

§ 800.50 Refusal of official services and civil penalties.

(a) *Grounds for refusal.* Any or all services available to an applicant under the Act may be refused, either temporarily or indefinitely, by the Service for causes prescribed in section 10(a) of the Act. Such refusal by the Service may be restricted to the particular facility or applicant (if not a facility) found in violation or to a particular type of service, as the facts may warrant. Such action may be in addition to, or in lieu of, criminal penalties or other remedial action authorized by the Act.

(b) *Provision and procedure for summary refusal.* The Service may, without first affording the applicant (hereafter in this section "respondent") a hearing, refuse to provide official inspection and Class X or Y weighing services pending final determination of the proceeding whenever the Service has reason to believe there is cause, as prescribed in section 10 of the Act, for refusing such official services and considers such action to be in the best interest of the official services system under the Act: *Provided that* within 7 days after refusal of such service, the Service shall afford the respondent an opportunity for a hearing as provided under paragraph (c)(2) of this section. Pending final determination, the Service may terminate the temporary refusal if alternative managerial, staffing, financial, or operational arrangements satisfactory to the Service can be and are made by the respondent.

(c) *Procedure for other than summary refusal.* Except as provided in paragraph (b) of this section, before the Service refuses to provide official services the respondent shall be (1) notified of the services that are to be refused, the locations at which and the time period for which service will be refused, and the reasons for the refusal; and (2) afforded an opportunity for a hearing in accordance with the provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 CFR 1.130 *et seq.*). At the discretion of the Service, prior to initiation of formal adjudicatory proceedings, the respondent may be given an opportunity to express his or her

views on the action proposed by the Service in an informal conference before the Administrator of the Service. If, as a result of such an informal conference, the Service and the respondent enter into a consent agreement, no formal adjudicatory proceedings shall be initiated.

(d) *Assessment of civil penalties.* Any person who has knowingly committed any violation of section 13 of the Act or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain may be assessed a civil penalty not to exceed \$75,000 for each such violation as the Administrator determines is appropriate to effect compliance with the Act. Such action may be in addition to, or in lieu of, criminal penalties under section 14 of the Act, or in addition to, or in lieu of, the refusal of official services authorized by the Act.

(e) *Provisions for civil penalty hearings.* Before a civil penalty is assessed against any person, such person shall be afforded an opportunity for a hearing as provided under paragraph (c)(2) of this section.

(f) *Collection of civil penalties.* Upon failure to pay the civil penalty, the Service may request the Attorney General to file civil action to collect the penalty in a court of appropriate jurisdiction.

[45 FR 15810, Mar. 11, 1980, as amended at 51 FR 12830, Apr. 16, 1986]

§ 800.51 Expenses of agency, field office, or Board of Appeals and Review.

For any request that has been dismissed or withdrawn under § 800.47, § 800.48, or § 800.49, respectively, each applicant shall pay expenses incurred by the agency or the Service.

(Secs. 8, 9, 10, 13 and 18, Pub. L. 94-582, 90 Stat. 2870, 2875, 2877, 2880, and 2884, 7 U.S.C. 79, 79a, 79b, 84, 87, and 87e)

[49 FR 30915, Aug. 2, 1984]

§ 800.52 Official services not to be denied.

Subject to the provisions of §§ 800.48, 800.49, and 800.50, no person entitled to official services under the Act shall be denied or deprived of the right thereto