

Agricultural Marketing Service, USDA

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the concurrence of the Director or Chief: (1) For administrative reasons such as the nonavailability of personnel to perform the service; (2) for the failure to pay for service; (3) for other noncompliance with the conditions on which service is available as provided in the regulations, except matters covered by paragraph (a) of this section; or (4) in case the person is a partnership, corporation, or other person from whom the benefits of the service are currently being withheld under paragraph (a) of this section. Notice of such denial or withdrawal, and the reasons therefor, shall promptly be given to the person involved.

(c) *Filing of records.* The final orders in formal proceedings under paragraph (a) of this section to deny or withdraw the service under the regulations (except orders required for good cause to be held confidential and not cited as precedents) and other records in such proceedings (except those required for good cause to be held confidential) shall be filed with the Hearing Clerk and shall be available for inspection by persons having a proper interest therein.

[42 FR 53902, Oct. 4, 1977, as amended at 60 FR 8464, Feb. 14, 1995]

§ 53.14 Financial interest of official grader.

No official grader shall grade or determine compliance of any livestock in which he or any of his relatives by blood or marriage is directly or indirectly financially interested.

§ 53.15 Accessibility to livestock.

(a) The applicant shall cause livestock, with respect to which service is requested, to be made easily accessible for examination and to be so placed, with adequate illuminating facilities, as to disclose their class, grade, other quality, and compliance. Supervisors and other employees of the Department responsible for maintaining uniformity and accuracy of service under the regulations shall have access to all parts of establishments covered by approved applications for service under the regulations, for the purpose of examining all livestock in the establishments which have been or are to be graded or exam-

ined for compliance with specifications.

(b) [Reserved]

§ 53.16 Official certificates.

(a) *Required; exception.* The official grader shall prepare, sign, and issue a livestock acceptance certificate covering livestock for which compliance has been determined.

(b) Where weight is certified, the word "Not" shall be deleted from the phrases "Weights Not Verified."

(c) *Distribution.* The original certificate, and not to exceed two copies, shall be delivered or mailed to the applicant or other person designated by him. The remaining copies shall be forwarded as required by agency, division, and branch instructions. Additional copies will be furnished to any person financially interested in livestock involved with the concurrence of the applicant and upon payment of fees, as provided in § 53.18(d).

§ 53.17 Advance information concerning service rendered.

Upon request of any applicant, all or any part of the contents of any certificate issued to him under the regulations, or other notification concerning the determination of class, grade, other quality, or compliance of livestock for such applicant may be transmitted by telegraph or telephone to him, or to any person designated by him, at his expense.

CHARGES FOR SERVICE

§ 53.18 Fees and other charges for service.

Fees and other charges equal as nearly as may be to the cost of the services rendered shall be assessed and collected from applicants in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the services are furnished, or as provided in § 53.8.

(a) *Fees based on hourly rates.* Except as otherwise provided in this section, fees for service shall be based on the time required to render the service, calculated to the nearest 15-minute period, including time required for the preparation of certificates and travel of the official grader in connection

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with the performance of service. A minimum charge for 1 hour shall be made for service pursuant to each request notwithstanding that the time required to perform service may be less than 60 minutes. The base hourly rate shall be \$29.40 per hour for work performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except on legal holidays; \$32.80 per hour for work performed before 6 a.m. or after 6 p.m., Monday through Friday, and anytime Saturday or Sunday except on legal holidays; and \$58.80 per hour for all work performed on legal holidays.

(b) *Travel charges.* When service is requested at a place so distant from an official grader's headquarters, or place of prior assignment on a circuitous routing that a total of one-half hour or more is required for the grader to travel to such place and back to the headquarters, or to the next place of assignment on a circuitous routing, the charge for such service shall include a mileage charge administratively determined by the Chief, and travel tolls, if applicable, for such travel prorated against all the applicants furnished the service involved on an equitable basis, or where the travel is made by public transportation (including hired vehicle), a fee equal to the actual cost thereof. However, the applicant will not be charged a new mileage rate without notification before the service is rendered.

(c) *Per diem charges.* When service is requested at a place away from the official grader's headquarters, the fee for such service shall include a per diem charge if the employee performing the service is paid per diem in accordance with existing travel regulations. Per diem charges to applicants will cover the same period of time for which the grader receives per diem reimbursement. The per diem rate will be administratively determined by the Chief. However, the applicant will not be charged a new per diem rate without notification before the service is rendered.

(d) *Fees for extra copies of certificates.* In addition to copies of certificates furnished under § 53.16, any financially interested person may obtain not to exceed three copies of any such certificate within 1 year from its date of

issuance upon payment of a fee of \$1.00, and not to exceed three copies of any such certificate at any time thereafter, while a copy of such certificate is on file in the Department, upon payment of a fee of \$5.00.

(e) *Other charges.* When costs, other than costs specified in paragraphs (a), (b), (c), and (d) of this section, are involved in providing the services, the applicant will be charged for these costs. The amount of these charges will be determined administratively by the Chief. However, the applicant will not be charged for such cost without notification before the service is rendered of the charge for such item of expense.

[42 FR 53902, Oct. 4, 1977, as amended at 47 FR 54927, Dec. 7, 1982; 48 FR 16874, Apr. 20, 1983]

§ 53.19 Payment of fees and other charges.

Fees and other charges for service shall be paid in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the service is furnished. Upon receipt of billing for fees and other charges for service the applicant shall remit by check, draft, or money order, made payable to the Agricultural Marketing Service, U.S.D.A., payment for the service in accordance with directions on the billing, and such fees and charges shall be paid in advance if required by the official grader or other authorized official.

MISCELLANEOUS

§ 53.20 Identification.

All official graders and supervisors shall have their Agricultural Marketing Service identification cards in their possession at all times while they are performing any function under the regulations and shall identify themselves by such cards upon request.

§ 53.21 Errors in service.

When an official grader, supervisor, or other responsible employee of the Branch has evidence of misgrading, or of incorrect certification or other incorrect determination or identification as to the class, grade, other quality, or compliance of livestock, he shall report the matter to his immediate supervisor. The supervisor will investigate