

numbered in such a manner as to clearly show the space covered by each number.

§ 736.5 [Reserved]

§ 736.6 Financial requirements.

(a) Each warehouseman conducting a warehouse licensed, or for which application for a license has been made under the regulations in this part, shall maintain complete, accurate and current financial records.

(b) Each warehouseman conducting a warehouse for which application for license is made shall provide with this application and each warehouseman licensed under these regulations annually, or more frequently if required, shall furnish to the Secretary financial statements from the records required in paragraph (a) of this section prepared according to generally accepted accounting principles. Such statements shall include but not be limited to: (1) Balance sheet, (2) statement of income (profit and loss), (3) statement of retained earnings, and (4) statement of changes in financial position. The chief executive officer for the warehouseman shall certify under penalties of perjury that the statements as prepared accurately reflect the financial condition of the warehouseman as of the date named and fairly represent the results of operations for the period named.

(c) Each warehouseman conducting a warehouse licensed under these regulations shall have the financial statements required in paragraph (b) of this section audited by an independent certified public accountant. Alternatively, financial statements audited or reviewed by an independent public accountant will be accepted with the understanding that the warehouseman will be subject to an additional on-site examination by the Secretary and to an audit by the Secretary. Audits and reviews by independent certified public accountants and independent public accountants specified in this section shall be made in accordance with standards established by the American Institute of Certified Public Accountants. The accountant's certification, assurances, opinion, comments, and notes on such statements, if any, shall be furnished along with the state-

ments. Licensees who cannot immediately meet these requirements may apply to the Secretary for a temporary waiver of this provision. The Secretary may grant such waiver for a temporary period not to exceed 180 days if the licensee can furnish evidence of good and substantial reasons therefor.

(d) Each warehouseman conducting a warehouse which is licensed under the regulations in this part, or for which application for such a license has been made, shall have and maintain:

(1) Total net assets liable and available for the payment of any indebtedness arising from the conduct of the warehouse of at least 25 cents multiplied by the warehouse capacity in bushels, however, no person may be licensed or remain licensed as a warehouseman under this part unless that person has allowable net assets of at least \$50,000, (Any deficiency in net assets above the \$50,000 minimum may be supplied by an increase in the amount of the warehouseman's bond in accordance with § 736.14(c) of this part); and

(2) Total current assets equal to or exceeding total current liabilities or assurance that funds will be available to meet current obligations.

(e) In case a warehouseman is licensed or is applying for licenses to operate two or more warehouses under the regulations in this part, the maximum number of bushels which all such warehouses will accommodate when stored in the manner customary to the warehouses, as determined by the Administrator, shall be considered in determining whether the warehouseman meets the net assets requirements specified in paragraph (d) of this section.

(f) Subject to such terms and conditions as the Secretary may prescribe and for the purposes of determining allowable assets and liabilities under paragraphs (d) and (e) of this section:

(1) Capital stock shall not be considered a liability;

(2) Appraisals of the value of fixed assets in excess of the book value claimed in the financial statement submitted by warehousemen to conform with paragraphs (b) and (c) of this section may be allowed by the Secretary if prepared by independent appraisers acceptable to the Secretary;

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(3) Financial statements of a parent company which separately identifies the financial position of a wholly owned subsidiary and which meets the requirements of paragraphs (b), (c), and (d) of this section may be accepted by the Secretary in lieu of the warehouseman meeting such requirements; and

(4) Guaranty agreements from a parent company submitted on behalf of a wholly owned subsidiary may be accepted by the Secretary as meeting the requirements of paragraphs (b), (c), and (d) of this section, if the parent company submits a financial statement which qualifies under this section.

(g) In case a State agency licensed or applying for a license as provided in Section 9 of the Act has funds of not less than \$500,000 guaranteeing the performance of obligations of the agency as a warehouseman, such funds shall be considered sufficient to meet the net assets requirements of this section.

(h) In case a warehouseman files a bond in the form of a certification of participation in an indemnity or insurance fund as provided for in § 736.13(b), the licensed warehouseman shall have and maintain a minimum of \$25,000 in allowable net assets and any deficiency in assets above the \$25,000 minimum shall be covered by an acceptable and valid certificate.

(i) When a warehouseman files a bond in the form of either a deposit of public debt obligations of the United States or other obligations which are unconditionally guaranteed as to both interest and principal by the United States as provided for in § 736.13(c):

(1) The obligation deposited shall not be considered a part of the warehouseman's assets for purposes of § 736.6(d), (1) and (2);

(2) A deficiency in total allowable net and current assets as computed for § 736.6(d), (1) and (2) may be offset by the licensed warehouseman furnishing a corporate surety bond for the difference;

(3) The deposit may be replaced or continued in the required amount from year to year; and

(4) The deposit shall not be released until one year after termination (cancellation or revocation) of the license which it supports or until satisfaction

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of any claim against the deposit, whichever is later.

Nothing in these regulations shall prohibit a person other than the licensed warehouseman from furnishing such bond or additions thereto on behalf of and in the name of the licensed warehouseman subject to provisions of § 736.13(c).

[29 FR 15730, Nov. 24, 1964, as amended at 39 FR 41824, Dec. 3, 1974; 47 FR 23910, June 1, 1982; 49 FR 12667, Mar. 30, 1984. Redesignated at 50 FR 1814, Jan. 14, 1985; further amended at 52 FR 37126, Oct. 5, 1987]

§ 736.7 Grounds for not issuing license.

A license for the conduct of a warehouse, or any amendment to a license, under the regulations in this part, shall not be issued if it is found by the Secretary, or his designated representative, that the warehouse is not suitable for the proper storage of grain; that the warehouseman does not possess a good reputation, or does not have a net worth of at least \$50,000.00, or 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. If all the facilities operated for the storage of grain by the applicant within the same city or town are not to be licensed under the act, the applicant shall not be licensed as a grain warehouseman with respect to any of such facilities, unless an exemption of the facilities which are not to be licensed is granted as provided in § 736.3a.

[29 FR 15730, Nov. 24, 1964, as amended at 47 FR 23911, June 1, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985 and further amended at 52 FR 37127, Oct. 5, 1987]

§ 736.8 Posting of license.

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