

§ 735.5

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