

§61.104

that are fermented or hot, or that upon analysis are found to contain 12.5 percent or more of free fatty acids in the oil in the seed, or more than 10.0 percent of foreign matter, or more than 20.0 percent of moisture, or more than 25.0 percent of moisture and foreign matter combined, shall be designated as "off quality cottonseed."

(d) *Below grade cottonseed.* Cottonseed the grade of which when calculated according to §61.101 is below grade 40.0 shall be designated as "below grade cottonseed," and a numerical grade shall not be indicated.

§61.104 Sampling and certification of samples and grades.

The drawing, preparation, and certification of samples of cottonseed, and certification of grades of cottonseed shall be performed in accordance with methods approved from time to time for the purposes by the Director, or his representatives.

[22 FR 10948, Dec. 28, 1957, as amended at 58 FR 42413, Aug. 9, 1993]

PART 62—AGRICULTURAL MARKETING SERVICE AUDIT VERIFICATION AND ACCREDITATION PROGRAMS (AVAAP)

Subpart A—Definitions

Sec. 62.000 Meaning of terms.

Subpart B—Administration

62.100 Administrator.

Subpart C—Audit and Accreditation Services

62.200 Services.

Subpart D—Administrative Provisions

- 62.201 Availability of service.
62.202 How to apply for service.
62.203 How to withdraw service.
62.204 Authority to request service.
62.205 [Reserved]
62.206 Access to program documents and activities.
62.207 Official assessment.
62.208 Publication of assessment status.
62.209 [Reserved]
62.210 Denial, suspension, cancellation or rejection of service.
62.211 Appeals.

7 CFR Ch. I (1-1-23 Edition)

- 62.212 [Reserved]
62.213 Official identification.
62.214 Voluntary participation.

Subpart E—Fees

- 62.300 Fees and other costs of service.
62.301 Payment of fees and other charges.

Subpart F—OMB control number

62.400 OMB control number assigned pursuant to the Paperwork Reduction Act.

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Subpart A—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 otherwise requires, the following terms shall be construed, respectively, to mean:

Accreditation. The action or process of officially recognizing an entity as being qualified to perform a specific activity(ies).

Act. The Agricultural Marketing Act of 1946, as amended (AMA) (7 U.S.C. 1621-1627).

Administrator. The Administrator of the Agricultural Marketing Service, 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 (AMS) of the U.S. Department of Agriculture.

Applicant. Any individual, commodity board, trade association, marketing order or agreement administrative body and its program signatories, or business with a financial interest in audit verification and accreditation services who has applied for service under this part.

Assessment. A systematic review of the adequacy and implementation of a documented program or system.

Audit. A systematic, independent, and documented process for obtaining evidence and evaluating it objectively to determine the extent to which criteria are fulfilled.

Agricultural Marketing Service, USDA

§ 62.200

Auditor. Person authorized by AMS to conduct official audits or assessments.

Conformance. The condition or fact of an applicant meeting the requirements of a standard, contract, specification, or other documented service requirements.

Export certificate. An official paper or electronic document issued as part of an export certification program, which describes and attests to attributes of consignments of commodities or food destined for international trade.

Nonconformance. The condition or fact of an applicant not meeting the requirements of a standard, contract, specification, or other documented service program requirements.

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

Products. All agricultural commodities and services within the scope of Agricultural Marketing Act of 1946. This includes the processes involving the production, handling, processing, packaging, and transportation of these products, agricultural product data storage, and product traceability and identification.

Program. Any and all individual auditing or accrediting procedures, systems, or instructions developed and administered under the services authorized under § 62.200.

Service. The AMS auditing and accreditation functions authorized under the Act and the provisions of this part.

Service documentation. All requirements, guidelines, manuals, forms, and supporting documentation needed to effectuate the administration and operation of services authorized under this part.

USDA. The U.S. Department of Agriculture.

Subpart B—Administration

§ 62.100 Administrator.

The Administrator is charged with the administration of official assessments conducted according to the regu-

lations in this part and approved program procedures.

Subpart C—Audit and Accreditation Services

§ 62.200 Services.

Services shall be based upon the authorities under the Act and applicable standards prescribed by USDA, the laws of the State where the particular product was produced, specifications of any governmental agency, voluntary audit program requirements in effect under federal marketing orders and/or agreements, written buyer and seller contract specifications, service documentation, or any written specification by an applicant. Services are administered through voluntary, fee-for-service, audit-based programs by AMS auditor(s) and other USDA officials under this part. Services authorized under this part, and programs administered under such, shall include:

(a) *Quality Systems Verification Programs.* Quality Systems Verification Programs (QSVP) assess an applicant's business (quality) management system of program documentation and program processes regarding quality of products. Such programs include, but are not limited to:

(1) *Food Safety Management Systems.* A formalized system of documents, processes, procedures, and responsibilities for preventing foodborne illnesses.

(i) *Good Agricultural Practices (GAP).* A formalized system of documents, processes, and procedures used by primary producers to minimize the risk of contamination during the production, harvesting, and handling of crops.

(ii) *GroupGAP.* A quality management system approach to GAP certification undertaken by a group of producers.

(iii) *Good Manufacturing Practices.* A formalized system of documents, processes, and procedures used to ensure that products are consistently produced and controlled according to quality standards and regulatory requirements.

(2) *Export Certification Program.* A formalized system of documents, processes, and procedures used to validate that a given product meets the specific requirements of a foreign country, in

addition to applicable Federal requirements.

(3) *USDA Process Verified Program (PVP)*. A comprehensive quality management system verification program whereby applicants establish their own standards to describe products or processes.

(4) *USDA Quality Assessment Program*. A quality management system verification service that is designed to aid in the marketing of products that have undergone specific processes and is limited in scope to those specific items associated with the product or process.

(i) *Export Verification Programs*. A formalized system of documents, processes and procedures used to validate specific requirements of a foreign country are being met, in addition to applicable Federal requirements.

(ii) [Reserved].

(5) *USDA Accredited Seed Program*. A specialized quality management system verification service for the seed industry that offers applicants a way to market their product using industry-recognized processes, rules, and standards.

(b) *Audit Verification Programs*. Audit verification programs assess an applicant's documentation of its business management system with regard to the production or handling of products. Such programs include, but are not limited to:

(1) *Food Defense Verification Program*. A service that evaluates operators of food establishments that maintain documented and operational food defense measures to minimize the risk of tampering or other malicious criminal actions against the food under their control.

(2) *Domestic Origin Verification*. A service that evaluates a farm's and/or a facility's ability to maintain processes, procedures, and records to demonstrate products are grown in the United States of America, its territories, or possessions.

(3) *Plant System Audit*. A service that evaluates the ability of operators of food establishments to implement a sanitation program and/or requirement outlined in good manufacturing practices regulations.

(4) *Audits performed for other government agencies*. A service that provides quality-based audit services to, and performs audits for, other government agencies, such as the Department of Defense or the U.S. Aid Agency for International Development, under the Economy Act (31 U.S.C. 1535).

(5) *Export Audit Programs*. An audit intended to ensure that information submitted for an export certificate request is complete, accurate, and in compliance with the export certification program. In some cases, these requirements may include compliance with country-specific attestations or product requirements.

(6) *Child Nutrition Labeling Program*. An audit intended to ensure manufacturers properly apply and document effective procedures to monitor and control the production of their Child Nutrition products.

(c) *Accreditation Programs*. Accreditation programs include voluntary, user-fee accreditation services performed by a USDA evaluator or accreditation body to conduct assessments of applicant programs, services, facilities or equipment, and their ability to achieve planned results. Such programs include, but are not limited to:

(1) *USDA ISO Guide 17065 Program*. A service that assesses certification bodies to determine conformance to the International Organization for Standardization (ISO) Guide 17065. These assessments are available to U.S. and international certification bodies operating a third-party certification system that perform conformity assessment activities.

(2) *Laboratory Approval Programs*. Laboratories are approved, or accredited, to perform testing services in support of domestic and international trade. At the request of industry, other Federal Agencies, or foreign governments, USDA administers programs to verify that the analysis of food and agricultural products meets country and customer-specific requirements and that the testing of marketed products is conducted by qualified and approved laboratories.

Agricultural Marketing Service, USDA

§ 62.208

Subpart D—Administrative Provisions

§ 62.201 Availability of service.

Services under this part are available to applicants, including international and domestic government agencies, private agricultural businesses, and any financially interested person.

§ 62.202 How to apply for service.

Applicants may apply for services authorized under this part by contacting the Administrator's office and requesting specific service or program information at USDA, AMS, 1400 Independence Avenue SW, Room 3069-S, Washington, DC 20250-0294; by fax to: (202) 720-5115, or email to: AMSAdministratorOffice@usda.gov. Applicants may also visit: <https://www.ams.usda.gov>.

§ 62.203 How to withdraw application for service.

An application for service may be withdrawn, all or in part, by the applicant at any time; *Provided*, That the applicant notifies the USDA service office in writing of its desire to withdraw the application for service and pays any expenses USDA 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 USDA.

§ 62.205 [Reserved]

§ 62.206 Access to program documents and activities.

(a) The applicant shall make its products, records, and 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 authorized under this part shall have access to all areas 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 USDA official marks of conformance. This further includes any facilities or operations that are part of an approved program.

(b) Documentation and records relating to an applicant's program must be retained as prescribed under each service program authorized under this part.

§ 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 the 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 program procedures.

(c) *Program determination.* Applicants determined to meet or not meet program procedures or requirements shall be notified of their approval or disapproval.

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

§ 62.208 Publication of assessment status.

Approved programs shall be posted for public reference on: <https://www.ams.usda.gov>. 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;

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

(e) Any other information deemed necessary by the Administrator.

§ 62.209

7 CFR Ch. I (1–1–23 Edition)

§ 62.209 [Reserved]

§ 62.210 Denial, suspension, cancellation or rejection of service.

(a) *Denial of services.* Services authorized under this part may be denied if an applicant fails to meet or conform to a program's requirements including, but not limited to, a failure to:

(1) Adequately address any program requirement resulting in a nonconformance for the program.

(2) Demonstrate capability to meet any program requirement, thereby resulting in a major nonconformance.

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

(4) Allow any auditor or other USDA official access to facilities and records within the scope of the program.

(b) *Suspension of services.* Services may be suspended if the applicant fails to meet or conform to a program's requirements including, but not limited to, a failure to:

(1) Adequately address any program's requirement, thereby resulting in a major nonconformance;

(2) Demonstrate capability to meet any program requirement, thereby resulting in a major nonconformance;

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

(4) Provide corrections and take corrective actions as applicable in the timeframe specified;

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

(6) Allow any auditor or other USDA official 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 services;

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

(10) Allow any auditor or other USDA official to perform his or her duties under the provisions of this part or program requirements established

under one of the authorized services of this part.

(c) *Cancellation of services.* Services may be cancelled, an application may be rejected, or program assessment may be terminated if the Administrator or his/her designee determines that a nonconformance has remained uncorrected beyond a reasonable amount of time.

(d) *Rejection of services.* Services may be rejected when it appears that to perform audit and accreditation services would not be in the best interests of the USDA. The applicant shall be promptly notified of the reason for such rejection.

§ 62.211 Appeals.

(a) *Appeals of adverse decisions.* Appeals of adverse decisions under this part may be made in writing to the AMS Administrator, Rm. 3069-S, 1400 Independence Avenue SW, Washington, DC 20250-0249 or to the director of the applicable service office. Appeals must be made within the timeframe specified by each program or within 30 calendar days of receipt of an adverse decision, whichever is sooner.

(b) *Procedure for Appeals.* Actions under this subparagraph concerning appeals of adverse decisions to the Administrator shall be conducted in accordance with the Rules 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 Administrative Procedures Governing Withdrawal of Inspection and Grading Services in 7 CFR part 50. The procedure for appeals is specified by each program and/or by an overarching USDA AMS administrative procedure.

§ 62.212 [Reserved]

§ 62.213 Official identification.

Some programs offered under this subpart allow for the use of official identification or marks of conformance. A program's specific documented procedure will indicate whether official marks of conformance apply.

(a) Products or services produced under a program authorized under this part may use an official identification mark of approval for that program,

Agricultural Marketing Service, USDA

§ 62.300

such as the “USDA Process Verified” statement and the “USDA Process Verified” shield. Use of program official identification must be in accordance with program requirements.

(b) Use of a program’s official identification mark must be approved in writing by USDA prior to use by an applicant.

(c) *USDA Process Verified Program shield.* Products or services produced under an approved USDA PVP may use the “USDA Process Verified” statement and the “USDA Process Verified Program” shield (Figure 1 to paragraph (c)), so long as each is used in direct association with a clear description of the process verified points approved by USDA.

Figure 1 to paragraph (c)



(1) The USDA Process Verified shield must replicate the form and design of the example in Figure 1 and must be printed legibly and conspicuously:

(i) On a white background with a gold trimmed shield, with the term “USDA” in white overlaying a blue upper third of the shield, the term “PROCESS” in black overlaying a white middle third of the shield, and term “VERIFIED” in white overlaying a red lower third of the shield; or

(ii) On a white or transparent background with a black trimmed shield, with the term “USDA” in white overlaying a black upper third of the shield, the term “PROCESS” in black overlaying a white middle third of the shield, and the term “VERIFIED” in white overlaying a black lower third of the shield.

§ 62.214 Voluntary participation.

Applying for services, or enrollment in any service program, is voluntary. Once an applicant receives a service or is accepted into a program, compliance

with that service or program’s terms is mandatory unless the applicant withdraws its application as provided in § 62.203 or participation is denied, suspended, cancelled, or rejected subject to the terms of § 62.210.

Subpart E—Fees

§ 62.300 Fees and other costs of service.

(a) For each calendar year, AMS will calculate the rate for services per hour per program employee using the following formulas:

(1) *Regular rate.* The total AMS service program personnel direct pay divided by direct hours, which is then multiplied by the next year’s percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service.

§ 62.301

7 CFR Ch. I (1–1–23 Edition)

(2) *Overtime rate.* The total AMS service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5 plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(3) *Holiday rate.* The total AMS service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(b)(1) For each calendar year, based on previous fiscal year/historical actual costs, AMS will calculate the benefits rate, operating rate, and allowance for bad debt rate components of the regular, overtime, and holiday rates as follows:

(i) *Benefits rate.* The total AMS service program direct benefits costs divided by the total hours (regular, overtime, and holiday) worked, which is then multiplied by the next calendar year's percentage cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(ii) *Operating rate.* The total AMS service program operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(iii) *Allowance for bad debt rate.* Total AMS service program allowance for bad debt divided by total hours (regular, overtime, and holiday) worked.

(2) The calendar year cost of living expenses and percentage of inflation factors used in the formulas in this section are based on OMB's most recent Presidential Economic Assumptions.

(c) Applicants are responsible for paying actual travel costs incurred to provide 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.

(d) The applicant is responsible for paying per diem costs incurred to provide services away from the auditor's or USDA official's 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).

(e) When costs other than those costs specified in paragraphs (a) through (c) of this section are involved in providing the services, the applicant shall be responsible for these costs. The amount of these costs shall be determined administratively by AMS. 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 services shall be paid in accordance with each service or program's policy(ies) and documentation. The applicant shall remit payment by the date indicated on the invoice. Payment may be made by automated clearing house transactions; credit card, debit card, or direct debit via *Pay.gov* or PayPal; electronic funds transfer; check; or money order. Remittance must be to USDA, AMS and include the customer number (*i.e.*, account number) from the invoice. Check or money orders must be mailed to the remit address indicated on the invoice. Wire transfers are exclusive to foreign customers. Fees and charges shall be paid in advance if required by the service or program's authorized USDA official. Failure to pay fees can result in denial, suspension, or cancellation of service.

Subpart F—OMB Control Number

§ 62.400 OMB control number assigned pursuant to the Paperwork Reduction Act.

The information collection and recordkeeping requirements of this part have been approved by OMB under 44 U.S.C. Chapter 35 and have been assigned OMB Control Numbers: 0581-0125, 0581-0128, 0581-0251, and 0581-0283.