

Farm Service Agency, USDA

§ 736.96

such time as would not disrupt service to other depositors but without unnecessary delay to the party making such request.

§ 736.82 Appeal sample—obtaining, preservation, delivery and examination.

(a) The lot of grain for which an appeal is requested shall be resampled in such manner and quantity as the depositor or holder of receipt and the warehouseman agree results in a representative sample of the lot acceptable to each for appeal purposes. Should they be unable to agree on such a sample, a sample drawn by a duly licensed inspector in the presence of both shall be deemed binding. In no case shall the sample be of less than 2000 grams by weight.

(b) The sample shall be packaged, to the satisfaction of the interested parties, so as to preserve its original condition.

(c) For grains for which there are official U.S. Standards the sample shall be secured and delivered to the nearest office charged with providing official inspection service under the U.S. Grain Standards Act and/or the Agricultural Marketing Act of 1946. At this point procedures as set forth in regulations issued under the U.S. Grain Standards Act or under the Agricultural Marketing Act of 1946 shall govern. For grain for which there are no official U.S. Standards the party requesting the appeal shall apply directly to the Administrator for relief. The Administrator or delegate thereof shall promptly determine the appeal based on approved standards and set the required fees. Such determination shall be binding on all concerned parties.

(d) The sample shall be accompanied by: (1) A copy of the written request for appeal, (2) the grain inspection certificate originally issued, and (3) an agreement to pay the costs of such inspection as prescribed by the U.S. Grain Standards Act, the Agricultural Marketing Act or the Administrator.

(e) The sample of the grain involved in the appeal shall be examined as soon as possible. Such tests shall be applied as are necessary; and, unless the appeal is dismissed, a grade certificate shall be issued by the person determining

the grade, showing the grade assigned by him to such grain. This certificate shall supersede the inspection certificate originally issued for the grain involved. The original or a copy of the new grade certificate shall be sent to the depositor or holder of receipt, the licensed warehouseman and the licensed inspector making the original determination of grade.

§ 736.83 Dismissal of appeal.

The departmental agency to whom the appeal has been made may dismiss such appeal without its determination upon request of the party initiating the appeal or for noncompliance with the regulations in this part.

§ 736.84 Freedom of appeal.

(a) No person licensed under the Act, shall, directly or indirectly by any means whatsoever, deter or prevent or attempt to deter or prevent any party from taking an appeal.

(b) No rule, regulation, bylaw, or custom of any market, board of trade, chamber of commerce, exchange, inspection department or similar organization nor any contract, agreement, or understanding, shall be ground for refusing to determine any appeal.

§ 736.85 Owner not compelled to store.

Nothing in these regulations shall require the owner or his agent to store such grain with the licensed warehouseman after the appeal inspection, but if the grain is stored it shall be accepted for and delivered out of storage in accordance with the grade as finally determined in such appeal.

§§ 736.86–736.95 [Reserved]

MISCELLANEOUS

§ 736.96 Bonds required; re State warehouses.

Every person applying for a license, or licensed under section 9 of the act shall, as such, be subject to all portions of the regulations in this part, so far as they may relate to warehousemen. In case there is a law of any State providing for a system of warehouses owned, operated or leased by such State, a person applying for a license under section 9 of the act, to accept the