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§ 800.18 Waivers of the official inspection and Class X weighing requirements.

(a) *General*. Waivers from the official inspection and Class X weighing requirements for export grain under section 5 of the Act shall be provided in accordance with this section and the Act.

(b) *Waivers*—(1) *15,000 metric-ton waiver*. Official inspection and Class X weighing requirements apply only to exporters and individual elevator operators who (i) exported 15,000 metric tons or more of grain during the preceding calendar year, or (ii) have exported 15,000 metric tons or more of grain during the current calendar year. Exporters and elevator operators who are granted a waiver by reason of this paragraph shall, as a condition of the waiver, keep such accounts, records, and memorandum to fully and correctly disclose all transactions concerning lots of all export grain shipments. In addition, the exporters or elevator operators shall notify the Service in writing of the intention to export grain under this waiver. In the case of lots waived under this provision, if such lots are required by contract to be inspected or weighed, or if the lots are represented by official inspection or weight certificates, then such certificates shall meet the requirements of section 5 of the Act.

(2) *Grain exported for seeding purposes*. Official inspection and Class X weighing requirements do not apply to grain exported for seeding purposes, provided that (i) the grain is (A) sold or consigned for sale and invoiced as seed; and (B) identified as seed for seeding purposes on the Shipper's Export Declaration; and (ii) records pertaining to these shipments are made available, upon request by the Service, for review or copying purposes.

(3) *Grain shipped in bond*. Official inspection and weighing requirements do not apply to grain that is shipped from a foreign country to a foreign country through the United States in bond in accordance with applicable regulations of the United States Customs Service (19 CFR part 18).

(4) *Grain exported by rail or truck to Canada or Mexico*. Inspection and weighing requirements do not apply to grain exported by rail or truck from the United States to Canada or Mexico.

(5) *Grain not sold by grade*. Official inspection requirements may be waived by the Service on a shipment-by-shipment basis for export grain not sold, offered for sale, or consigned for sale by official grade if (i) the contract and any amendments clearly show that the buyer and seller mutually agree to ship the grain without official inspection and (ii) a copy of the contract and any amendments is furnished in advance of loading, along with a completed application on a form prescribed by the Service.

(6) *Service not available*. Upon request, any required official inspection or Class X weighing of grain may be waived on a shipment-by-shipment basis if (i) official personnel are not and will not be available within a 24-hour period to perform needed inspection or weighing services and (ii) both the buyer and seller of the grain are made aware that the grain has not been officially inspected or Class X weighed.

(7) *Emergency waiver*. Upon request, the requirements for official inspection or Class X weighing may be waived whenever the Service determines (i) that an emergency exists that precludes official inspection or Class X weighing and (ii) that granting an emergency waiver will not impair the objectives of the Act. To qualify for an emergency waiver, the exporter or elevator operator shall make timely application and comply with all conditions which may be required by the Service.

(8) *High quality specialty grain shipped in containers*. Official inspection and weighing requirements do not apply to high quality specialty grain exported in containers. Records generated during the normal course of business that pertain to these shipments must be made available to the Service upon request, for review or copying. These records must be maintained for a period of 3 years.

(Approved by the Office of Management and Budget under control number 0580–0011)

[50 FR 49669, Dec. 4, 1985, as amended at 70 FR 21923, Apr. 28, 2005; 70 FR 73559, Dec. 13, 2005; 75 FR 41695, July 19, 2010; 76 FR 45399, July 29, 2011]

RECORDKEEPING AND ACCESS TO FACILITIES

§ 800.25 Required elevator and merchandising records.

(a) *Elevator and merchandiser recordkeeping.* Every person and every State or political subdivision of a State that owns or operates an elevator and every merchandiser that has obtained or obtains official inspection or official weighing services other than (1) submitted sample inspection service, or (2) official sampling service, or (3) official stowage examination service shall keep such accounts, records, and memoranda that fully and correctly disclose all transactions concerning the lots of grain for which the elevator or merchandiser received official services, except as provided under § 800.18.

(b) *Retention period.* Records specified in this section may be disposed of after a period of 3 years from the date of the official service; provided, the 3-year period may be extended if the elevator owner or operator, or merchandiser is notified in writing by the Administrator that specific records should be retained for a longer period for effective administration and enforcement of the Act. This requirement does not restrict or modify the requirements of any other Federal, State, or local statute concerning recordkeeping.

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[51 FR 1768, Jan. 15, 1986]

§ 800.26 Access to records and facilities.

(a) *Inspection of records and facilities.* Prior to the examination of records or inspection of facilities by an authorized representative of the Secretary or the Administrator, the authorized representative shall contact or otherwise notify the elevator manager or manager's representative of their presence and furnish proof of identity and authority. While in the elevator, the authorized representative shall abide by the safety regulations in effect at the elevator. Every elevator owner and operator and every merchandiser shall permit authorized representatives of the Secretary or Administrator to enter its place of business during normal business hours and have access to the facilities and to inspect any books, documents, papers, and records that are maintained by such persons. Such access and inspection will be to effectuate the purpose, provisions, and objectives of the Act and to assure the integrity of official services under the Act or of any official transaction with which the Act is concerned. All copies of such records will be made at the Service's expense. Reasonable accommodations shall be made available to the duly authorized representative by elevator owners and operators, and merchandisers for such examination of records.

(b) *Disclosure of business information.* FGIS employees or persons acting for FGIS under the Act shall not, without the consent of the elevator operator or merchandiser concerned, divulge or make known in any manner, any facts or information acquired pursuant to the Act and regulations except as authorized by the Administrator, by a court of competent jurisdiction, or otherwise by law.

[51 FR 1768, Jan. 15, 1986]

REGISTRATION

§ 800.30 Foreign commerce grain business.

''Foreign commerce grain business'' is defined as the business of buying grain for sale in foreign commerce or the business of handling, weighing, or transporting grain for sale in foreign commerce. This provision shall not include:

(a) Any person who only incidentally or occasionally buys for sale, or handles, weighs, or transports grain for sale and is not engaged in the regular business of buying grain for sale, or handling, weighing, or transporting grain for sale;

(b) Any producer of grain who only incidentally or occasionally sells or transports grain which the producer has purchased;

(c) Any person who transports grain for hire and does not own a financial interest in such grain; or

(d) Any person who buys grain for feeding or processing and not for the