

**§ 800.82**

**7 CFR Ch. VIII (1–1–10 Edition)**

sample was obtained was located within the area of responsibility assigned to the agency or field office at the time of sampling, except as provided for in §800.117, or on a case-by-case basis as determined by the Administrator.

(e) *Disposition of samples*—(1) *Excess grain.* Any grain in excess of the quantity specified in the instructions for the requested service, the file samples, and samples requested by interested persons shall be returned to the lot from which the grain was obtained or to the owner of the lot or the owner's order.

(2) *Inspection samples.* Inspection samples, after they have served their intended purpose, shall be disposed of as follows:

(i) Samples which contain toxic substances or materials shall be kept out of food and feed channels, and

(ii) Official personnel shall dispose of samples obtained or submitted to them according to procedures established by the Service. Complete and accurate records of disposition shall be maintained.

(Approved by the Office of Management and Budget under control number 0580-0013)

[50 FR 49669, Dec. 4, 1985, as amended at 68 FR 19138, Apr. 18, 2003]

**§ 800.82 Sampling provisions by level of service.**

(a) *Original inspection service*—(1) *Official sample-lot inspection service.* Each original inspection service shall be performed on the basis of one or more official samples obtained by official personnel from grain in the lot and forwarded to the appropriate agency or field office.

(2) *Warehouseman's sample-lot inspection.* Each original warehouseman's sample-lot inspection service shall be performed on the basis of samples obtained by a licensed warehouseman and sent to the appropriate agency or field office in whose circuit the warehouse is located.

(3) *Submitted sample service.* Each original submitted sample inspection service shall be performed on the basis of the sample as submitted.

(b) *Reinspection, and appeal inspection services*—(1) *Official sample-lot inspection service.* Each of these inspection services shall be performed on the basis of

official samples as available, including file samples, at the time the service is requested. In performing these services, a sample obtained with an approved diverter-type mechanical sampler or with a pelican sampler generally shall be used with respect to quality factors and official criteria, and a sample obtained with a probe at the time of the reinspection or appeal, generally, shall be used with respect to heating, musty, sour, insect infestation, and other condition and odor factors. In instances where original inspection results are based on samples obtained by probe, the decision as to whether file samples or new samples obtained by probe are to be used shall be made by the official personnel performing the service.

(2) *Warehouseman's sample-lot inspection service.* Each reinspection service and appeal inspection service on a warehouseman's sample shall be performed on an analysis of the official file sample.

(3) *Submitted sample service.* Each reinspection service and appeal inspection service on a submitted sample shall be performed on an analysis of the official file sample.

(c) *Board appeal inspection services.* Board appeal inspection services shall be performed on an analysis of the official file sample.

(d) *Use of file samples*—(1) *Requirements for use.* A file sample that is retained by official personnel in accordance with the procedures prescribed in the instructions may be considered representative for a reinspection service, appeal inspection service, and a Board appeal inspection service if (i) the file sample has remained at all times in the custody and control of the official personnel that performed the inspection service in question; and (ii) the official personnel who performed the original inspection service and those who are to perform the reinspection, the appeal inspection, or the Board appeal inspection service determine that the samples were representative at the time the original inspection service was performed and that the quality or condition of the grain in the samples has not changed.

(2) *Certificate statement.* When the results of a reinspection, appeal inspection, or Board appeal inspection service are based on an official file sample, the certificate for the reinspection service, the appeal inspection service, and the Board appeal inspection service shall show a statement, as specified in the instructions, indicating that the results are based on the official file sample.

[50 FR 49670, Dec. 4, 1985]

**§ 800.83 Sampling provisions by kind of movement.**

(a) *Export cargo movements*—(1) *Bulk grain.* Except as may be approved by the Administrator on a shipment-by-shipment basis in an emergency, each inspection for official grade, official factor, or official criteria on an export cargo shipment of bulk grain shall be performed on official samples obtained from the grain (i) as the grain is being loaded aboard the final carrier; (ii) after the final elevation of the grain prior to loading and as near to the final loading spout as is physically practicable (except as approved by the Administrator when representative samples can be obtained before the grain reaches the final loading spout); and (iii) by means of a diverter-type mechanical sampler approved by the Service and operated in accordance with instructions. If an approved diverter-type mechanical sampler is not properly installed at an elevator or facility as required, each certificate issued at that elevator or facility for an export cargo shipment of bulk grain shall show a statement indicating the type of approved sampling method used, as prescribed in the instructions.

(2) *Sacked grain.* Each inspection for official grade, official factor, or official criteria on an export cargo shipment of sacked grain shall be performed on official samples obtained from the grain by any sampling method approved by the Service and operated in accordance with instructions.

(b) *Other movements.* Each inspection for official grade, official factor, or official criteria on a domestic cargo movement (“In,” “Out,” or en route barge movement), a movement in a land carrier (any movement in a railcar, truck trailer, truck/trailer com-

ination, or container), or a “LOCAL” movement of bulk or sacked grain shall be performed on official samples obtained from the grain by any sampling method approved by the Service and operated in accordance with the instructions.

[50 FR 49670, Dec. 4, 1985]

**§ 800.84 Inspection of grain in land carriers, containers, and barges in single lots.**

(a) *General.* The reinspection of bulk or sacked grain loaded or unloaded from any carrier or container, except shiplot grain, shall be conducted in accordance with the provisions in this section and procedures prescribed in the instructions.

(b) *Single and multiple grade procedure*—(1) *Single grade.* When grain in a carrier or container is offered for inspection as one lot and the grain is found to be uniform in condition, the grain shall be sampled, inspected, graded, and certificated as one lot. For the purpose of this paragraph, condition only includes the factors heating, musty, or sour.

(2) *Multiple grade.* When grain in a carrier or container is offered for inspection as one lot and the grain is found to be not uniform in condition because portions of the grain are heating, musty, or sour, the grain in each portion will be sampled, inspected, and graded separately; but the results shall be shown on one certificate. The certificate shall show the approximate quantity or weight of each portion, the location of each portion in the carrier or container, and the grade of the grain in each portion.

(3) *Infested.* If any portion of grain in a lot is found to be infested, according to applicable provisions of the Official U.S. Standards for Grain, the entire lot shall be considered infested. When grain in railcars or trucks with permanently enclosed tops is considered infested, the applicant for inspection shall be promptly notified and given the option of (i) receiving a grade certificate with a special grade designation indicating that the entire lot is infested or (ii) fumigating the grain in the lot in accordance with instructions and receiving a grade certificate without the special grade designation.