" shield shall be approved in writing by Chief prior to use by an applicant.

CHARGES FOR SERVICE

§62.300 Fees and other costs for service.

Fees and other charges will be levied based on the following provisions:

§ 62.301

(a) *Fees for service.* Fees for QSVP services shall be based on the time required to provide service calculated to the nearest quarter hour period, including, but not limited to, official assessment time, travel time, and time required to prepare assessment reports. The hourly fee rate shall be \$108 per hour.

(b) *Transportation costs.* Applicants are responsible for paying actual travel costs incurred to provide QSVP services including but not limited to: Mileage charges for use of privately owned vehicles, rental vehicles and gas, parking, tolls, and public transportation costs such as airfare, train, and taxi service.

(c) *Per diem costs.* The applicant is responsible for paying per diem costs incurred to provide QSVP services away from the auditor's or USDA officials' official duty station(s). Per diem costs shall be calculated in accordance with existing travel regulations (41 CFR, subtitle F—Federal Travel Regulation System, chapter 301).

(d) *Other costs.* When costs, other than those costs specified in paragraphs (a), (b), and (c) of this section, are involved in providing the QSVP services, the applicant shall be responsible for these costs. The amount of these costs shall be determined administratively by the Chief. However, the applicant will be notified of these costs before the service is rendered.

§ 62.301 Payment of fees and other charges.

Fees and other charges for QSVP services shall be paid in accordance with the following provisions. Upon receipt of billing for fees and other charges, the applicant shall remit payment within 10 business days by check, electronic funds transfer, draft, or money order made payable to USDA, AMS, in accordance with directions on the billing. Fees and charges shall be paid in advance if required by the auditor or other authorized USDA official.

MISCELLANEOUS

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PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

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