

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Parts 54 and 62**

[No. LS-02-10]

RIN #0581-AC12

Quality Systems Verification Programs**AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to establish a separate user-fee schedule for the Quality Systems Verification Programs (QSV) and expand the scope of the QSV to include all agricultural products and services within the responsibility of the Livestock and Seed (LS) Program. A new Part 62 would be established for QSV services. QSV are a collection of voluntary, audit-based, user-fee programs authorized under the Agricultural Marketing Act of 1946. QSV facilitate the global marketing and trade of agricultural products; provide consumers the opportunity to distinguish specific characteristics involved in the production and processing of agricultural products; and ensure that product consistently meets program requirements.

DATES: Written comments must be received by May 9, 2005. Comments regarding the information collection requirements that would result from this proposal must be received by June 6, 2005.

ADDRESSES: Send comments concerning this proposed rule to James L. Riva, Chief; USDA, AMS, LS, ARC Branch; STOP 0294, Room 2627-S, 1400 Independence Avenue, SW., Washington, DC 20250-0248; by FAX to 202-690-1038; or by e-mail to: ARCBranch@usda.gov. Comments may also be submitted electronically through <http://www.regulations.gov>. Comments should reference the date and page number of this issue of the **Federal Register**. Comments will be posted at: <http://www.ams.usda.gov/lsg/rulemaking.htm> and will be made available for public inspection during normal business hours at the above address. Comments concerning the information collection should be sent to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 725, Washington, DC 20503; or by e-mail to: OIRA_submissions@OMB.eop.gov.

FOR FURTHER INFORMATION CONTACT:

James L. Riva, Chief, Audit, Review, and Compliance (ARC) Branch, telephone 202-720-1124, or e-mail James.Riva@usda.gov.

SUPPLEMENTARY INFORMATION:**Background and Discussion**

The Agricultural Marketing Act of 1946 (AMA), as amended, (7 U.S.C. 1621, *et seq.*), gives AMS the authority to provide services so that agricultural products may be marketed to their best advantage, that trade may be facilitated, and that consumers may be able to ascertain characteristics involved in the production and processing of products and obtain the quality of product they desire. AMA also provides for the collection of fees from users of these services that are reasonable and cover the cost of providing services.

The QSV were developed in 1995 and have since grown to include several value-added marketing programs. The QSV have grown steadily over the past few years, with auditors conducting 385 assessments in FY 2001, 562 assessments in FY 2002, and 715 assessments in 2003, and 915 assessments in 2004. Presently, 14 full-time auditors conduct assessments for the LS Program.

QSV are voluntary, audit-based, user-fee funded programs developed and conducted at the request of industry and others as a cost-effective alternative to conventional product certification. QSV use International Organization for Standardization's (ISO) Guidelines and standards as a format for evaluating program documentation to ensure consistent assessment practices and promote international recognition of assessment results.

Currently, QSV user-fees are based on the approved hourly rate established for meat grading and certification services provided by the Meat Grading and Certification (MGC) Branch pursuant to 7 CFR part 54. Following the initial program development period, LS Program management conducted a detailed cost analysis of QSV services and determined that the existing hourly rate established for meat grading and certification services did not sufficiently cover the cost of providing QSV services. Due to the complexity of planning, performing and interpreting the results of assessments, auditor positions are classified at the GS-11/12 pay grade, in contrast to the GS-5/7/9 pay grade classifications of most MGC Branch full-time positions.

Upon considering all QSV operational expenses, the LS Program determined that the actual cost of QSV

services, excluding travel costs, to be \$108 per hour. LS Program management considered employee salaries and benefits; Agency and LS Program overhead; total revenue hours available to the ARC Branch; and included other anticipated costs such as, federally mandated pay raises through FY 2005, rent, communications, utilities, contractual services, supplies, and equipment in their analysis.

The LS Program considered alternatives to creating a separate user-fee for QSV services, but found that none were sufficient. Maintaining the same user-fee for QSV services currently used for conventional meat grading and certification services would not sufficiently cover the cost of providing QSV services. Another option was to terminate all QSV services, which would adversely affect producers, businesses, and consumers who desire QSV services and those entities with already-established programs.

The QSV were administered through the LS Program's MGC Branch pursuant to 7 CFR part 54 using the user-fee schedule established for meat grading and certification services. In 2001, the administration of QSV was moved by the LS Program to the Audit, Review, and Compliance (ARC) Branch. This proposed rule would establish a separate user-fee of \$108 per hour for QSV services under a new part 62. Additionally, this proposed rule would expand the scope of QSV services to include all agricultural products or services within the responsibility of the LS Program, such as livestock, meat, meat products, seed, feedstuffs, as well as processes involving the production of these products, agricultural product data storage, product traceability and identification. Currently, Part 54 only provides for services dealing with meat and meat products. A new Part 62 would be established for QSV services.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect and would not preempt or supersede any State or local laws, regulations, or policies, unless they present an irreconcilable conflict. There are no administrative procedures that must be exhausted prior to any

judicial challenge to the provisions of this rule.

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service (AMS) has considered the economic effect of this action on small entities and has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

AMS, through the LS Program's ARC Branch, provides voluntary assessment services to approximately 415 businesses, including 152 livestock slaughterers, 72 meat processors, 46 livestock producers feeders, 135 organic certifying companies, 4 trade associations, and 4 State and Federal entities. Seventy-five percent (*i.e.*, 346) of these businesses are classified as small entities and generate approximately 65 percent of the ARC Branch's revenue. The Small Business Administration (SBA) (13 CFR 121.201) defines small agricultural producers as those having annual receipts of less than \$750,000; small agricultural service firms as those whose annual receipts are less than \$5 million; and small meat packers as those that have less than 500 employees. No entity, small or large, is obligated to use voluntary QSVF services provided under the authority of AMA.

AMS regularly reviews its user-fee-financed programs to determine if the fees are adequate to cover the cost of the services provided. The most recent review determined that the existing hourly rate that the ARC Branch charges for QSVF services would not generate sufficient revenues to recover operating costs for current and near-term periods while maintaining a 4-month operating reserve of \$275,000. In FY 2004, the ARC Branch incurred a \$330,000 operating loss; and without a fee increase, FY 2004 operating losses are projected to reach \$421,000. These combined losses will deplete the ARC Branch's operating reserve and place the ARC Branch in an unstable financial position that will adversely affect its ability to provide QSVF services.

While the ARC Branch has utilized existing automated information management systems for data collection, retrieval, dissemination, applicant billing, and disbursement of employee entitlements, the ARC Branch has continued to lose revenue due to the

cost of providing QSVF services utilizing auditors classified at the GS-11/12 pay grade while charging a user-fee that is based on a lower GS-5/7/9 pay grade classification.

The ARC Branch operating costs increased as a result of higher salaries associated with higher grade employees; congressionally mandated salary increases for all Federal Government employees in 2004 and 2005; ongoing information system technology upgrades necessary to remain compatible with customer and Agency systems; inflation of non-salary operating expenses; and office maintenance expenses.

AMS estimates that this proposed action will provide the ARC Branch with an additional \$420,000 for FY 2005. Of this \$420,000, small businesses would pay an average of \$878 more per year per applicant or a total of \$273,000 of the total increase. This proposed fee increase coupled with a projected increase in revenue hours would increase total revenues by \$420,000 per year and offset FY 2004 operating losses of \$330,000. Currently, without a fee increase, the ARC Branch is projected to lose \$420,000 in FY 2005. The proposed increase will create a 4-month operating reserve of \$275,000, as required by the Agency.

The proposed Part 62 includes sections on definitions; sections related to providing services, including availability and how to apply for services; and suspension, denial, or cancellation of service and other sections relating to fees. These sections are similar to, or the same as, provisions that currently apply to Quality Systems Verification Programs.

Paperwork Reduction Act

This proposed rule contains submission and recordkeeping requirements subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. Chapter 35).

OMB Number: 0581-0124.

Expiration Date: October 31, 2006.

Type of Request: Revision of currently approved collection.

Abstract: The QSVF are voluntary, audit-based programs developed at the request of the livestock industry and other interested parties as a cost-effective alternative to conventional product certification. This proposed rule would permit the LS Program to carry out independent assessments of applicant's programs for any agricultural product or service within the scope of the LS Program. This action is necessary to provide continued, seamless, and efficient distribution of

highly differentiated agricultural products and services to customers who require production and marketing process assessments by an authorized government entity. The information collection and recordkeeping requirements in this proposed rule are essential to maintaining these voluntary programs. Only authorized representatives of the USDA, including AMS, LS Program, ARC Branch staff use the collected information in the performance of their official duties.

The AMA, as amended, authorizes the USDA to provide services that facilitate the marketing of agricultural products. Currently, the LS Program provides QSVF services for livestock, meat, and meat products, pursuant to 7 CFR part 54. This proposed rule would define QSVF services to include other agricultural products within the scope of the LS Program in a new part, part 62 to Title 7 of the Code of Federal Regulations.

Applicants may request QSVF services through submission of the currently approved form LS-313 to the ARC Branch. This existing form requires the minimum information necessary to effectively carry out the requirements of the proposed rule including: firm name, address, telephone number, and other information necessary to identify the applicant, and other pertinent information necessary to determine if the firm is eligible to apply and receive QSVF services. Applicants are required to complete the form only when initially applying for QSVF service. There is no annual requirement for resubmission. The form can be supplied without data processing equipment or outside technical expertise. AMS estimates the one-time burden for submission of Form LS-313 to average 0.200 hours (12 minutes) per applicant at \$20.00 per hour. The total one-time burden if 50 applicants applied under this proposed rule is estimated to be \$200.00.

Applicants may obtain form LS-313 by (1) Contacting James L. Riva, Chief; USDA, AMS, LS, ARC Branch; STOP 0294, Room 2627-S, 1400 Independence Ave., SW., Washington, DC 20250-0294; (2) downloading a printable version at the ARC Branch Web site: <http://www.ams.usda.gov/lsg/arc/audit.htm>; or (3) accessing a Web-based version at the AMS Electronic Forms Web site: <http://151.121.3.189/EManager/new.htm>.

Applicants may submit form LS-313 by (1) mail to: James L. Riva, Chief; USDA, AMS, LS, ARC Branch; STOP 0294, Room 2627-S, 1400 Independence Avenue, SW., Washington, DC 20250-0248; (2) FAX to: (202) 690-1038; or e-mail to: ARCBbranch@usda.gov.

Under this proposed rule, applicants would be required to submit a cover letter and a complete copy of the applicant's program documentation when a request for service is made. This is a one-time requirement per service request. The PRA also requires the agency to measure the recordkeeping burden. The proposed rule would also require applicants to retain records and documents necessary to support the requested service for the period of at least one calendar year following the year the record was created and long enough to assess conformance of the product through the applicant's quality management system. Additionally, applicants must ensure that such records and documents are readily available and easily accessible. The recordkeeping burden is the amount of time needed to prepare, store, and maintain documents.

Based on its experience with QSVP, AMS understands that applicants develop and maintain complete documentation of their programs as a normal business practice. AMS believes the cost burden associated with submission of complete program documentation to be limited to the time needed for the applicant to review the documentation for completeness and accuracy. AMS estimates this time to average 24 hours per applicant at \$20.00 per hour for a total one-time burden per applicant of \$480.00. The total one-time burden if 50 applicants applied under this proposed rule is estimated to be \$24,000.

Based on its experience, AMS believes that the documents and records required to be retained are normally retained by applicants as part of their normal business practices. However, if record keepers were compensated for their time, AMS estimates that the time required for each applicant to retain these records and documents in a manner required in the proposed rule to average 6 hours per year at \$20.00 per hour for a total annual burden of \$120.00 per applicant. Assuming that 50 applicants were retained under this proposed rule, the total annual burden is estimated to be \$6,000.

(1) Application for Service form LS-313.

Estimate of Burden: The proposal to expand the scope of the QSVP to include all agricultural products and services within the responsibility of the LS Program will increase the approved burden by 1210 hours. Using the currently approved form LS-313, the public reporting burden for this proposed collection of information is estimated to average 0.20 hours (12 minutes) per response.

Respondents: Livestock, meat industry, and other businesses that produce, process, or handle agricultural products or services.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 1.

Estimated Total Number of Responses: 50.

Estimated Total Annual Burden on Respondents: 10.00 hours.

Estimated Total Cost: \$200.00.

(2) Review and Submission of Program Documentation.

Estimate of Burden: Public reporting burden for this proposed collection of information is estimated to average 24 hours per respondent.

Respondents: Livestock, meat industry, and other businesses that produce, process or handle agricultural products or services.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 1.

Estimated Total Number of Responses: 50.

Estimated Total Annual Burden on Respondents: 1200 hours.

Estimated Total Cost: \$24,000.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's burden estimate of the collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-0124, the QSVP, and be sent to (1) Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 725, Washington, DC 20503; or by e-mail to:

OIRA_submissions@OMB.eop.gov and (2) James L. Riva, Chief; USDA, AMS, LS, ARC Branch; STOP 0294, Room 2627-S, 1400 Independence Avenue, SW., Washington, DC 20250-0248; or FAX (202) 690-1038; or e-mail *ARCBranch@usda.gov*. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

All comments will be posted on the Internet at <http://www.ams.usda.gov/lsg/rulemaking.htm> and will be made available for public inspection in the above offices during regular business hours.

A 30-day comment period is provided for interested persons to comment on this proposed rule. This comment period is deemed appropriate in order to implement this rule, if adopted, as soon as possible so that program costs are covered by revenue.

All responses to this proposed rule will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

List of Subjects

7 CFR Part 54

Meats, Prepared meats, and Meat products.

7 CFR Part 62

Food grades and standards, Food labeling, Meat and meat products.

For the reasons set forth in the preamble, it is proposed that chapter 1 of title 7 of the Code of Federal Regulations be revised by amending part 54 and adding part 62 to read as follows:

PART 54—[AMENDED]

1. The authority citation for part 54 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

§ 54.4 [Amended]

2. In § 54.4, paragraph (5) is removed.
3. Part 62 is added to read as follows:

PART 62—LIVESTOCK, MEAT, AND OTHER AGRICULTURAL COMMODITIES (QUALITY SYSTEMS VERIFICATION PROGRAMS)

Subpart A—Quality Systems Verification Programs

Definitions

Sec.

62.000 Meaning of terms.

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62.100 Administrator.

Service

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62.202 How to apply for service.

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

Miscellaneous

OMB Control Number

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

Subpart B—[Reserved]

Authority: 7 U.S.C. Sec. 1621–1627.

Subpart A—Quality Systems Verification Programs

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:

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

Applicant. Any individual or business with financial interest in QSVF services who has applied for service under this Part.

Assessment. A systematic review of the adequacy of program or system documentation, or the review of the completeness of implementation of a documented program or system.

Auditor. Person authorized by the Livestock and Seed Program to conduct official assessments.

Branch. The Audit, Review, and Compliance Branch of the Livestock and Seed Program.

Chief. The Chief of the ARC Branch, or any officer or employee of the Branch to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Chief's stead.

Conformance. A user's quality manual and supporting documentation.

Deputy Administrator. The Deputy Administrator of the Livestock and Seed Program, or any officer or employee of the Livestock and Seed Program to whom authority has heretofore been

delegated, or to whom authority may hereafter be delegated, to act in the Deputy Administrator's stead.

Financially interested person. Any individual, partnership, corporation, other legal entity, or Government agency having a financial interest in the involved product or service.

Livestock. Bovine, ovine, porcine, caprine, bison or class of Osteichthyes.

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

Official memoranda or assessment reports. Official memorandum means any assessment report of initial or final record of findings made by an authorized person of services performed pursuant to the regulations.

Products. Includes all agricultural commodities and services within the scope of the Livestock and Seed Program. This includes livestock, meat, meat products, seed, feedstuffs, as well as processes involving the production of these products, agricultural product data storage, product traceability and identification.

QSVF Procedures. Audit rules and guidelines set forth by the Agricultural Marketing Service regarding the development, documentation, and implementation of QSVF.

Quality Manual. A collection of documents that describe the applicant's quality management system, as it applies to the requested service.

Quality Systems Verification Programs (QSVF). A collection of voluntary, audit-based, user-fee programs that allow applicants to have program documentation and program processes assessed by AMS auditor(s) and other USDA officials under this Part.

Regulations. The regulations in this Part.

USDA. The U.S. Department of Agriculture.

Administration

§ 62.100 Administrator.

The LS Program Deputy Administrator is charged with the administration of official assessments conducted according to the regulations in this Part and approved LS Program QSVF procedures.

Service

§ 62.200 Services.

QSVF, under this regulation, provide applicants, the ability to have USDA

assess documented processes or systems.

(a) Assessment services provided under the regulations shall consist of:

(1) A review of the adequacy of an applicant's quality manual against LS Program QSVF procedures, internationally recognized guidelines, or other requirements as approved by the LS Program;

(2) An onsite assessment of the applicant's program to ensure implementation of provisions within the quality manual and the applicant's conformance with applicable program requirements and LS Program QSVF procedures; and

(3) A reassessment of the applicant's program to ensure continued implementation of provisions within the quality manual and the applicant's conformance with program requirements and applicable LS Program QSVF procedures;

(b) Developmental assistance in the form of training to explain LS Program QSVF procedures is available upon request.

§ 62.201 Availability of service.

QSVF services under these regulations are available to international and domestic government agencies, private agricultural businesses and any financially interested person.

§ 62.202 How to apply for service.

Applicants may apply for QSVF services by submitting the following information to the ARC Branch headquarters office at USDA, AMS, LSP, ARC Branch, 1400 Independence Avenue, SW., STOP 0294, Room 2627–S, Washington, DC, 20250–0294; by fax to: (202) 690–1038, or e-mail to: ARCBBranch@usda.gov.

(a) The original completed form LS–313, Application for Service;

(b) A letter requesting QSVF services; and

(c) A complete copy of the applicant's program documentation, as described in the LS Program QSVF procedures.

§ 62.203 How to withdraw service.

Service may be withdrawn by the applicant at any time; provided that, the applicant notifies the ARC Branch in writing of his/her desire to withdraw the application for service and pays any expenses the Department 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 the Deputy Administrator.

§ 62.205 Conflict of interest.

No USDA official shall review any program documentation or determine conformance of any documented process or system in which the USDA official has financial holdings.

§ 62.206 Access to program documents and activities.

(a) The applicant shall make its products and program 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 under the regulations shall have access to all parts 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 official marks of conformance. This further includes any facilities or operation that is part of an approved program.

(b) Documentation and records relating to an applicant's program must be retained for at least one calendar year following the calendar year during which the record was created.

§ 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 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 LS Program QSVF procedures.

(c) *Program Determination.*

Applicant's determined to meet or not meet LS Program QSVF procedures or the applicant's program requirements shall be notified of their program's approval or disapproval.

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

§ 62.208 Publication of QSVF assessment status.

Approved programs shall be posted for public reference on the ARC Branch

Web site: <http://www.ams.usda.gov/lsg/arc/audit.htm>. 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, and
- (d) Control numbers of official assessments, as appropriate, and
- (e) Any other information deemed necessary by the Branch Chief.

§ 62.209 Reassessment.

Approved programs are subject to periodic reassessments to ensure ongoing conformance with the LS Program QSVF procedures covered under the scope of approval. The frequency of reassessments shall be based on the LS Program QSVF procedures, or as determined by the Deputy Administrator.

§ 62.210 Denial, suspension, or cancellation of service.

(a) QSVF services may be denied if an applicant fails to meet its program requirements, or conform to LS Program QSVF procedures, such as:

(1) Adequately address any program requirement resulting in a major non-conformance or an accumulation of minor non-conformances that result in the assignment of a major non-conformance for the program.

(2) Demonstrate capability to meet any program requirement resulting in a major non-conformance.

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

(4) Allow access to facilities and records within the scope of the program.

(b) QSVF services may be suspended if the applicant fails to meet its program requirements, or conform to LS Program QSVF procedures; such as failure to:

(1) Adequately address any program requirement resulting in a major non-conformance;

(2) Demonstrate capability to meet any program requirement resulting in a major non-conformance;

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

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

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

(6) Allow 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 QSVF services;

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

(10) Allow any auditor or other USDA official to perform their duties under the regulations of this Part.

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

§ 62.211 Appeals.

Appeals of adverse decisions under this Part, may be made in writing to the Livestock and Seed Program Deputy Administrator at STOP 0249, Room 2092—South, 1400 Independence Avenue, SW., Washington, DC 20250—0249. Appeals must be made within 30 days of receipt of adverse decision.

(a) *Procedure for Appeals.* Actions under this subparagraph concerning decision of appeals of the Deputy Administrator shall be conducted in accordance with the Rule 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 Supplemental Rules of Practice in 7 CFR Part 50.

(b) [Reserved]

§ 62.212 Official assessment reports.

Official QSVF assessment reports shall be generated by the auditor at the conclusion of each assessment and a copy shall be provided to the applicant.

§ 62.213 Official identification.

The following, as shown in figure 1, constitutes official identification to show product or services produced under an approved USDA, Process Verified Program (PVP):

Figure 1



(a) Products or services produced under an approved USDA, PVP may use the "USDA Process Verified" statement and the "USDA Process Verified" shield, so long as, both the statement

and shield are used in direct association with a clear description of the process verified points that have been approved by the Branch.

(b) Use of the "USDA Process Verified" statement and the "USDA Process Verified" shield shall be approved in writing by Chief prior to use by an applicant.

Charges for Service

§ 62.300 Fees and other costs for service.

Fees and other charges will be levied based on the following provisions:

(a) *Fees for service.* Fees for QSVS services shall be based on the time required to provide service calculated to the nearest quarter hour period, including, but not limited to, official assessment time, travel time, and time required to prepare assessment reports. The hourly fee rate shall be \$108 per hour.

(b) *Transportation costs.* Applicants are responsible for paying actual travel costs incurred to provide QSVS 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.

(c) *Per diem costs.* The applicant is responsible for paying per diem costs incurred to provide QSVS services away from the auditor's or USDA officials' 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).

(d) *Other costs.* When costs, other than those costs specified in paragraphs (a), (b), and (c) of this section, are involved in providing the QSVS services, the applicant shall be responsible for these costs. The amount of these costs shall be determined administratively by the Chief. 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 QSVS services shall be paid in accordance with the following provisions. Upon receipt of billing for fees and other charges, the applicant shall remit payment within 10 business days by check, electronic funds transfer, draft, or money order made payable to USDA, AMS, in accordance with directions on the billing. Fees and charges shall be paid in advance if required by the auditor or other authorized USDA official.

Miscellaneous

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 Number 0581–0124.

Subpart B—[Reserved]

Dated: April 4, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–6957 Filed 4–6–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4279

RIN 0570–AA54

Business and Industry Guaranteed Loan Program

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Business-Cooperative Service (RBS) proposes to amend its regulation for the Business and Industry (B&I) Guaranteed Loans by modifying the regulations regarding personal and corporate guarantors. This action will standardize the guarantor process. The Agency will create a guarantor form which will be used to obtain the personal or corporate guarantee of anyone owning greater than 20 percent interest in the borrower. The effect of this rule is to allow the Agency to use all remedies available to pursue collection from guarantors, including offset under the Debt Collection Improvement Act.

DATES: Written or e-mail comments must be received on or before June 6, 2005, to be assured of consideration.

ADDRESSES: You may submit comments to this rule by any of the following methods:

- Agency Web site: <http://rdinit.usda.gov/regs/>. Follow instructions for submitting comments on the Web site.
- E-Mail: comments@usda.gov. Include RIN No. 0570–AA54 in the subject line of the message.

• Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

• Mail: Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20205–0742.

• Hand Delivery/Courier: Submit written comments via Federal Express Mail or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street, SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at 300 7th Street, SW., 7th Floor, address listed above.

FOR FURTHER INFORMATION CONTACT: David Lewis, Business and Industry Loan Servicing Branch, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3224, 1400 Independence Avenue, SW., Washington, DC 20250–3224, telephone (202) 690–0797, or by e-mail to david.lewis@usda.gov.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been reviewed under Executive Order 12866 and determined not to be significant and has not been reviewed by the Office of Management and Budget (OMB).

Programs Affected

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.768, Business and Industry Loans.

Intergovernmental Review

Business and Industry Guaranteed Loans are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. RBS will conduct intergovernmental consultation in the manner delineated in and 7 CFR part 3015, subpart V, "Intergovernmental Review of Rural Development Programs and Activities."

Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule, (1) all State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given this rule; and (3) administrative proceedings of the National Appeals Division (7 CFR