

Agricultural Marketing Service, USDA

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period and consideration of such argument and evidence, the Secretary will take such action as deemed appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 7 days, the license to perform grading service is revoked.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 71 FR 42012, July 24, 2006]

§ 70.22 Surrender of license.

Each license which is suspended or revoked shall immediately be surrendered by the licensee to the office of grading servicing the area in which the license is located.

[71 FR 42012, July 24, 2006]

§ 70.23 Identification.

Graders shall have in their possession at all times, and present upon request while on duty, the means of identification furnished to them by the Department.

[71 FR 42013, July 24, 2006]

§ 70.24 Financial interest of graders.

Graders shall not render service on any product in which they are financially interested.

[71 FR 42013, July 24, 2006]

§ 70.25 Political activity.

Federal graders may participate in certain political activities, including management and participation in political campaigns in accordance with AMS policy. Graders are subject to these rules while they are on leave with or without pay, including furlough; however, the rules do not apply to cooperative employees not under Federal supervision and intermittent employees on the days they perform no service. Willful violations of the political activity rules will constitute grounds for removal from the AMS.

[71 FR 42013, July 24, 2006]

§ 70.26 Cancellation of license.

Upon termination of the services of a licensed grader, the grader's license

shall be immediately surrendered for cancellation.

[71 FR 42013, July 24, 2006]

APPLICATION FOR GRADING SERVICE

§ 70.30 Who may obtain grading service.

An application for grading service may be made by any interested person, including, but not being limited to any authorized agent of the United States, any State, county, municipality, or common carrier.

[71 FR 42013, July 24, 2006]

§ 70.31 How application for service may be made; conditions of service.

(a) *Noncontinuous grading service on a fee basis.* An application for any noncontinuous grading service on a fee basis shall be made in any office of grading or with any grader at or nearest the place where the service is desired. Such application may be made orally (in person or by telephone), in writing, or by any electronic means. If the application for grading service is made orally, the office of grading or the grader with whom such application is made or the Administrator may require that the application be confirmed in writing.

(b) *Continuous grading service on a resident basis or continuous grading service on a nonresident basis.* An application for continuous grading service on a resident basis or for continuous grading service on a nonresident basis must be made in writing on forms approved by the Administrator and filed with the Administrator. Such forms may be obtained at the national, regional, or State grading office. In making application, the applicant agrees to comply with the terms and conditions of the regulations (including, but not being limited to, such instructions governing grading of products as may be issued from time to time by the Administrator). No member of or Delegate to Congress or Resident Commissioner shall be admitted to any benefit that

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may arise from such service unless derived through service rendered a corporation for its general benefit.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 71 FR 42013, July 24, 2006]

§ 70.32 Filing of application.

An application for grading service shall be regarded as filed only when made pursuant to the regulations in this part.

§ 70.33 Authority of applicant.

Proof of the authority of any person applying for grading service may be required at the discretion of the Administrator.

§ 70.34 Application for grading service in official plants; approval.

Any person desiring to process and pack products in a plant under grading service must receive approval of such plant and facilities as an official plant prior to the rendition of such service. An application for grading service to be rendered in an official plant shall be approved according to the following procedure: *Survey*. When application has been filed for grading service, as aforesaid, the State supervisor or the supervisor's assistant shall examine the grading office, facilities, and equipment and specify any additional facilities or equipment needed for the service. When the plant survey for poultry or rabbit grading has been completed and approved in accordance with the regulations in this part, service may be installed.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 71 FR 42013, July 24, 2006]

§ 70.35 Rejection of application.

(a) Any application for grading service may be rejected by the Administrator:

(1) Whenever the applicant fails to meet the requirements of the regulations prescribing the conditions under which the service is made available;

(2) Whenever the product is owned by or located on the premises of a person currently denied the benefits of the Act;

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(3) Where any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant, is currently denied the benefits of the Act, or was responsible in whole or in part for the current denial of the benefits of the Act to any person;

(4) Where the Administrator determines that the application is an attempt on the part of a person currently denied the benefits of the Act to obtain grading service;

(5) Whenever the applicant, after an initial survey has been made in accordance with § 70.34, fails to bring the grading facilities and equipment into compliance with the regulations within a reasonable period of time; or

(6) Notwithstanding any prior approval whenever, before inauguration of service, the applicant fails to fulfill commitments concerning the inauguration of the service.

(7) When it appears that to perform the services specified in this part would not be to the best interests of the public welfare or of the Government;

(8) When it appears to the Administrator that prior commitments of the Department necessitate rejection of the application.

(b) Each such applicant shall be promptly notified by registered mail of the reasons for the rejection. A written petition for reconsideration of such rejection may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after receipt of notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant by registered mail of the reasons for the rejection thereof.

[71 FR 42013, July 24, 2006]

§ 70.36 Withdrawal of application.

An application for grading service may be withdrawn by the applicant at any time before the service is performed upon payment by the applicant,