

Grain Standards Act, (7 U.S.C. 1622) the Agricultural Marketing Act of 1946, or other applicable official United States Standards.

*Other electronic documents* (OED) means those electronic documents, other than an EWR or USWA electronic document, that may be issued or transferred, related to the shipment, payment or financing of agricultural products that DACO has authorized for inclusion in a provider's CFS.

*Person* means a person as set forth in 1 U.S.C. 1, a State; or a political subdivision of a State.

*Provider* means a person authorized by DACO, as a disinterested third party, which maintains one or more confidential and secure electronic systems independent of any outside influence or bias in action or appearance.

*Provider agreement* means the document and any amendment or addenda to such agreement executed by the provider and FSA that sets forth the provider's responsibilities concerning the provider's operation or maintenance of a CFS.

*Receipt* means a warehouse receipt issued in accordance with the Act, including an electronic warehouse receipt.

*Schedule of charges* means the tariff or uniform rate or amount charged by an authorized person for specific services offered or rendered under the Act.

*Schedule of fees* means the fees charged and assessed by FSA for licensing, provider agreements or services furnished under the Act to help defray the costs of administering the Act, and as such are shown in a schedule of fees attached to the licensing or provider agreement.

*Service license* means the document and any amendment to such document, issued under the Act by DACO to individuals certified competent by the licensed warehouse operator to perform inspection, sampling, grading classifying, or weighing services according to established standards and procedures, set forth in §735.202, at the specific warehouse license.

*Stored agricultural products* means all agricultural products received into, stored within, or delivered out of the warehouse that are not classified as a

non-storage agricultural product under this part.

*User* means a person that uses a provider's CFS.

*USWA electronic document* means a USWA electronic document initiated by DACO to be issued, transferred or transmitted that is not identified as an EWR or OED in the appropriate licensing or provider agreement or as determined by DACO.

*Warehouse* means a structure or other authorized storage facility, as determined by DACO, in which any agricultural product may be stored or handled for the purpose of interstate or foreign commerce.

*Warehouse capacity* means the maximum quantity of an agricultural product that the warehouse will accommodate when stored in a manner customary to the warehouse as determined by DACO.

*Warehouse operator* means a person lawfully engaged in the business of storing or handling agricultural products.

*Warehousing activities and practices* means any legal, operational, managerial or financial duty that a warehouse operator has regarding an agricultural product.

#### § 735.4 Fees.

(a) FSA will assess persons covered by the Act fees to cover the costs of administering the Act.

(b) Warehouse operators, licensees, applicants, or providers must pay:

(1) An annual fee as provided in the applicable licensing or provider agreement; and

(2) Fees that FSA assesses for specific services, examinations and audits, or as provided in the applicable licensing or provider agreement.

(c) The schedule of fees showing the current fees or any annual fee changes will be provided as an addendum to the applicable licensing or provider agreement or/and:

(1) Will be available at DACO's USWA Web site, or

(2) May be requested at the following address: Deputy Administrator, Commodity Operations, Farm Service Agency, United States Department of

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Agriculture, STOP 0550, 1400 Independence Avenue, SW., Washington, DC 20250-0550.

(d) At the sole discretion of DACO, these fees may be waived.

### § 735.5 Penalties.

If a person fails to comply with any requirement of the Act, the regulations set forth in this part or any applicable licensing or provider agreement, DACO may assess, after an opportunity for a hearing as provided in § 735.8, a civil penalty:

(a) Of not more than \$25,000 per violation, if an agricultural product is not involved in the violation; or

(b) Of not more than 100 percent of the value of the agricultural product, if an agricultural product is involved in the violation.

### § 735.6 Suspension, revocation and liquidation.

(a) DACO may, after an opportunity for a hearing as provided in § 735.8, suspend, revoke or liquidate any license or agreement issued under the Act, for any violation of or failure to comply with any provision of the Act, regulations or any applicable licensing or provider agreement.

(b) The reasons for a suspension, revocation or liquidation under this part include, but are not limited to:

(1) Failure to perform licensed or authorized services as provided in this part or in the applicable licensing or provider agreement;

(2) Failure to maintain minimum financial requirements as provided in the applicable licensing or provider agreement;

(3) Failure to submit a proper annual financial statement within the established time period as provided in the applicable licensing or provider agreement.

(4) Failure to maintain control of the warehouse or provider system.

(5) The warehouse operator or provider requests closure, cancellation or liquidation, and

(6) Commission of fraud against FSA, any depositor, EWR or OED holder or user, or any other function or operation under this part.

(c) FSA retains USWA's full authority over a warehouse operator or pro-

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vider for one year after such license revocation or provider agreement termination or until satisfaction of any claims filed against such warehouse operator or provider are resolved, whichever is later.

(d) Upon DACO's determination that continued operation of a warehouse by a warehouse operator or an electronic provider system by a provider is likely to result in probable loss of assets to storage depositors, or loss of data integrity to EWR or OED holders and users, DACO may immediately suspend, close, or take control and begin an orderly liquidation of such warehouse inventory or provider system data as provided in this part or in the applicable licensing or provider agreement.

(e) Any disputes involving probable loss of assets to storage depositors, or loss of data integrity to EWR or OED holders and users will be determined by DACO for the benefit of the depositors, or EWR or OED holders and users and such determinations shall be final.

### § 735.7 Return of suspended or revoked certificates of licensing or certificates of authorization.

(a) When a license issued to a warehouse operator or service license ends or is suspended or revoked by DACO, such certificates of licensing and applicable licensing agreement and certificates of authorization must be immediately surrendered and returned to DACO.

(b) When an agreement with a provider ends or is suspended or revoked by DACO, such certificates of authorization and applicable provider agreement must be immediately surrendered to DACO.

### § 735.8 Appeals.

(a) Any person who is subject to an adverse determination made under the Act may appeal the determination by filing a written request with DACO at the following address: Deputy Administrator, Commodity Operations, Farm Service Agency, United States Department of Agriculture, STOP 0550, 1400 Independence Avenue, SW., Washington, DC 20250-0550.

(b) Any person who believes that they have been adversely affected by a