

*Department.* The United States Department of Agriculture.

*Director.* The Director of the Division or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

*Division.* Livestock, Poultry, Grain and Seed Division.

*Financially interested person.* Any person having a financial interest in the livestock involved, including but not limited to the shipper, receiver, producer, seller, buyer, or carrier of the livestock or products.

*Grade.* (1) As a noun, this term means an important commercial subdivision of livestock based on certain definite and preference determining factors, such as, but not limited to, conformation, finish, and muscling in livestock.

(2) As a verb, this term means to determine the class, grade, or other quality of livestock according to applicable standards for such livestock.

*Grading service.* The service established and conducted under the regulations for the determination and certification or other identification of the class, grade, or other quality of livestock under standards.

*Legal holiday.* Those days designated as legal public holidays in title 5, United States Code, section 6103(a).

*Livestock.* Cattle, sheep, swine, or goats.

*Official grader.* An employee of the Department or other person authorized by the Department to determine and certify or otherwise identify the class, grade, other quality, or compliance of livestock under the regulations.

*Person.* Any individual, partnership, corporation, or other legal entity, or Government agency.

*Regulations.* The regulations in this subpart.

*Service.* Grading service or acceptance service.

*Specifications.* Description with respect to the class, grade, other quality, quantity or condition of livestock approved by the Administrator, and available for use by the industry regardless of the origin of the descriptions.

*Standards.* The standards of the Department contained in Official United

States Standards for Grades of: Carcass Beef; Veal and Calf Carcasses; Lamb, Yearling Mutton, and Mutton Carcasses; and, Pork Carcasses.

*Supervisor.* An official person designated by the Director or Chief to supervise and maintain uniformity and accuracy of service under the regulations.

[42 FR 53902, Oct. 4, 1977, as amended at 63 FR 72101, Dec. 31, 1998]

**§ 53.2 Designation of official certificates, memoranda, marks, other identifications, for purposes of the Agricultural Marketing Act.**

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) *Official certificate* means any form of certification, either written or printed, including that prescribed in § 53.16, used under the regulations to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of livestock with applicable specifications.

(b) *Official memorandum* means any initial record of findings made by an authorized person in the process of grading, determining compliance, or inspecting, pursuant to the regulations, any processing or plant-operation report made by an authorized person in connection with grading, determining compliance, inspecting, or sampling under the regulations, and any report made by an authorized person of services performed pursuant to the regulations.

(c) *Official mark or other official identification* means any form of mark or other identification, used under the regulations in marking livestock thereof, to show inspection, class,

## Agricultural Marketing Service, USDA

## § 53.12

grade, quality, size, quantity, or condition of the livestock (including the compliance of livestock with applicable specifications), or to maintain the identity of livestock for which service is provided under the regulations.

### ADMINISTRATION

#### § 53.3 Authority.

The Director is charged with the administration of the regulations and the Act insofar as they relate to livestock.

### SERVICE

#### § 53.4 Kind of service.

Grading service under the regulations shall consist of the determination and certification and other identification, upon request by the applicant, of the class, grade, or other quality of livestock under applicable standards. Class, grade and other quality may be determined under said standards for livestock. Acceptance service under the regulations shall consist of the determination of the conformity of livestock to specifications approved by the Director or Chief and the certification and other identification of such livestock in accordance with specifications, upon request by the applicant.

[42 FR 53902, Oct. 4, 1977, as amended at 63 FR 72101, Dec. 31, 1998]

#### § 53.5 Availability of service.

Service under these regulations may be made available with respect to livestock shipped or received in interstate commerce, and with respect to the livestock not so shipped or received if the Director or Chief determines that the furnishing of service for such livestock would facilitate the marketing, distribution, processing, or utilization of agricultural products through commercial channels. Also, such service may be made available under a cooperative agreement. Service under these regulations shall be provided without discrimination as to race, color, sex, creed, or national origin.

#### § 53.8 How to obtain service.

(a) *Application.* Any person may apply to the Director or Chief for service under the regulations with respect to livestock in which the applicant is fi-

nancially interested. The application shall be made on a form approved by the Director.

(b) *Notice of eligibility for service.* The applicant for service will be notified whether his application is approved.

(c) *Request by applicant for service—(1) Noncommitment.* Upon notification of the approval on an application for service, the applicant may, from time to time as desired, make oral or written requests for service under the regulations with respect to specific livestock for which the service is to be furnished under such application. Such requests shall be made at a market news office either directly or through any employee of the Agricultural Marketing Service who may be designated for such purposes.

#### § 53.9 Order of furnishing service.

Service under the regulations shall be furnished to applicants in the order in which requests therefor are received, insofar as consistent with good management, efficiency and economy. Precedence will be given, when necessary, to requests made by any government agency or any regular user of the service.

#### § 53.10 When request for service deemed made.

A request for service under the regulations shall be deemed to be made when received by a market news office. Records showing the date and time of the request shall be made and kept in such office.

#### § 53.11 Withdrawal of application or request for service.

An application or a request for service under the regulations may be withdrawn by the applicant at any time before the application is approved or prior to performance of service, upon payment, in accordance with §§ 53.18 and 53.19, of any expenses already incurred by the Agricultural Marketing Service in connection therewith.

#### § 53.12 Authority of agent.

Proof of the authority of any person making an application or a request for service under the regulations on behalf of any other person may be required at the discretion of the Director or Chief