

### § 738.3

(a) *The act.* The United States Warehouse Act, approved August 11, 1916 (39 Stat. 486; 7 U.S.C. 241-274), as amended.

(b) *Person.* An individual, corporation, partnership, or two or more persons having a joint or common interest.

(c) *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) *Designated representative.* The Administrator.

(e) *Administrator.* The Administrator of the Service or any other officer or employee of the Service to whom authority has heretofore lawfully been delegated, or may hereafter lawfully be delegated, to act in his stead.

(f) *Department.* The United States Department of Agriculture.

(g) *Service.* The Farm Service Agency of the U.S. Department of Agriculture.

(h) *Regulations.* Rules and regulations made under the act by the Secretary.

(i) *Warehouse.* Any suitable building, structure, or other protected inclosure in which wool is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which wool is or may be stored and for which a license has been issued under the act.

(j) *Warehouseman.* Any person lawfully engaged in the business of storing wool.

(k) *License.* A license issued under the act by the Secretary or his designated representative.

(l) *Grader.* A person licensed under the act by the Secretary or his designated representative, to grade and to certificate the grade of wool stored or to be stored in a licensed warehouse.

(m) *Weigher.* A person licensed under the act by the Secretary or his designated representative, to weigh and to certificate the weight of wool stored or to be stored in a licensed warehouse.

(n) *Receipt.* A warehouse receipt.

(o) *Kind of wool.* Grease, scoured, or pulled, and sorted or unsorted wool, or sorted or unsorted mohair.

(p) *State.* A State, Territory, or District of the United States.

### 7 CFR Ch. VII (1-1-98 Edition)

[5 FR 3607, Sept. 10, 1940, as amended at 13 FR 8729, Dec. 30, 1948. Redesignated and amended at 50 FR 1814, Jan. 14, 1985]

#### WAREHOUSE LICENSES

##### § 738.3 Application form.

Applications for licenses and amendments to licenses under the act shall be made to the Secretary upon forms prescribed for the purpose and furnished by the Service, shall be in English, shall truly state the information therein contained, and shall be signed by the applicant. The applicant shall at any time furnish such additional information as the Secretary or the Administrator may find to be necessary to the proper consideration of his application.

##### § 738.4 Grounds for not issuing license.

A license for the conduct of a warehouse shall not be issued if it be found by the Secretary, or his designated representative, that the warehouse is not suitable for the proper storage of wool, that the warehouseman is incompetent to conduct such warehouse in accordance with the act and the regulations in this part, or that there is any other sufficient reason within the intent of the act for not issuing such license.

##### § 738.5 Net assets.

Any warehouseman conducting a warehouse licensed or for which application for license has been made under the act shall have and maintain above all exemptions and liabilities net assets liable for the payment of any indebtedness arising from the conduct of the warehouse, to the extent of at least \$15 per 1,000 pounds or fraction thereof of the maximum number of pounds of wool that the warehouse will accommodate when stored in the manner customary to the warehouse as determined by the Administrator: *Provided*, That the amount of such assets shall not be less than \$5,000 and need not be more than \$100,000. If such warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, such warehouses shall be deemed to be one warehouse for the purposes of the assets required under this section. For the purposes of this

section only, paid-in capital stock shall not be considered a liability. Any deficiency in the required net assets may be supplied by an increase in the amount of the warehouseman's bond in accordance with § 738.12(b).

**§ 738.6 Posting license.**

Immediately upon receipt of his license or of any amendment thereto under the act, the warehouseman shall post the same, and thereafter, except as otherwise provided in the regulations in this part, keep it posted, until suspended or revoked, in a conspicuous place in the principal office where receipts issued by the warehouseman are delivered to depositors.

**§ 738.7 Suspension or revocation of license.**

Pending investigation, the Secretary, or his designated representative, whenever he deems necessary, may suspend a warehouseman's license temporarily without hearing. Upon written request and a satisfactory statement of reasons therefor submitted by a warehouseman, the Secretary, or his designated representative may, without hearing, suspend or revoke the license issued to such warehouseman. The Secretary or his designated representative may, after opportunity for hearing has been afforded in the manner prescribed in this section, revoke a license issued to a warehouseman when such warehouseman (a) is bankrupt or insolvent; (b) has parted, in whole or in part, with his control over the warehouse; (c) is in process of dissolution or has been dissolved; (d) has ceased to conduct such licensed warehouse; or (e) has in any other manner become non-existent or incompetent or incapacitated to conduct the business of the warehouse. Whenever any of the conditions mentioned in paragraphs (a) to (e) of this section shall come into existence, it shall be the duty of the warehouseman to notify immediately the Administrator of the existing condition. Before a license is permanently suspended or revoked for any violation of, or failure to comply with, any provision of the act or of the regulations in this part, or upon the ground that unreasonable or exorbitant charges have been made for services rendered, the warehouse-

man involved shall be furnished by the Secretary, or his designated representative, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with § 738.72.

**§ 738.8 Return of terminated, suspended, or revoked license.**

When a license issued to a warehouseman terminates or is suspended or revoked by the Secretary or his designated representative, it shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless it be in the meantime revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, it shall be returned to the warehouseman to whom it was originally issued, and it shall be posted as prescribed in § 738.6: *Provided*, That in the discretion of the Secretary or his designated representative a new license may be issued without reference to the suspension.

**§ 738.9 Lost or destroyed warehouse license.**

Upon satisfactory evidence of the loss or destruction of a license issued to a warehouseman, a duplicate thereof may be issued under the same number.

**§ 738.10 Unlicensed warehousemen must not represent themselves as licensed.**

No warehouse or its warehouseman or any other person shall be designated or represented as licensed under the act, and no name or description conveying the impression that it or he is so licensed shall be used, either in a receipt or otherwise, unless such person or warehouseman holds an unsuspended and unrevoked license for the conduct of such warehouse.

WAREHOUSE BONDS

**§ 738.11 Bond required; time of filing.**

Each warehouseman applying for a warehouse license under the act shall, before such license is granted, file with