

§ 742.82 Publications.

Publications under the act and this part shall be made in Service and Regulatory Announcements of the Consumer and Marketing Service, and such other media as the Administrator may from time to time designate for the purpose.

§ 742.83 Information of violations.

Every person licensed under the act shall immediately furnish the Administrator any information which comes to the knowledge of such person tending to show that any provision of the act or the regulations in this part has been violated.

§ 742.84 Procedure in hearings.

Hearings under the Act or the regulations in this part, except those relating to appeals or arbitrations shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130—1.151).

[45 FR 6776, Jan. 30, 1980. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.85 One document and one license to cover several products.

A license may be issued for the storage of two or more agricultural products in a single warehouse. Where such a license is desired, a single application, inspection, bond, record, report or other paper, document or proceeding relating to such warehouse, shall be sufficient unless otherwise directed by the Administrator.

[14 FR 3829, July 13, 1949. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.86 Bond, assets, and fees for combination warehouse.

Where such license is desired, the amount of the bond, net assets, and inspection and license fees shall be determined by the Administrator in accordance with the regulations applicable to the particular agricultural product which would require the largest bond and the greatest amount of net assets

and of fees if the full capacity of the warehouse was used for its storage.

[SRA, BAE 102; 13 FR 8731, Dec. 30, 1948. Redesignated at 14 FR 3829, July 13, 1949, and at 50 FR 1814, Jan. 14, 1985]

§ 742.87 Amendments.

Any amendment to, or revision of, the regulations in this part, unless otherwise stated therein, shall apply in the same manner to persons holding licenses at the time it becomes effective as it applies to persons thereafter licensed under the act.

[SRA, BAE 102; 13 FR 8731, Dec. 30, 1948. Redesignated at 14 FR 3829, July 13, 1949, and at 50 FR 1814, Jan. 14, 1985]

PART 743—FIELD WAREHOUSES

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AUTHORITY: Sec. 28, 39 Stat. 490; 7 U.S.C. 268.

SOURCE: SRA, BAE 136; 7 FR 6809, Aug. 29, 1942; 13 FR 8731, Dec. 30, 1948; 19 FR 57, Jan. 6, 1954, unless otherwise noted. Redesignated at 50 FR 1814, Jan. 14, 1985.

§ 743.1 Terms defined.

For the purposes of this part, unless the context otherwise require, the following terms shall be construed, respectively, to mean:

(a) *Commodity regulations.* Rules and regulations made under the act by the

Secretary for warehousemen storing certain designated agricultural products.

(b) *Field warehouse.* A warehouse that is operated or is to be operated for the purpose of issuing warehouse receipts representing a disinterested custodianship of the products stored therein and which is leased from any person having a financial interest in the products.

(c) *Field warehouseman.* Unless otherwise clearly indicated by the context, any person lawfully engaged in the business of operating a field warehouse as defined in this section.

(d) *Custodian.* A person appointed or designated by a field warehouseman to supervise or manage a field warehouse licensed under the act.

(e) *Assistant custodian.* A person appointed or designated by a warehouseman to assist the custodian of a field warehouse in the supervision and management thereof.

§ 743.2 Supplementary to commodity regulations.

Nothing in the field warehouse regulations in this part shall be construed to conflict with or to authorize any conflict with, or in any way impair or limit, the effect or operation of the commodity regulations issued by the Secretary for warehousemen storing any specified product or products, but the regulations in this part shall be considered as supplemental to all such commodity regulations and to be effective as to all field warehouses and field warehousemen operating under the act.

§ 743.3 Warehouse licenses; application form.

Applications for licenses to operate field warehouses shall be made in accordance with the commodity regulations for warehousemen storing the particular agricultural product or products stored or to be stored in the field warehouse.

§ 743.4 License; requirements of commodity regulations apply in issuance.

Compliance with all the preliminary requirements of the commodity regulations applicable to the agricultural product or products in question, as well as the regulations in this part, shall be

prerequisite to issuing a license to operate a field warehouse.

§ 743.5 Relationship between warehouseman and depositor.

There shall be no close relationship, either by blood or marriage, between the field warehouseman or his custodians and any depositor or the lessor of the field warehouse.

§ 743.6 Custodian; relationship; compensation; qualification.

(a) No employee, either full or part-time, of any depositor, nor any person who is a close blood or other relative of any person occupying a supervisory or directing position in the business or organization of any depositor, or closely interested with any depositor in any business, shall be appointed as a custodian or an assistant custodian by a licensed field warehouseman; nor shall any person be appointed as a custodian or an assistant custodian if he has resigned from the employ of any depositor for the purpose of accepting employment from the warehouseman at the warehouse.

(b) The compensation, or any part thereof, of any custodian, assistant custodians, or any other employee of the warehouseman, if any there be, must be paid by the warehouseman and not by any depositor. The custodian or assistant custodians need not be full-time employees of the warehouseman, but shall not be, under any conditions, part or full-time employees of any depositor of products in the warehouse.

(c) Each person designated by a licensed field warehouseman as a custodian or an assistant custodian shall file with the Service a statement, on a form provided by the Service for the purpose, setting forth his qualifications and experience in warehouse work, the occupation or business he has been engaged in during the five years next preceding the date of the statement, the names of his employers, if any, during such 5-year period, the names of at least five persons who can vouch for his character and qualifications for the position, and such other information as the Secretary, or his designated representative, may require.

(d) No custodian shall accept instructions from anyone other than the warehouseman.

(e) No custodian or assistant custodian shall enter upon his duties as such at a licensed field warehouse until he has been notified in writing by the Service that his appointment has been approved.

§ 743.7 Licensed space; separation; locking.

The warehouse space licensed or to be licensed shall be substantially separated from the other space and shall be kept securely locked or sealed in accordance with § 743.15. All keys to locks shall be kept in the possession of the warehouseman or his authorized agent at all times. In case there is any doubt whether all keys to the warehouse are in possession of the warehouseman or his agents, the warehouseman shall provide new locks and keys for the warehouse.

§ 743.8 Licensed field warehouse; locking; supervision.

It shall be the duty of a licensed field warehouseman to keep the licensed field warehouse securely locked at all times except when the warehouseman, the custodian, or an assistant custodian is present, and no person other than the warehouseman, the custodian, or an assistant custodian shall have access to the licensed warehouse or the products stored therein except in the presence of and with the consent of such warehouseman, custodian, or assistant custodian: *Provided*, That if any night watchman in the employ of the owner of the building is required to enter the licensed warehouse under an insurance requirement and his only duties at the warehouse building are those of a night watchman he may be given a key to the warehouse for that purpose, if the approval of the Service is first secured and the watchman's service is fully provided for in the field warehouse lease agreement: *Provided further*, That the provisions of this section shall not apply in the case of warehouses where the bin system is in effect as outlined in § 743.15. The warehouseman shall at all times exercise absolute and complete control and dominion over the licensed warehouse

and the products stored therein to the complete exclusion of all parties except as provided in this section.

§ 743.9 Proper naming of field warehouse.

No misleading name or designation shall be applied to any field warehouse licensed under the act, but in every case the name shall indicate that the warehouse is being operated as a public warehouse by the warehouseman as lessee.

§ 743.10 Filing of rules, schedule of charges; contracts with depositors.

(a) Before a license to conduct a field warehouse is granted under the act, the warehouseman shall file with the Service in accordance with the requirements of the commodity regulations, a copy of his rules and a schedule of charges; and, in addition, he shall file copies of all contracts and agreements entered into by and between him and any depositor or the lessor of the field warehouse which in any way relate to the establishment, operation, management, or payment of expenses connected with the operation of the warehouse. If there are any agreements or understandings between the lessor of the warehouse and the lessee with respect to any of the aforementioned that have not been reduced to writing, the warehouseman shall file with the Service a written statement setting forth the substance of such verbal agreements and understandings.

(b) All warehouses licensed under the act must be operated as public warehouses, and no rules or schedules of charges filed by any warehouseman applying for a license under the act shall be approved by the Secretary, or his designated representative, if it is not clear that the requirements of section 13 of the act can and will be met.

§ 743.11 Receipts; form.

Every receipt, whether negotiable or nonnegotiable, issued for products stored in a field warehouse, shall, in addition to complying with the requirements of section 18 of the act and sections of the applicable commodity regulations, embody within its printed terms a statement that the warehouseman is lessee of the warehouse.

§ 743.12 Receipts; conditions regarding issuance.

Warehouse receipts for products stored in a field warehouse licensed under the act shall be issued in the town or city where the warehouse is located, except that where two or more licensed field warehouses are operated by a warehouseman receipts for all such warehouses may be issued from a central point, provided such central point is not more than 25 miles distant from the farthest warehouse. In cases where receipts are issued from central points the warehouseman shall, when requested by Department representatives, provide transportation for such representatives when engaged in regular inspection work, to and from such warehouses.

§ 743.13 License; conditions regarding issuance.

No field warehouse license shall be issued by the Secretary, or his designated representative, unless the lessee is wholly disinterested with respect to depositors and the application is supported by the original lease and one copy, dated and signed by the contracting parties, and embodying the following: (a) A definite period of time not less than one year after the date of execution, (b) a description of the exact space leased to the field warehouseman and a statement that all of such space is to be covered by the license, if issued, and (c) evidence that said lease has been duly recorded in the county where such warehouse is located, except where there is a statutory inhibition against the recording of such leases, and (d) a clause prohibiting the cancellation of the lease or ejecting the warehouseman so long as any receipt issued under the act and the regulations is outstanding.

§ 743.14 No indemnification against loss account dereliction of warehouseman.

A license to conduct a field warehouse under the act shall not be issued, or if issued, shall not be allowed to remain in effect, if any depositor agrees or has agreed with the warehouseman to indemnify him against loss due to failure of the warehouseman to exercise such care of the products in his

custody as a reasonably prudent owner would exercise or as the warehouseman is required to exercise under the act and regulations.

§ 743.15 Storage bins; sealing; licensing; operation.

In the case of warehouses where approved storage bins have been erected and such bins can be sealed with seals furnished by the Department for the purpose, the bins may be licensed and the depositors may, with the consent of the warehouseman, have access to such bins for the purpose of placing goods therein before the seals are affixed and before warehouse receipts are issued by the warehouseman, or for the purpose of removing goods therefrom after the outstanding receipts for all goods in such bin or bins have been surrendered to and canceled by the warehouseman, and the warehouseman or his custodian, or assistant custodian, has broken the seals. Under no circumstances shall anyone other than the licensed warehouseman, the custodian, assistant custodian, or duly appointed employees of the Department of Agriculture in the performance of their official duties, affix any seals to a licensed bin or remove a seal therefrom. Where bins are licensed no receipts may be issued for products stored in any bin until after the seals have been affixed, and no seals may be broken for the purpose of delivering the products until the receipts covering such products have been surrendered and canceled. Seals may be broken to permit inspecting and reasonable sampling of the goods; but such work must be done by the licensed warehouseman, the custodian, or an assistant custodian, and after inspecting or sampling new seals shall be affixed to the bin.

§ 743.16 Signs of tenancy; placing.

(a) Each licensed field warehouseman shall, during the period of his license, maintain suitable signs on the licensed property in such manner as to give ample public notice that such property has been leased by the warehouseman and is controlled and operated by him. Such signs must be of such size and be so affixed to the outside of each licensed building, and at appropriate

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places within the building, as to attract the attention of and give notice to the public as to the real tenancy, and must be placed at each point of entry to and exit from the licensed space.

(b) Such signs shall include the following: (1) The name and address of the license, (2) the name of the warehouse, (3) the license number of the warehouse, (4) a statement that the ware-

houseman is lessee, and (5) the words "public warehouse."

(c) Such other wording or lettering as is not inconsistent with the purpose of the act and the regulations in this part and is approved by the Service may appear in the sign or signs.

(d) The warehouseman shall not permit signs to remain on his licensed property which might lead to confusion as to the tenancy.