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(b)(6) of this section, required to redeliver the grain upon demand to the depositor or the depositor's transferee at the warehouse where the grain was first deposited for storage.

(6) The owner of grain deposited for storage at the warehouse must make settlement and take delivery at the warehouse where the grain was first deposited for storage, unless the owner of the commodity, with the consent of both the shipping warehouseman and the receiving warehouseman, elects to take delivery at the warehouse to which grain was transferred under this section.

(7) Nothing in this section shall in any way diminish the right of the owner of the grain to receive on delivery, or the obligation of the warehouseman of a licensed warehouse from which the product is transferred, to deliver to the owner, grain in the amount, and of the kind, quality, and grade, called for by the warehouse receipts or other evidence of storage.

(8) Recording and retention of non-negotiable warehouse receipts received as a result of forwarding a commodity under this section shall be subject to the requirements for warehouse receipts specified elsewhere in these regulations.

(9) If it is the shipping warehouseman's obligation by terms of the warehouse receipt or otherwise to insure the grain subject to the transfer, he must in accordance with 7 CFR 736.33 keep such grain insured in his own name or transfer the grain only to a warehouse where the grain is fully insured.

(c) A warehouseman may transfer stored grain for which receipts have not and are not to be issued to another licensed warehouse for continued storage by complying with the provisions of paragraphs (b)(1), (2), (5), (6), (7), and (9) of this section. However, in no event shall the warehouseman's total storage obligations to others (not including stored receipted grain shipped under provisions of paragraph (b) of this section) exceed the shipping warehouseman's licensed capacity.

[52 FR 8057, Mar. 16, 1987]

7 CFR Ch. VII (1-1-00 Edition)

§ 736.43 Removal of specially stored grain.

Except as may be required by law or the regulations in this part, a warehouseman shall not remove any grain for storage from the licensed warehouse or a part thereof in which it may be specially binned or stored for insurance purposes, and transfer the grain to another bin without first obtaining the receipt, canceling the same and issuing a new receipt for said grain following its transfer.

§ 736.44 Grades and weights; bulk grain.

Except as provided in § 736.27 each warehouseman shall accept all storage and nonstorage grain and shall deliver out all storage and nonstorage grain, other than specially binned grain, in accordance with the grades of such grain as determined by a person duly licensed to inspect and grade such grain and to certificate the grade thereof and in accordance with the weights of such grain as determined by a person duly licensed to weigh such grain and to certificate the weight thereof, under the Act, and the regulations in this part; or if an appeal from the determination of an inspector has been taken, such grain shall be accepted for and delivered out of storage in accordance with the grades as finally determined in such appeal.

[45 FR 5661, Jan. 24, 1980. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 736.45 Storage of identity-preserved grain.

Upon acceptance for storage of bulk grain the identity of which is to be preserved, the warehouseman shall store such grain in a bin or bins, a compartment or compartments, or other container or containers identified by clearly distinguishable identification insignia permanently and securely affixed thereto, subject to such control by the Department as may seem administratively necessary to protect depositors or holders of receipts. If the grain is received in bags or other suitable containers, such bags or containers shall be so marked and so placed in the warehouse that the identity of the grain will not be lost while in storage. The warehouseman's

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records shall at all times clearly show the location of all identity-preserved grain stored in the warehouse.

§ 736.46 Sacked grain.

Each warehouseman shall keep sacked grain stored in an orderly manner so as to permit easy access to all lots and to facilitate inspecting, sampling, counting, and identification of each lot.

§ 736.47 Warehouses to be kept clean.

Each warehouseman shall keep his warehouse reasonably clean at all times and free from straw, rubbish, or accumulations of materials that will increase the fire hazard or interfere with the handling of grain.

§ 736.48 Delivery of fungible grain.

Except as may be provided by law or the regulations in this part, each warehouseman: (a) Upon proper presentation of a receipt for any grain other than identity-stored grain, and which grain has not at the request of the depositor or lawful holder of the receipt covering such grain or otherwise as permitted by law or the regulations in this part, been dried or otherwise conditioned by such warehouseman, and upon payment or tender of all advances and legal charges, shall deliver to such depositor or lawful holder of such receipt grain of the grade and quantity named in such receipt; and (b) upon proper presentation of a receipt for any grain the identity of which was to have been preserved during the storage period, and upon payment or tender of all advances and legal charges, shall deliver to the person lawfully entitled thereto, the identical grain so stored in his warehouse.

§ 736.49 Cleaning of grain.

Each warehouseman whose warehouse is equipped with machinery suitable for the purpose, shall clean all bulk grain, received for storage in such warehouse, on which the inspector at the request of the depositor or lawful holder of the receipt covering such grain has set dockage for cleaning.

§ 736.50 Grades; separate in storage.

A warehouseman may not mix lots of different grades of grain stored or re-

ceived for storage except when the identity of the grain to be stored is to be preserved or when a depositor surrenders receipts covering two or more lots and requests the warehouseman to deliver the amount of grain represented by the canceled receipts in such a manner that they will become one lot. The balance, if any, of grain resulting from this operation, after weighing and inspecting, is to be stored with grain of like grade or its identity preserved.

§ 736.51 Stocks to be in balance by grades.

Warehousemen must keep stocks of grain in storage by grades in balance with the grades of grain represented by outstanding storage obligations for which receipts have been or are to be issued, except when the grain has unavoidably improved or deteriorated through natural causes. In case the grades of stored grain should get out of balance with grades represented by outstanding storage obligations for which receipts have been or are to be issued, the warehouseman shall effect proper adjustments.

§ 736.52 Out-of-condition and damaged grain.

(a) If the condition of any grain offered for storage is such that it probably will affect the condition of grain in the licensed warehouse, the warehouseman shall not receive such grain for storage or store such grain in his licensed warehouse, but, if the warehouse has separate bins or is equipped with proper conditioning apparatus, he may receive such grain for storage in such separate bins or he may condition it and then store it in such manner as will not lower the grade of other grain.

(b) In case the warehouseman or the Department shall find that storage of grain in direct contact with any part of the structure of the warehouse results, or is likely to result, in damage to the grain, the warehouseman shall not store grain in such part of the warehouse except in such manner and by the use of such material as will keep the grain in the same condition as when stored.