

§ 800.172

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be employed by an agency to perform the services and must otherwise be found competent in accordance with this section and § 800.173.

(2) *Specified technical services.* To obtain a license to perform specified sampling, inspection testing, weighing, and similar services under the Act, an individual must (i) be employed by an agency to perform the services, or (ii) enter into or be employed under a contract with the Service to perform the services, and (iii) otherwise be found competent in accordance with this section and § 800.173.

(3) *Warehouse sampler.* To obtain a warehouse sampler's license, an applicant must be employed by an elevator to perform sampling services and otherwise be found competent in accordance with this section and § 800.173.

(4) *Requirements.* To be considered competent, an individual must (i) meet the qualifications specified in § 800.173; and (ii) have available the equipment and facilities necessary to perform the services for which the individual is to be licensed.

(d) *Competency determinations—(1) Agency samplers and technicians.* The competency of an applicant for a license as a sampler, inspection technician, or weighing technician shall be determined by (i) the chief inspector or the chief weighmaster, as applicable, of the agency that employs the applicant or, in the case of a warehouse sampler, the agency that is assigned the area in which the elevator that employs the sampler is located, and (ii) the field office supervisor.

(2) *Inspectors, weighers, contract samplers, and technicians.* The competency of an applicant for a license as an inspector or weigher or any license issued under the terms of a contract with the Service shall be determined by the Service.

(3) *Examinations.* A determination of competency of an applicant for a license shall include an evaluation of the results of examinations or reexaminations under § 800.173.

[45 FR 15810, Mar. 11, 1980, as amended at 49 FR 36072, Sept. 14, 1984]

§ 800.172 Applications for licenses.

(a) *General.* An application for a license, the renewal of a license, or the

return of a suspended license shall be made to the Service on forms furnished by the Service. Each application shall (1) be in English, (2) be typewritten or legibly written in ink, (3) show all information prescribed by the application form, and (4) be signed by the applicant.

(b) *Additional information.* An applicant shall furnish any additional information considered necessary by the Service for consideration of an application.

(c) *Withdrawal.* An application for a license may be withdrawn by an applicant at any time.

(d) *Review of applications—(1) General procedure.* Each application shall be reviewed to determine whether the applicant and the application comply with the Act and the regulations.

(2) *Application and applicant in compliance.* If it is determined that the applicant and the application comply with the Act and the regulations, the requested license shall be granted.

(3) *Application not in compliance.* If an application does not comply with this section and the noncompliance prevents a satisfactory review by the Service, the applicant shall be provided an opportunity to submit any needed information. If the needed information is not submitted by the applicant within a reasonable time, the application may be dismissed.

(4) *Applicant not in compliance.* If it is determined that an applicant does not comply with the provisions of the Act and §§ 800.171, 800.173, and 800.187 at the time the application is submitted, the applicant shall be provided an opportunity to comply. If the applicant cannot comply within a reasonable period of time, the application shall be dismissed.

(e) *Procedure for dismissal.* If a dismissal involves an application for a renewal of a license or for the return of a suspended license, the dismissal shall be performed in accordance with the provisions of § 800.179. All other dismissals shall be performed by promptly notifying the applicant and the employer

of the applicant of the reasons for the dismissal.

(Approved by the Office of Management and Budget under control number 0580-0012)

[45 FR 15810, Mar. 11, 1980, as amended at 48 FR 44453, Sept. 29, 1983; 54 FR 5924, Feb. 7, 1989]

§ 800.173 Examinations and reexaminations.

(a) *General.* Applicants for a license and individuals who are licensed to perform any or all official inspection or Class X or Class Y weighing services shall, at the discretion of the Service, submit to examinations or reexaminations to determine their competency to perform the official inspection or weighing functions for which they desire to be, or are, licensed.

(b) *Time and place of examinations and reexaminations.* Examinations or reexaminations under this section shall be conducted by official personnel designated by the Service and shall be given at a reasonable time and place in accordance with the instructions.

(c) *Scope of examinations and reexaminations.* Examinations or reexaminations may include oral or written tests on the applicable provisions of the Act, the regulations, the Official U.S. Standards for Grain, the procedures for the inspection and weighing of grain under the Act, the instructions, on-site performance evaluations, and vision or olfactory examinations.

(d) *Competency standards*—(1) *Inspection.* An individual may be found to be incompetent to perform official inspection services if the individual (i) has a color-vision deficiency; (ii) cannot meet the physical requirements necessary to perform the functions; (iii) cannot readily distinguish between the different kinds and classes of grain, or the different conditions in grain, including heating, musty, sour, insect infestation, and smut; (iv) cannot demonstrate a technical ability to operate grain sampling, testing, and grading equipment; (v) does not have a working knowledge of applicable provisions of the Act, the regulations, the Official U.S. Standards for Grain, and the instructions; (vi) cannot determine work-related mathematical computations; or (vii) cannot prepare legible records in English.

(2) *Weighing.* An individual may be found to be incompetent to perform Class X or Class Y weighing services under the Act if the individual (i) does not meet the requirements of paragraphs (d)(1)(ii), (v), (vi), and (vii) of this section or (ii) cannot demonstrate a technical ability to operate grain weighing equipment.

§ 800.174 Issuance and possession of licenses and authorizations.

(a) *Scope of licenses and authorizations.* Subject to the provisions of § 800.171, eligible individuals may be licensed or authorized by the Service to perform one or more services specified in this paragraph.

(1) *Official samplers.* Individuals employed by an agency or the Service or employed under the terms of a contract with the Service may be licensed or authorized, as applicable, to perform or supervise the performance of stowage examinations, grain sampling, and related technical services and to issue official certificates for the services performed by them.

(2) *Licensed warehouse samplers.* Elevator or warehouse employees may be licensed to sample grain and perform stowage examinations. No elevator employee shall be licensed to (i) sample export grain for inspection under the Act, (ii) test or grade grain, or (iii) certify the results of any inspection service under the Act.

(3) *Official inspection technicians.* Individuals employed by an agency or the Service or employed under the terms of a contract with the Service may be licensed or authorized to perform or supervise the performance of stowage examinations, grain sampling, or all or specified noninterpretive laboratory-testing services and to issue official certificates for the services performed by them.

(4) *Official inspectors.* Individuals employed by an agency or the Service may be licensed or authorized to perform and supervise the performance of stowage examinations, sampling, laboratory-testing, grading, and related services and to issue official certificates for the services performed by them.

(5) *Official weighing technicians.* Individuals who are employed by an agency