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§ 37.4 How to apply for service.

(a) *Application.* Any organic certifying agency may apply to the Branch Chief, Meat Grading and Certification (MGC) Branch, Livestock and Seed (LS) Program, AMS, P.O. Box 96456, Room 2628-South, Washington, DC, 20090-6456 for assessment service. The application shall be made on Form LS-314, Application for Service. The applicant shall provide the following:

(1) The name and address of the establishment at which service is desired;

(2) The name and post office address of the applicant;

(3) The financial interest of the applicant in the program, except where application is made by an official of a State Government agency in their official capacity;

(4) The type of business and services provided;

(5) The type of commodity certified; and

(6) the signature of the applicant (or the signature and title of his representative). The application shall indicate the status of the applicant as an individual, partnership, corporation, or other form of entity. Any change in such status, at any time while service is being received, shall be promptly reported to the Department by the person receiving the service.

(b) *Notice of eligibility for service.* The applicant will be notified whether its application is approved, and the request for service deemed made under the regulations. Upon approval of a request for service, the applicant shall provide a copy of its quality manual.

(c) Applicants requiring additional assessment audits who have already submitted Form LS-314 are not required to submit an additional Form LS-314: *Provided that*, the required information on the original Form LS-314 remains unchanged.

§ 37.5 Order of furnishing service.

Service under the regulations shall be furnished to applicants in the order in which requests for service therefore are received, insofar as consistent with good management, efficiency, and economy.

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§ 37.6 When application may be withdrawn.

An application or a request for service may be withdrawn by the applicant at any time before the application is approved or prior to performance of service: provided that, the applicant shall pay any expenses which have been incurred by the Department in connection with such application.

§ 37.7 Authority to request service.

Proof of the interest of an applicant involved in the request for service, or of the authority of any person applying for the service on behalf of another may be required, at the discretion of the reviewing official.

§ 37.8 Financial interest of official.

No auditor or other Department official shall review any programs or documents concerning a certification program in which the official is directly or indirectly financially interested.

§ 37.9 Access to establishments or records; record retention.

The applicant shall cause records and documents, with respect to which service is requested, to be made easily accessible for examination. Supervisors and other employees of the Department responsible for maintaining uniformity and accuracy of service shall have access to all parts of establishments covered by approved applications for service under the regulations, during normal business hours or during periods of production, for the purpose of evaluating systems or processes associated with an approved certification program. Records and documents shall be retained for at least 5 years beyond the date of the applicant's request for service.

§ 37.10 Official assessment.

Official assessment of an applicant's certification program shall be granted upon successful completion of a two-step review process, as provided for in § 37.2.

(a) *Documentation approval.* Documentation approval will be provided by the Branch Chief regarding the adequacy of an applicant's quality manual

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with respect to ISO Guide 65 requirements upon completion of an adequacy audit by the auditors.

(b) *Program assessment.* Assessment of a certification program will be issued by the Branch Chief by written memorandum or other approved method of assessment upon successful completion of an onsite audit conducted by the auditors of an applicant's organic certification program ensuring that the provisions of the applicant's quality manual have been implemented and that the applicant's certification program complies with the requirements of ISO Guide 65.

(c) *Disapproval and corrections.* An applicant determined not to meet applicable assessment requirements shall be provided by the Branch Chief with a written summary of observed program deficiencies. The applicant may appeal such a determination in accordance with the provisions of § 37.13 or implement required corrective action. After completion of the corrective action, the applicant may contact the Branch Chief to schedule another audit for assessment.

§ 37.11 Publication of program assessment status.

(a) The names of assessed certifying agencies shall be posted for public reference on the Livestock and Seed Program's website at: <http://www.ams.usda.gov/lsg/>. Such postings shall include: certifier's name and contact information; referenced specification or standard(s) covered under the scope of assessment; effective date of assessment; and control number(s) of official certificate(s), as applicable.

(b) The names of assessed certifying agencies posted on the Livestock and Seed Program's website may be removed from the website upon suspension or termination of assessment for noncompliance with the regulations pursuant to § 37.13.

§ 37.12 Reassessment.

Approved certification programs shall be subject to periodic reassessment to ensure ongoing compliance with the regulations, including the requirements of ISO Guide 65. The frequency of such reassessment shall be based on the relative risk associated

with the certification program's integrity, as determined by the Branch Chief.

§ 37.13 Suspension or denial of program assessment; appeals and termination.

(a) *Suspension or denial of assessment.* When a review of a certification program by auditors finds noncompliance with the regulations, including the requirements of ISO Guide 65, the Branch Chief may suspend or deny assessment until subsequent audits show the noncompliance has been corrected.

(b) *Appeals.* Appeals of adverse decisions by an auditor or the Branch Chief may be made in writing to the Livestock and Seed Program Deputy Administrator at Room 2092-South, 1400 Independence Avenue, SW., Washington, DC 20250-0249.

(c) *Termination.* If noncompliance with the regulations remains uncorrected beyond a reasonable amount of time, as determined by the Livestock and Seed Program Deputy Administrator, an application may be rejected or program assessment terminated.

(1) *Procedure.* Actions under this subparagraph concerning rejection of an application or termination of assessment shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth in §§ 1.130 through 1.151 of this title.

(2) [Reserved]

§ 37.14 Fees and other charges.

Fees and other charges equal as nearly as may be to the cost of the assessment services rendered under the regulations, including reassessments, shall be assessed and collected from applicants in accordance with the following provisions.

(a) *Fees for Service.* Except as otherwise provided in this section, fees-for-service shall be based on the time required to render the service provided calculated to the nearest 15-minute period, including auditor's travel, review and approval of quality manual, the conduct of the onsite audit, and time required to prepare reports and any other documents in connection with the performance of service. The base