

Farm Service Agency, USDA

§ 735.10

determination under this part must seek review by DACO within twenty-eight calendar days of such determination, unless provided with notice by DACO of a different deadline.

(c) The appeal process set forth in this part is applicable to all licensees and providers under any provision of the Act, regulations or any applicable licensing agreement as follows:

(1) DACO will notify the person in writing of the nature of the suspension, revocation or liquidation action;

(2) The person must notify DACO of any appeal of its action within twenty-eight calendar days;

(3) The appeal and request must state whether:

(i) A hearing is requested,

(ii) The person will appear in person at such hearing, or

(iii) Such hearing will be held by telephone;

(4) DACO will provide the person a written acknowledgment of their request to pursue an appeal;

(5) When a person requests an appeal and does not request a hearing DACO will allow that person:

(i) To submit in writing the reasons why they believe DACO's determination to be in error,

(ii) Twenty-eight calendar days from the receipt of the acknowledgment to file any statements and documents in support of their appeal, unless provided with notice by DACO of a different deadline, and

(iii) An additional fourteen calendar days to respond to any new issues raised by DACO in response to the person's initial submission, unless provided with notice by DACO of a different deadline;

(6) If the person requests to pursue an appeal and requests a hearing, DACO will:

(i) Notify the person of the date of the hearing,

(ii) Determine the location of the hearing, when the person asks to appear in person,

(iii) Notify the person of the location of the hearing,

(iv) Afford the person twenty-eight calendar days from the receipt of the notification of the scheduling of the hearing to submit any statements and documents in support of the appeal, un-

less provided with notice by DACO of a different deadline, and

(v) Allow the person an additional fourteen calendar days from the date of the hearing to submit any additional material, unless provided with notice by DACO of a different deadline;

(7) Determinations of DACO will be final and no further appeal within USDA will be available except as may be specified in the final determination of DACO; and

(8) A person may not initiate an action in any court of competent jurisdiction concerning a determination made under the Act prior to the exhaustion of the appeal process set forth in this section.

§ 735.9 Dispute resolution and arbitration of private parties.

(a) A person may initiate legal action in any court of competent jurisdiction concerning a claim for noncompliance or an unresolved dispute with respect to activities authorized under the Act.

(b) Any claim for noncompliance or an unresolved dispute between a warehouse operator or provider and another party with respect to activities authorized under the Act may be resolved by the parties through mutually agreed-upon arbitration procedures or as may be prescribed in the applicable licensing or provider agreement. No arbitration determination or award will affect DACO's authority under the Act.

(c) In no case will USDA provide assistance or representation to parties involved in an arbitration proceeding arising with respect to activities authorized under the Act.

§ 735.10 Posting of certificates of licensing, certificates of authorization or other USWA documents.

(a) The warehouse operator must post, in a conspicuous place in the principal place where warehouse receipts are issued, any applicable certificate furnished by DACO that the warehouse operator is an authorized licensee under the Act.

(b) Immediately upon receipt of their certificate of service licensing or any modification or extension thereof under the Act, the licensee and warehouse operator must jointly post the