

§ 735.78

same cotton previously has been taken, and if so, an appropriate identification of such other appeal; and

(9) If samples have been agreed upon and submitted in accordance with § 735.79(b).

(b) When practicable, the complainant shall file with the complaint, the warehouse receipt or class certificate, if any, covering the cotton involved in the appeal. When such receipt or certificate is not filed before the issuance of the cotton appeal certificate, a definite statement indicating why such papers are not produced shall be filed with the complaint.

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§ 735.78 Proof of agent's authority.

In case a complaint is filed under §§ 735.75 through 735.77 by a person purporting to act in behalf of another person, the Administrator, or the cotton examiner or the board of cotton examiners with whom it was filed, may, if considered necessary, require proof of the authority of such person to file the complaint.

§ 735.79 Determination of appeals; samples.

(a) Appeals taken hereunder shall be determined upon the basis of samples of the cotton involved which have been drawn and submitted in accordance with this section.

(b) The complainant may submit samples of the cotton involved which have been agreed upon by the licensed warehouseman in whose warehouse the cotton is stored and the interested parties other than such warehouseman, or have been drawn by a disinterested person selected for the purpose by the warehouseman and such parties. Such samples shall be drawn in accordance with § 735.72.

(c) If samples which have been submitted pursuant to paragraph (b) of this section be deemed unsatisfactory, the cotton examiner or board of cotton examiners by whom the appeal is heard or the Administrator may require the submission of new samples in accordance with paragraph (b) of this section.

(d) In case samples are not submitted in accordance with paragraph (b) or (c) of this section, the Administrator, the cotton examiner, or board of cotton ex-

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aminers by whom the appeal is heard may dismiss the appeal as provided in § 735.80, or samples may be drawn from the cotton involved by a cotton examiner or by a disinterested person designated for the purpose by the cotton examiner or the board of cotton examiners by whom the appeal is heard or by the Administrator, and the complainant shall cause the cotton to be made accessible for the purpose of drawing such samples.

§ 735.80 Dismissal of appeals.

The Administrator or the cotton examiner or board of cotton examiners by whom an appeal is heard may dismiss such appeal upon request of the complainant, or for noncompliance with the regulations in this part, or if it be found that the appeal was not taken in good faith. In case of an appeal filed in the first instance with a cotton examiner, a dismissal upon request of the complainant shall be made only before notice of grade or other class as provided in § 735.81 is issued.

§ 735.81 Cotton appeal certificate.

When an appeal filed with a board of cotton examiners has been determined, it shall immediately issue a cotton appeal certificate. When an appeal has been determined by a cotton examiner he shall issue a notice, a copy of which shall be sent by him to all parties shown by the record of the appeal to have an interest therein. In such notice the grade or other class assigned by him to the cotton involved in the appeal shall be stated, and any such interested party shall have a reasonable time, fixed in such notice, within which he may request of the Administrator a review of the appeal by a board of cotton examiners. In case such request is not filed with such cotton examiner in the time fixed therefor, or in case within such time every such interested party waives in writing a review by a board of cotton examiners, the cotton examiner shall immediately issue a cotton appeal certificate showing the grade or other class assigned to the cotton by him. In case a request under this section for a review of an appeal is filed within the time fixed for the filing of such request, the cotton examiner shall note in his records the