

§ 735.3

7 CFR Ch. VII (1-1-05 Edition)

failure to meet such requirements does not adversely affect the licensing or authorizations operated under the Act.

(c) DACO will provide affected licensees or authorized providers with changes to their licensing or provider agreements before the effective date.

(d) Licensing and authorization agreement updates will be available at:

(1) DACO's USWA website, and

(2) 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.

§ 735.3 Definitions.

Words used in this part will be applicable to the activities authorized by this part and will be used in all aspects of administering the Act.

Access means the ability, when authorized, to read, change, and transfer warehouse receipts or other applicable document information retained in a central filing system.

Agricultural product means an agriculturally-produced product stored or handled for the purposes of interstate or foreign commerce, including a processed product of such agricultural product, as determined by DACO.

Central filing system (CFS) means an electronic system operated and maintained by a provider, as a disinterested third party, authorized by DACO where information relating to warehouse receipts, USWA documents and other electronic documents is recorded and maintained in a confidential and secure fashion independent of any outside influence or bias in action or appearance.

Certificate means a USWA document that bears specific assurances under the Act or warrants a person to operate or perform in a certain manner and sets forth specific responsibilities, rights, and privileges granted to the person under the Act.

Control of the facility means ultimate responsibility for the operation and integrity of a facility by ownership, lease, or operating agreement.

Department means the Department of Agriculture.

Electronic document means any document that is generated, sent, received,

or stored by electronic, optical, or similar means, including, but not limited to, electronic data interchange, advanced communication methods, electronic mail, telegram, telex, or telecopy.

Electronic warehouse receipt (EWR) means a warehouse receipt that is authorized by DACO to be issued or transmitted under the Act in the form of an electronic document.

Examiner means an individual designated by DACO for the purpose of examining warehouses or for any other activities authorized under the Act.

Financial assurance means the surety or other financial obligation authorized by DACO that is a condition of receiving a license or authorization under the Act.

Force majeure means severe weather conditions, fire, explosion, flood, earthquake, insurrection, riot, strike, labor dispute, act of civil or military, non-availability of transportation facilities, or any other cause beyond the control of the warehouse operator or provider that renders performance impossible.

Holder means a person that has possession in fact or by operation of law of a warehouse receipt, USWA electronic document, or any electronic document.

License means a license issued under the Act by DACO.

Licensing agreement means the document and any amendment or addenda to such agreement executed by the warehouse operator and FSA specifying licensing terms and conditions specific to the warehouse operator and the agricultural product licensed to be stored.

Non-storage agricultural product means an agricultural product received temporarily into a warehouse for conditioning, transferring or assembling for shipment, or lots of an agricultural product moving through a warehouse for current merchandising or milling use, against which no warehouse receipts are issued and no storage charges assessed.

Official Standards of the United States means the standards of the quality or condition for an agricultural product, fixed and established under (7 U.S.C. 51) the United States Cotton Standards Act, (7 U.S.C. 71) the United States

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