

### § 735.103

regulations in §§ 735.100 through 735.105 and the Act.

(f) *Application form.* Application for a provider agreement shall be made to the Secretary on forms prescribed and furnished by the Service.

[59 FR 15039, Mar. 31, 1994, as amended at 62 FR 33540, June 20, 1997; 64 FR 54511, Oct. 7, 1999]

### § 735.103 Audits.

(a) The provider must submit to the Secretary an annual audit level financial statement that meets the requirements of § 735.5 with the exception of §§ 735.5(d)(1), (e), (g), and (h); and an electronic data processing audit. These audits shall encompass the provider's fiscal year. The completed audits shall be submitted to the Secretary no later than four calendar months following the end of the provider's fiscal year. The electronic data processing audit shall result in an evaluation as to current computer operations, security, disaster recovery capabilities of the system, and other systems.

(b) The provider will grant the Secretary or his designees unlimited, free access at any time to all records under the provider's control relating to activities conducted under this part and as specified in the provider agreement.

[59 FR 15039, Mar. 31, 1994]

### § 735.104 Provider-user relationship.

(a) The provider shall not discriminate among its users regarding use of and access to its CFS and must charge fees on an equal basis to all users for its services.

(b) The provider must furnish the Secretary with copies of its current schedule of fees for all services and charges as they become effective.

(c) Fees charged any user by the provider must be in effect for a minimum period of one year.

(d) Providers must furnish the Secretary and all users a 60 calendar day advance notice of their intent to change any fee.

[59 FR 15039, Mar. 31, 1994]

### § 735.105 Security.

(a) Security must be in accordance with the standards set out in the provider agreement.

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(b) Security copies of the system are to be maintained off-site. Both on-site and off-site record security must be maintained.

[59 FR 15039, Mar. 31, 1994]

### §§ 735.106-735.199 [Reserved]

#### DELIVERY AND SHIPPING

SOURCE: 65 FR 63767, Oct. 25, 2000, unless otherwise noted.

### § 735.200 Applicability.

The cotton shipping standard set forth in § 735.201 is applicable to all cotton warehousemen licensed under the Act and to all warehousemen that issue electronic warehouse receipts through an authorized electronic warehouse receipt provider in accordance with part 735 regardless of whether the warehouse is licensed under the Act.

### § 735.201 Cotton shipping standard.

Unless prevented from doing so by force majeure, a warehouseman identified in § 735.200 shall deliver stored cotton without unnecessary delay. A warehouseman shall be considered to have delivered cotton without unnecessary delay, if for the week in question, the warehouseman has delivered or staged for scheduled delivery at least 4.5 percent of either their licensed storage capacity or Commodity Credit Corporation-approved storage capacity or other storage capacity as determined by the Secretary to be in effect during the relevant week of shipment.

### § 735.202 Compliance and dispute resolution.

(a) Any claim for noncompliance with the cotton shipping standard may be resolved by the parties involved through established industry, professional, or mutually agreed upon arbitration procedures. The arbitration procedures shall be nondiscriminatory and provide each person equal access and protection relating to the cotton shipping standard.

(b) No arbitration determination or award resulting from noncompliance with the shipping standard shall affect, obligate, or restrict the Service's authority to provide, administer, and regulate the issuance of a license, receipt,

contractual agreement, or authorized electronic warehouse receipt provider system in accordance with the Act.

(c) The Service shall not settle unresolved disputes involving the cotton shipping standard or associated damages.

(d) In the event a party requests assistance from or initiates the involvement of the Service in a matter relating to the cotton shipping standard, the initiating party shall be responsible for all costs incurred by the Service. Before any such assistance is provided, the initiating party shall make payment to the Service in an amount equal to the Service's good faith estimate of costs and expenses that will be incurred in fulfilling the request. Costs incurred that exceed the Service's good faith estimate will be the responsibility of the initiating party.

**PART 736—GRAIN WAREHOUSES**

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