

DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C.



AMENDMENT NO. 8 TO CIRCULAR NO. 70 REVISED.

By virtue of the authority vested in the Secretary of Agriculture by the United States grain standards Act of August 11, 1916 (39 U. S. Stat. at Large, page 482), I, R. W. Dunlap, Acting Secretary of Agriculture, do make, prescribe, publish, and give public notice of the following amendments to the regulations of the Secretary of Agriculture, dated July 30, 1920; as revised under said Act, said amendments to be effective immediately.

Strike out Regulation 3, Appeals, Regulation 4, Disputes, and Regulation 6, Department Charges and Fees, and insert in lieu thereof the following:

Regulation 3. Appeals.

Section 1. When appeal may be taken.- An appeal shall be taken (a) before the grain leaves the place where the inspection appealed from was made; (b) before the identity of the grain has been lost; (c) when the conditions otherwise are as prescribed in section 6 of the Act; and (d) as promptly as possible, but not later than the close of business on the second business day following the date of the inspection appealed from, except as provided in section 6 of this regulation.



Sec. 2. Appeals, how taken.- An appeal shall be taken to the Secretary by filing, in writing or by telegraph, in the office of Federal Grain Supervision in the district in which the inspection appealed from was made, an application for appeal: Provided, That in cases of emergency the officer designated in charge of General Field Headquarters, Federal Grain Supervision, may authorize the entertaining of an appeal by an office of Federal Grain Supervision other than that having jurisdiction over the district in which the inspection appealed from was made.

Sec. 3. Advance notice of appeal.- Any party desiring to appeal may, in advance, transmit to the proper office of Federal Grain Supervision, by telegraph, telephone, or otherwise, such information as may be necessary to enable a grain supervisor in such office to proceed to the examination of the grain involved.

Sec. 4. Contents of application.- An application, signed by the appellant, shall state: (a) That the grain involved was shipped, delivered for shipment, consigned for sale, sold for shipment, or offered for sale for shipment, in interstate or foreign commerce; (b) the identification and location of the grain at the time of taking the appeal; (c) the names and post office addresses of all other parties interested in the grain involved, if any; (d) if samples have been agreed upon and are submitted in accordance with section 3 of regulation 5, a statement to that effect; and (e) such other information as may be required by the office of Federal Grain Supervision in which such application is filed or by the Chief of the Bureau of Agricultural Economics.

Sec. 5. Inspection certificate, filing of.- The appellant may be required to file or cause to be filed, in the office of Federal Grain Supervision mentioned in section 2 of this regulation, the certificate of grade for the grain involved issued by the licensed inspector from whose inspection the appeal is taken, if the same is in his possession. If such certificate be in the custody or control of the licensed inspector, he shall, upon request, immediately transmit or deliver it to said office.

Sec. 6. Extension of time.- Upon satisfactory showing of the discovery of fraud, or that on account of distance the time allowed for filing is not sufficient, or other good cause, the grain supervisor in charge of the office mentioned in section 2 of this regulation may permit the filing of an application or sample after the time prescribed therefor in these regulations, and a statement of such action shall be included in the record of such appeal.



Sec. 7. Date of filing.- Each application, statement, or sample shall be deemed filed in an office of Federal Grain Supervision when delivered thereto.

Sec. 8. Receipt of papers to be recorded.- The official of the Department receiving any paper or sample offered for filing shall note thereon, or on a record kept by him for the purpose, the place and date of its receipt.

Sec. 9. Opportunity for hearing.- Opportunity for hearing will be afforded interested parties as provided in section 6 of the Act, if application therefor be made to the grain supervisor hearing the appeal within ten days after the issuance of the final federal appeal grade certificate. If no request for hearing be made such hearing will be deemed waived; but the grain supervisor may order a hearing at any time.

Sec. 10. Notice of hearing.- Whenever a hearing is set pursuant to section 9 notice of the time and place thereof shall be served a reasonable time in advance upon each party or his agent.

Sec. 11. Oral hearing, before whom held.- When a hearing at which oral evidence may be submitted by the parties is granted or ordered, it shall be held before the Secretary or such official of the Department as may be designated by him, or by the Chief of the Bureau of Agricultural Economics, for the purpose.

Sec. 12. Testimony under oath.- The testimony of witnesses at an oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held, when required by him. Such hearing may be adjourned by him from time to time.

Sec. 13. Production of books and papers.- Any official before whom an appeal is heard may require the production and submission in evidence by any party to such appeal of all books, papers, and documents in his custody or under his control, evidencing or relating to the transaction, the grain or other matter, involved in or relevant to the appeal.

Sec. 14. Appeal may be dismissed, when.- A grain supervisor may dismiss any appeal filed in his office, if it appear that the Secretary is without jurisdiction to make such determination in accordance with the Act, or for noncompliance with the regulations. Any application, statement, or other paper filed by any party may be stricken from the files if it fail to comply with this regulation.





Upon the dismissal or withdrawal of an appeal the certificate of grade filed therein shall be immediately returned to the person by whom filed, or delivered upon his written order. No appeal may be withdrawn after the issuance of a federal appeal grade certificate.

Sec. 15. Supervisor to determine grade.- The sample or samples of grain involved in an appeal, complying with regulation 5, shall be examined as soon as possible, such tests shall be applied as are necessary, the papers and all other evidence shall be carefully considered, and, except as provided in section 14 of this regulation, a federal appeal grade certificate shall be issued by the grain supervisor hearing the appeal, showing the grade assigned by him to such grain which shall be the final federal appeal grade certificate unless superseded as provided in this regulation. Such federal appeal grade certificate shall supersede the certificate of grade for the grain involved, and such inspection certificate shall not thereafter represent the grade of the grain.

Sec. 16. Objection to supervisor's grade may be filed.- Any party to an appeal may, not later than the close of business on the next business day after the issuance of the federal appeal grade certificate mentioned in section 15 of this regulation, file with the grain supervisor issuing the same a statement objecting to the grade shown. The said grain supervisor may, for good cause shown, permit the filing of such statement after the time prescribed therefor in this section.

Sec. 17. Review by Board.- If such objection be filed as provided in section 16 of this regulation, the sample or samples of the grain involved, the papers, and all other evidence shall be immediately submitted to a board of grain supervisors constituted for the purpose by the Chief of the Bureau of Agricultural Economics, which shall make such examination and apply such tests as may be necessary to determine the grade of the grain. Such board shall, except as provided in section 14 of this regulation, issue or cause to be issued a federal appeal grade certificate showing the grade assigned by such board to the grain, which federal appeal grade certificate shall supersede the federal appeal grade certificate previously issued for such grain and shall be the final federal appeal grade certificate issued.

Sec. 18. Direct appeal to Board.- Such board may, upon showing of special urgency, hear an appeal in the first instance without compliance with sections 15 and 16, and in accordance with the procedure described in section 17 of this regulation.





Sec. 19. Original and copies of federal appeal grade certificate.- Every federal appeal grade certificate shall be numbered and shall, by number or otherwise, identify the document which it supersedes. The original of the federal appeal grade certificate, issued by the grain supervisor and marked as such, shall be delivered to the party, or upon the written order of the party, who filed the appeal. The original of the federal appeal grade certificate, issued by a board of grain supervisors and marked as such shall be delivered to the party, or upon the written order of the party who filed the objection to the supervisor's grade. A copy of each federal appeal grade certificate marked as such shall be furnished to each interested party, if any, other than the party to whom, or upon whose order, the original federal appeal grade certificate is issued.

Sec. 20. Findings of the Secretary.- A copy of the findings of the Secretary will be furnished to any interested party upon request.

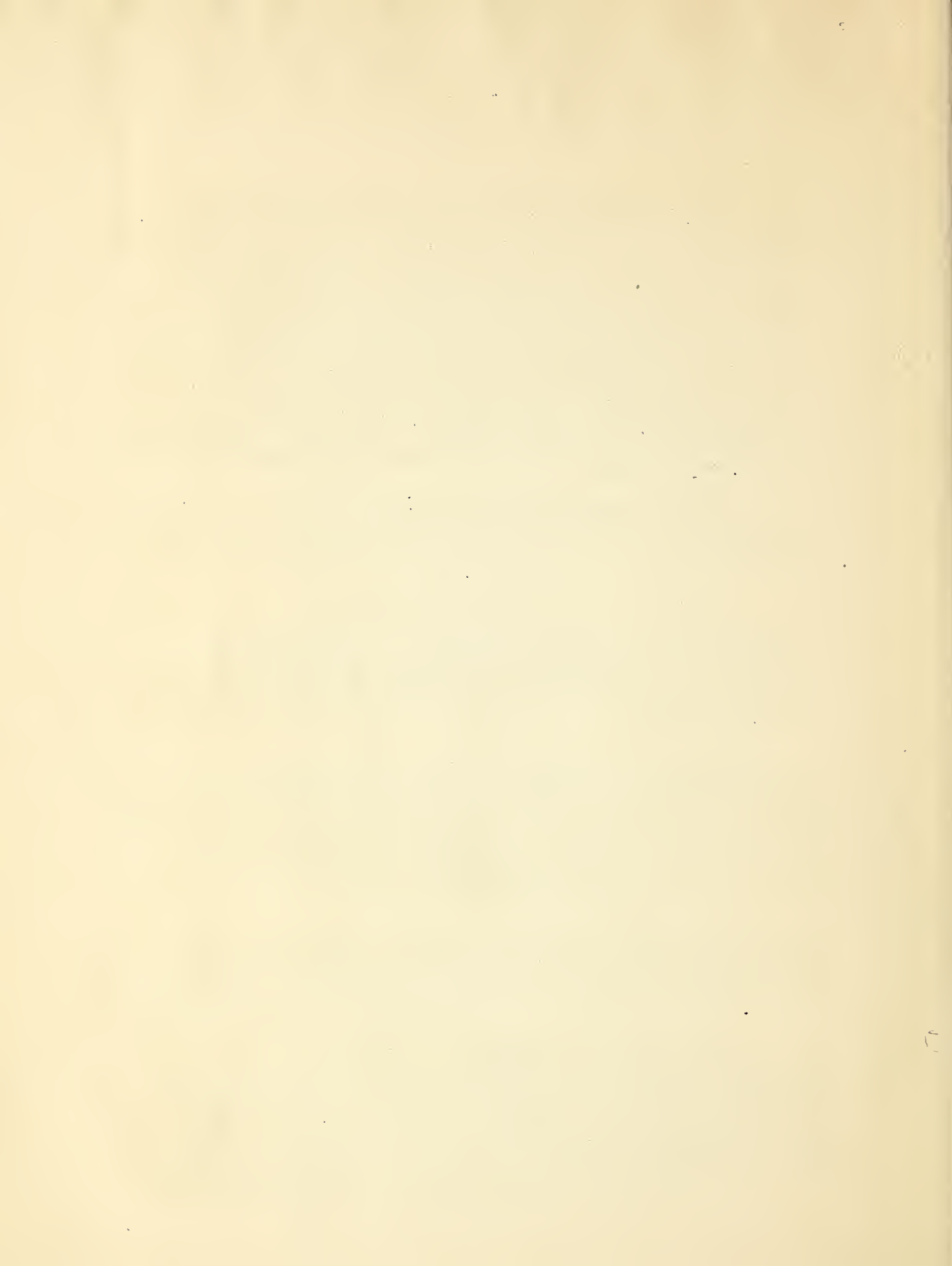
#### Regulation 4. Disputes.

Section 1. Disputes, how taken.- A dispute shall be referred to the Secretary by filing, in writing or by telegraph, in the office of Federal Grain Supervision, in the district where the grain is then located, a complaint in conformity with section 4 of this regulation.

Sec. 2. When dispute referred.- Such complaint shall be filed as promptly as possible, but not later than the close of business on the second business day after the grain involved becomes subject to examination by the contracting parties at the point where the grade is disputed. The grain supervisor hearing the dispute may, for good cause shown, permit the filing of such complaint after the time prescribed in this section.

Sec. 3. Advance notice of dispute.- Any party desiring to refer a dispute may, in advance, transmit to the proper office of Federal Grain Supervision by telegraph, telephone, or otherwise, such information as may be necessary to enable a grain supervisor in such office to proceed to the examination of the grain involved.

Sec. 4. Contents of complaint.- A complaint signed by the complainant shall state: (a) the name and post office address of each party; (b) the kind of grain and the grade thereof, claimed by each party; (c) the respective interests of the complainant and the respondent in the transaction; (d) that the grain involved was sold, offered for sale, or consigned for sale by grade, and shipped in interstate or foreign commerce without inspection from



a place at which there is no licensed inspector to a place at which there is no licensed inspector, and the points of shipment and destination; (e) the time when the grain became subject to examination by the party receiving it, at the point where the grade is disputed; (f) the location of the grain and its identification; (g) if samples have been agreed upon and are submitted in compliance with section 4 of regulation 5, the fact of such agreement; (h) any other material facts.

Sec. 5. The provisions of sections 6 to 19, both inclusive, of regulation 3 relating to appeals, which in substance are applicable to disputes, and in respect to which no special provision is made by this regulation, are hereby made applicable to disputes.

#### Regulation 6. Department Charges and Fees.

Section 1. Fees.- The minimum fee in an appeal or a dispute shall be \$1.00 if it involves the grade of grain in a wagon or in a lot of 25 sacks or less. In any other appeal or dispute the minimum fee shall be \$1.50. When the total fee in any appeal or dispute at the rates specified below in this section would amount to more than the minimum, the fee in the appeal or dispute shall be fixed as follows:

- (a) For bulk or sacked grain in carload lots, \$1.50 per car.
- (b) For bulk or sacked grain in wagon lots, \$1.00 per wagon.
- (c) For bulk or sacked grain in other than in carload or wagon lots, \$0.50 per 1,000 bushels or fraction thereof, except as provided in the first sentence of this section.

Such further charges may be made for telegrams, express, parcel post, registry fees, traveling expenses, and other items paid or incurred by the department on account of a dispute or an appeal taken from an inspection made at a point where no licensed inspector is located, and for oral hearings, as will reimburse the department; all charges above the minimum, and all of such additional items, to be determined in each case by the Secretary. Unless otherwise stated in the findings in any appeal, the regular fees as prescribed by this regulation, and no further charges, shall be deemed to be fixed and assessed.

Sec. 2. Fees, against whom assessed.- The fees so fixed shall, in case of an appeal, be assessed against the appellant, and in case of a dispute against the complainant.

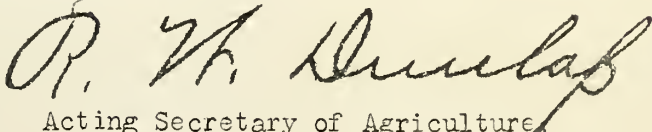


Sec. 3. Deposits.- For each appeal or dispute filed in any office of Federal Grain Supervision there shall be delivered to such office a check, certified, if required by the Chief of the Bureau of Agricultural Economics, or a post office or express money order, payable to the order of "Disbursing Clerk, Department of Agriculture," for an amount sufficient to cover the fees, to be determined as follows:

The minimum deposit in each appeal or dispute shall, in case of grain in a wagon or in a lot of 25 sacks or less, be \$1.00, and in all other cases, \$1.50. When the total in any appeal or dispute at the rates specified in section 1 of this regulation would amount to more than the minimum of \$1.00 or \$1.50, as the case may be, the deposit shall be at said rates. Additional sums may be required by the official hearing the appeal or dispute when deemed necessary by him as deposits. Any part of such deposit which may remain after payment of the fee assessed shall be returned to the party depositing the same. In case an appeal be sustained the amount of the fee assessed shall be refunded. All fees not covered by advance deposits shall be payable immediately upon notice of the assessment of the fee, and shall be paid by check, certified, if required by the Chief of the Bureau of Agricultural Economics, or a post office or express money order drawn to the order of "Disbursing Clerk, Department of Agriculture."

The grain supervisor in charge of an office of Federal Grain Supervision shall hold each deposit in his custody until the final federal appeal grade certificate or final federal dispute grade certificate shall have been issued, and it has been determined, in case of an appeal, whether the same has been sustained or not sustained. In case an appeal is not sustained, and in case of a dispute, the sum received by the grain supervisor as a deposit, shall be transmitted to the Disbursing Clerk of the Department who will deposit in the Treasury of the United States such sums as may be due the Government, and refund any excess deposit to the depositor thereof.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington this First day of July, nineteen hundred and twenty-five.

  
Acting Secretary of Agriculture

