

SUBCHAPTER C—REGULATIONS FOR WAREHOUSES

PART 735—REGULATIONS FOR THE UNITED STATES WAREHOUSE ACT

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AUTHORITY: 7 U.S.C. 241 *et seq.*

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Subpart A—General Provisions

§ 735.1 Applicability.

(a) The regulations of this part set forth the terms and conditions under which the Secretary of Agriculture through the Farm Service Agency (FSA) will administer the United States Warehouse Act (USWA or the Act) and sets forth the standards and the terms and conditions a participant must meet for eligibility to act under the USWA. The extent the provisions of this part are more restrictive, or more lenient, with respect to the same activities governed by State law, the provisions of this part shall prevail.

(b) Additional terms and conditions may be set forth in applicable licensing agreements, provider agreements and other documents.

(c) Compliance with State laws relating to the warehousing, grading, weighing, storing, merchandising or other similar activities is not required with respect to activities engaged in by a warehouse operator in a warehouse subject to a license issued in accordance with this part.

§ 735.2 Administration.

(a) FSA will administer all provisions and activities regulated under the Act under the general direction and supervision of the FSA's Deputy Administrator, Commodity Operations (DACO), or a designee.

(b) DACO may waive or modify the licensing or authorization requirements or deadlines in cases where lateness or

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failure to meet such requirements does not adversely affect the licensing or authorizations operated under the Act.

(c) DACO will provide affected licensees or authorized providers with changes to their licensing or provider agreements before the effective date.

(d) Licensing and authorization agreement updates will be available at:

(1) DACO's USWA website, and

(2) 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.

§ 735.3 Definitions.

Words used in this part will be applicable to the activities authorized by this part and will be used in all aspects of administering the Act.

Access means the ability, when authorized, to read, change, and transfer warehouse receipts or other applicable document information retained in a central filing system.

Agricultural product means an agriculturally-produced product stored or handled for the purposes of interstate or foreign commerce, including a processed product of such agricultural product, as determined by DACO.

Central filing system (CFS) means an electronic system operated and maintained by a provider, as a disinterested third party, authorized by DACO where information relating to warehouse receipts, USWA documents and other electronic documents is recorded and maintained in a confidential and secure fashion independent of any outside influence or bias in action or appearance.

Certificate means a USWA document that bears specific assurances under the Act or warrants a person to operate or perform in a certain manner and sets forth specific responsibilities, rights, and privileges granted to the person under the Act.

Control of the facility means ultimate responsibility for the operation and integrity of a facility by ownership, lease, or operating agreement.

Department means the Department of Agriculture.

Electronic document means any document that is generated, sent, received,

or stored by electronic, optical, or similar means, including, but not limited to, electronic data interchange, advanced communication methods, electronic mail, telegram, telex, or telecopy.

Electronic warehouse receipt (EWR) means a warehouse receipt that is authorized by DACO to be issued or transmitted under the Act in the form of an electronic document.

Examiner means an individual designated by DACO for the purpose of examining warehouses or for any other activities authorized under the Act.

Financial assurance means the surety or other financial obligation authorized by DACO that is a condition of receiving a license or authorization under the Act.

Force majeure means severe weather conditions, fire, explosion, flood, earthquake, insurrection, riot, strike, labor dispute, act of civil or military, non-availability of transportation facilities, or any other cause beyond the control of the warehouse operator or provider that renders performance impossible.

Holder means a person that has possession in fact or by operation of law of a warehouse receipt, USWA electronic document, or any electronic document.

License means a license issued under the Act by DACO.

Licensing agreement means the document and any amendment or addenda to such agreement executed by the warehouse operator and FSA specifying licensing terms and conditions specific to the warehouse operator and the agricultural product licensed to be stored.

Non-storage agricultural product means an agricultural product received temporarily into a warehouse for conditioning, transferring or assembling for shipment, or lots of an agricultural product moving through a warehouse for current merchandising or milling use, against which no warehouse receipts are issued and no storage charges assessed.

Official Standards of the United States means the standards of the quality or condition for an agricultural product, fixed and established under (7 U.S.C. 51) the United States Cotton Standards Act, (7 U.S.C. 71) the United States