§ 800.37 Notice of change in information.

Each registrant shall notify the Service within 30 days of any change in the information contained in the application for registration. If the notice is submitted orally, it shall be promptly confirmed in writing.

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


§ 800.38 Termination and renewal of registration.

Each certificate of registration shall terminate on December 31 of the calendar year for which it is issued. The Service shall send a letter to each registrant notifying the registrant of the impending termination of the registration and providing instructions for requesting renewal. The registration may be renewed in accordance with §§ 800.33 and 800.34. Failure to receive the letter shall not exempt registrants from the responsibility of renewing their registration if required by § 800.31.

(48 FR 44456, Sept. 29, 1983)

§ 800.39 Suspension or revocation of registration for cause.

(a) General. Registration is subject to suspension or revocation whenever the Administrator determines that the registrant has violated any provision of the Act or regulations, or has been convicted of any violation involving the handling, weighing, or inspection of grain under Title 18 of the United States Code.

(b) Procedure. Before the Service suspends or revokes a registration, the registrant (hereinafter the “respondent”): (1) Shall be notified of the proposed action and the reasons therefor and (2) shall be afforded opportunity for a hearing in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes (7 CFR, 1.130 through 1.151). Prior to formal adjudicatory proceedings, the Service may allow the respondent to express views on the action proposed by the Service in an informal conference before the Administrator. If the Service and the respondent enter into a consent agreement, no formal adjudicatory proceedings shall be initiated.

(48 FR 44456, Sept. 29, 1983)

§ 800.46 Requirements for obtaining official services.

(a) Consent and agreement by applicant. In submitting a request for official services, the applicant and the owner of the grain consent to the special and general requirements specified in paragraphs (b) and (c) of this section. These requirements are essential to carry out the purposes or provisions of the Act.

(b) General requirements—(1) Access to grain. Grain on which official services are to be performed shall, except as provided in §§ 800.85, 800.86, 800.98, and 800.99, be made accessible by the applicant for the performance of the requested official service and related monitoring and supervision activities. For the purposes of this section, grain
§ 800.46

is not “accessible” if it is offered for official services (i) in containers or carriers that are closed and cannot, with reasonable effort, be opened by or for official personnel; (ii) when any portion is located so as to prohibit the securing or a representative sample; or (iii) under conditions prescribed in the instructions as being hazardous to the health or safety of official personnel.

(2) Working space. When official services are performed at an elevator, adequate and separate space must be provided by the applicant for the performance of the requested service and related monitoring and supervision activities. Space will be “adequate” if it meets the space, location, and safety requirements specified in the instructions.

(3) Notice of changes. The operator of each facility at which official services are performed must notify the appropriate agency or field office promptly, in full detail, of changes in the grain handling and weighing facilities, equipment, or procedures at the elevator that could or would affect the proper performance of official services.

(4) Loading and unloading conditions. As applicable, each applicant for official services must provide or arrange for suitable conditions in the (i) loading and unloading areas and the truck and railroad holding areas; (ii) gallery and other grain-conveying areas; (iii) elevator legs, distributor, and spout areas; (iv) pier or dock areas; (v) deck and stowage areas in the carrier; and (vi) equipment used in loading or unloading and handling the grain. Suitable conditions are those which will facilitate accurate inspection and weighing, maintain the quantity and the quality of the grain that is to be officially inspected or weighed, and not be hazardous to the health and safety of official personnel, as prescribed in the instructions.

(5) Timely arrangements. Requests for official service shall be made in a timely manner; otherwise, official personnel may not be available to provide the requested service. For the purpose of this paragraph, “timely manner” shall mean not later than 2 p.m., local time, of the preceding business day.

(6) Observation of activities. Each applicant for official services must provide any interested person, or their agent, an opportunity to observe sampling, inspection, weighing, and loading or unloading of grain. Appropriate observation areas shall be mutually defined by the Service and facility operator. The areas shall be safe and shall afford a clear and unobstructed view of the performance of the activity, but shall not permit a close over-the-shoulder type of observation by the interested person.

(7) Payment of bills. Each applicant, for services under the Act, must pay bills for the services according to §§ 800.70 through 800.73.

(8) Written confirmations. When requested by the agency or field office, verbal requests for official services shall be confirmed in writing. Each written request shall be signed by the applicant, or the applicant’s agent, and shall show or be accompanied by the following information:

(i) The identification, quantity, and specific location of the grain;

(ii) The name and mailing address of the applicant;

(iii) The kind and scope of services desired; and

(iv) Any other information requested by the agency or field office.

(9) Names and addresses of interested persons. When requested, each applicant for official services shall show on the application form the name and address of each known interested person.

(10) Surrender of superseded certificates. When a request for official service results in a certificate being superseded, the superseded certificate must be promptly surrendered.

(11) Recordkeeping and access. Each applicant for official services must comply with applicable recordkeeping and access-to-facility provisions in §§ 800.25 and 800.26.

(12) Monitoring equipment. Owners and operators of elevators shall, upon a finding of need by the Administrator, provide equipment necessary for the monitoring by official personnel of grain loading, unloading, handling, sampling, weighing, inspection, and related activities. The finding of need will be based primarily on a consideration of manpower and efficiency.

(c) Special requirements for official Class X and Class Y weighing services—
431

Grain Inspection, Packers and Stockyard Admin. (FGIS), USDA § 800.46

(1) **General.** Weighing services shall be
provided only at weighing facilities
which have met the conditions, duties,
and responsibilities specified in section
7A(f) of the Act and this section of the
regulations. Weighing services will be
available only in accordance with the
requirements of §800.115. Facilities de-
siring weighing services should contact
the Service in advance to allow the
Service time to determine if the facil-
ity complies with the provisions of the
Act and regulations.

(2) **Conditions.** The facility shall pro-
vide the following information annually
to the Service:
(i) The facility owner’s name and ad-
dress;
(ii) The facility operator’s name and
address;
(iii) The name of each individual em-
ployed by the facility as a weigher and
a statement that each individual:
(A) Has a technical ability to operate
grain weighing equipment and
(B) Has a reputation for honesty and
integrity;
(iv) A blueprint or similar drawing of
the facility showing the location of:
(A) The loading, unloading, and grain
handling systems;
(B) The scale systems used or to be
used in weighing grain; and
(C) The bins and other storage areas;
(v) The identification of each scale in
the facility that is to be used for
weighing grain under the Act;
(vi) The following information regard-
ing automated data processing sys-
tems:
(A) Overall system intent, design,
and layout;
(B) Make, model, and technical spec-
fications of all hardware;
(C) Description of software, language
used, and flow charts of all programs,
subprograms, routines, and subrou-
tines; and
(D) Complete operating instructions;
and
(vii) Any other information deemed
necessary to carry out the provisions
of the Act.

If a facility has, or plans to have, an
automated data processing system
which is used in conjunction with any
portion of the scale system, grain han-
dling system, or the preparing or print-
ing of official weight certificates, the
facility shall make available to the
Service sufficient documentation to
ensure that the system cannot be used
deceptively or otherwise provide inac-
curate information. The Service or ap-
proved scale testing and certification
organization shall conduct an onsite
review to evaluate the performance and
accuracy of each scale that will be used
for weighing grain under the Act, and
the performance of the grain loading,
unloading, and related grain handling
equipment and systems.

(3) **Duties and responsibilities of weigh-
ing facilities requesting official services—
(i) Providing official services. Upon re-
quest, each weighing facility shall per-
mit official weighing services to be per-
formed promptly.
(ii) **Supervision.** Each weighing facil-
ity shall supervise its employees and
shall take action necessary to assure
that employees are performing their
duties according to the Act, regula-
tions, and instructions and are not per-
forming prohibited functions or are not
involved in any action prohibited by
the Act, regulations, and instructions.

(iii) **Facilities and equipment—(A) Gen-
eral.** Each weighing facility shall ob-
tain and maintain facilities and equip-
ment which the Service determines are
needed for weighing services performed
at the facility. Each facility shall oper-
ate and shall maintain each scale sys-
tem and related grain handling system
used in weighing according to instruc-
tions issued by the manufacturer and
by the Service. A scale log book for
each approved scale used for official
weighing services shall be maintained
according to instructions at each
weighing facility.

(B) **Malfunction of scales.** Scales or
scale systems that are operating in
other than a correct and approved
manner shall not be used for weighing
grain under the Act. Before the mal-
functioning scale or scale system can
be used again for weighing grain under
the Act, it shall be repaired and deter-
mmed to be operating properly by the
Service or approved scale testing and
certification organization.

(iv) **Oral directives.** FGIS oral direc-
tives issued to elevator personnel shall
be confirmed in writing upon request
by elevator management. Whenever
practicable, the Service shall issue oral
§ 800.47 Withdrawal of request for official services.

An applicant may withdraw a request for official services any time before official personnel release results, either verbally or in writing. See §800.51 for reimbursement of expenses, if any.

§ 800.48 Dismissal of request for official services.

(a) Conditions for dismissal—(1) General. An agency or the Service shall dismiss requests for official services when (i) §800.76 prohibits the requested service; (ii) performing the requested service is not practicable; (iii) the agency or the Service lacks authority under the Act or regulations; or (iv) sufficient information is not available to make an accurate determination.

(2) Original services. A request for original services shall be dismissed if a reinspection, review of weighing, appeal inspection, or Board appeal inspection has been performed on the same lot at the same specified service point within 5 business days.

(3) Reinspection, appeal inspection, or Board appeal inspection services. A request for a reinspection, appeal inspection, or Board appeal inspection service shall be dismissed when:

(i) The kind and scope are different from the kind and scope of the last inspection service;

(ii) The condition of the grain has undergone a material change;

(iii) The request specifies a representative file sample and a representative file sample is not available;

(iv) The applicant requests that a new sample be obtained and a new sample cannot be obtained; or

(v) The service cannot be performed within 5 business days of the date of the last inspection date.

(4) Review of weighing services. A request for review of weighing services shall be dismissed when the request (i) is filed before the weighing results have been released, or (ii) is filed more than 90 calendar days after the date of the original service.

(b) Procedure for dismissal. When an agency or the Service proposes to dismiss a request for official services, the applicant shall be notified of the proposed action. The applicant will then be afforded reasonable time to take corrective action or to demonstrate there is no basis for the dismissal. If the agency or the Service determines that corrective action has not been adequate, the applicant will be notified again of the decision to dismiss the request for service, and any results of official services shall not be released.

§ 800.49 Conditional withholding of official services.

(a) Conditional withholding. An agency or the Service shall conditionally withhold requests for official services when an applicant fails to meet any requirement prescribed in §800.46.

(b) Procedure and withholding. When an agency or the Service proposes to conditionally withhold official services, the applicant shall be notified of the reason for the proposed action. The applicant will then be afforded reasonable time to take corrective action or to show that there is no basis for withholding services. If the agency or the Service determines that corrective action has not been adequate, the applicant will be notified. Any results of official services shall not be released when a request for service is withheld.