

§ 741.71 Publications.

Publications under the act and the regulations in this part shall be made in such media as may be deemed proper by the Administrator.

[62 FR 33542, June 20, 1997]

§ 741.72 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 this part has been violated.

§ 741.73 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]

§ 741.74 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.

[4 FR 4834, Dec. 13, 1939. Redesignated at 13 FR 8730, Dec. 30, 1948, and at 50 FR 1814, Jan. 14, 1985]

§ 741.75 Amount of assets and bond needed for combination warehouses.

Where such a 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 sections 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.

[4 FR 4834, Dec. 13, 1939. Redesignated at 13 FR 8730, Dec. 30, 1948, and at 50 FR 1814, Jan. 14, 1985]

§ 741.76 Amendments.

Any amendment or revision of 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.

[4 FR 4834, Dec. 13, 1939. Redesignated at 13 FR 8730, Dec. 30, 1948, and at 50 FR 1814, Jan. 14, 1985]

PART 742—COTTONSEED WAREHOUSES

DEFINITIONS

Sec.

- 742.1 Meaning of words.
742.2 Terms defined.

WAREHOUSE LICENSES

- 742.3 Application form.
742.4 Issuance of license; conditions.
742.5 Net assets required.
742.6 Modification or extension of license.
742.7 License shall be posted.
742.8 Suspension or revocation of warehouse licenses.
742.9 Return of suspended or revoked warehouse license.
742.10 Lost or destroyed warehouse license.
742.11 Unlicensed warehousemen must not represent themselves as licensed.

WAREHOUSE BONDS

- 742.12 Bond required; time of filing.
742.13 Basis of amount of bond; additional amounts.
742.14 Extension bond.
742.15 New bond required each year.
742.16 Approval of bond.

WAREHOUSE RECEIPTS

- 742.17 Form.
742.18 Copies of receipts.
742.19 Lost or destroyed receipts; bond.
742.20 Printing of receipts.
742.21 Partial delivery of cottonseed.
742.22 Return of receipts before delivery of cottonseed.
742.23 Authority for delivery of cottonseed on nonnegotiable receipt.
742.24 Receipts for storage; one bin; several bins.

§ 742.1

742.25 Omission of grade; no compulsion by warehouseman.

DUTIES OF LICENSED WAREHOUSEMAN

- 742.26 Cottonseed must be inspected.
- 742.27 Insurance requirements.
- 742.28 Premiums; inspections; reports.
- 742.29 Insurance; collection and payment.
- 742.30 Shrinkage; agreement.
- 742.31 Care of cottonseed in storage.
- 742.32 Care of nonlicensed cottonseed, or other commodities.
- 742.33 Records to be kept in safe place.
- 742.34 Warehouse charges.
- 742.35 Business hours.
- 742.36 Numbered tags to be attached to cottonseed.
- 742.37 Identification tag.
- 742.38 Grade and weight determinations.
- 742.39 Bulk storage of identity-preserved cottonseed.
- 742.40 Delivery of cottonseed; conditions.
- 742.41 System of accounts.
- 742.42 Reports.
- 742.43 Canceled receipts; auditing.
- 742.44 Copies of reports to be kept.
- 742.45 Inspection and examination of warehouse.
- 742.46 Weighing apparatus; inspection.
- 742.47 Warehouse to be kept clean.
- 742.48 Excess storage.
- 742.49 Removal from storage.
- 742.50 Storage of wet cottonseed prohibited.
- 742.51 Storage to prevent damage.
- 742.52 Deteriorating cottonseed; handling; notice.
- 742.53 Sale of deteriorating cottonseed.
- 742.54 Compliance with contracts.
- 742.55 Reporting fire losses.
- 742.56 Grade or weight certificate; filing.
- 742.57 Identity-preserved cottonseed; non-storage.

FEEES

- 742.58 License fees.
- 742.59 Warehouse annual and inspection fees.
- 742.60 Advance deposit.
- 742.61 Return of excess deposit.

LICENSED INSPECTORS, LICENSED GRADERS, AND LICENSED WEIGHERS

- 742.62 Inspector's, grader's, weigher's application.
- 742.63 Examination of applicant.
- 742.64 Posting of license.
- 742.65 Duties of licensees.
- 742.66 Inspection certificate; form.
- 742.67 Grade certificate; form.
- 742.68 Weight certificate; form.
- 742.69 Combination certificate; form.
- 742.70 Copies of certificates to be kept.
- 742.71 Licensees to permit and assist in examination.
- 742.72 Reports.
- 742.73 Licenses; suspension; revocation.

7 CFR Ch. VII (1-1-02 Edition)

742.74 Suspended or revoked license; return; termination of license.

742.75 Lost or destroyed licenses.

742.76 Unlicensed inspectors, graders, weighers; misrepresentation.

COTTONSEED GRADING

742.77 Classification; statement.

742.78 Standards to be used.

742.79 Statement of grade; condition.

ARBITRATION

742.80 Arbitration.

MISCELLANEOUS

742.81 Bonds required.

742.82 Publications.

742.83 Information of violations.

742.84 Procedure in hearings.

742.85 One document and one license to cover several products.

742.86 Bond, assets, and fees for combination warehouse.

742.87 Amendments.

AUTHORITY: 7 U.S.C. 241 *et seq.*

SOURCE: SRA, BAE 102; 13 FR 8731, Dec. 30, 1948; 19 FR 57, Jan. 6, 1954, unless otherwise noted. Redesignated at 50 FR 1814, Jan. 14, 1985.

EDITORIAL NOTE: Nomenclature changes to part 742 appear at 62 FR 33540, June 20, 1997.

DEFINITIONS

§ 742.1 Meaning of words.

Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 742.2 Terms defined.

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

(a) *The act.* The United States Warehouse Act, approved August 11, 1916 (39 Stat. 486; 7 U.S.C. 241-273), as amended.

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

(c) *Secretary.* 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) *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.

(e) *Regulations.* Rules and regulation made under the act by the Secretary.

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

(g) *Warehouse.* Any building, structure, or other protected inclosure in which cottonseed 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 cottonseed is or may be stored.

(h) *Warehouseman.* Any person lawfully engaged in the business of storing cottonseed.

(i) *Cottonseed.* Prime cottonseed, cool, clean and not containing in excess of 1 percent foreign matter nor in excess of 10 percent moisture; sound and not containing in excess of 6 percent damaged or immature seed, and shall be untreated by chemical process: *Provided,* That if the warehouse is equipped with such cooling and conditioning equipment as may be acceptable to the Department, or if the cottonseed is in sacks containing not more than 100 pounds to the sack and stored in such manner as the Administrator, or his representatives, may approve, the cottonseed may have a moisture content not in excess of 12 percent.

(j) *License.* A license issued under the act by the Secretary.

(k) *Licensed warehouse.* A warehouse for the conduct of which a license has been issued.

(l) *Licensed warehouseman's bond.* A bond required to be given under the act by a licensed warehouseman.

(m) *Licensed grader.* A person licensed under the act by the Secretary to grade and to certificate the grade or other class of cottonseed stored or to be stored in a licensed warehouse.

(n) *Licensed weigher.* A person licensed under the act by the Secretary to weigh and certificate the weight of cottonseed stored or to be stored in a licensed warehouse.

(o) *Licensed inspector.* A person licensed under the act by the Secretary to inspect, to sample, and to certificate the condition for storage of cottonseed.

(p) *Receipt.* A warehouse receipt.

(q) *Bag.* A sack or other package.

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

[SRA, BAE 102, as amended July 14, 1931, and at 13 FR 8730, Dec. 30, 1948. Redesignated and amended at 50 FR 1814, Jan. 14, 1985]

WAREHOUSE LICENSES

§ 742.3 Application form.

Applications for licenses under sections 4 and 9 of the act and for modifications or extensions of licenses under section 5 of 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 shall find to be necessary to the consideration of his application by the Secretary.

§ 742.4 Issuance of license; conditions.

(a) A license for the conduct of a warehouse shall not be issued if it be found by the Secretary that the warehouse is not suitable for the proper storage of cottonseed, 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 purposes of the act for not issuing such license.

(b) A building acceptable for storage of cottonseed shall be of sound construction, with sound floors, and, if the seed is not stored in accordance with either paragraphs (e), (f), or (g) of this section, it shall be separated into bins or compartments.

(c) An extra licensed bin or compartment shall be maintained at all times with a storage capacity equal to the greatest number of tons that can be stored in any one bin or compartment, except as otherwise provided in paragraphs (e), (f), and (g) of this section. No cottonseed shall be stored in this extra bin or compartment except when necessary to move seed from another bin or compartment to prevent the seed from going out of condition.

§ 742.5

(d) A conveying system must be provided throughout the entire warehouse, passing through or accessible to each bin or compartment in such a way that the cottonseed can be moved rapidly when deemed necessary to maintain it in proper condition.

(e) A system of air cooling may be installed in the warehouse. If, in the discretion of the Administrator or his representative, it shall be determined that a warehouse equipped with a cooling system does not need bins, it shall not be necessary to construct bins in such warehouse.

(f) If tanks are used for the storage of cottonseed both a conveying system and an approved air cooling system must be installed and maintained in good working order.

(g) If cottonseed is stored in bags no special type of building is required other than one of sound construction, and with sound floors and of such character as to keep the cottonseed dry. No system of conveying or air cooling is required in bag storage.

[SRA, BAE 102, as amended July 11, 1929. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.5 Net assets required.

The 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 \$5 per ton of the maximum number of tons that the warehouse will accommodate when stored in the manner customary to the warehouse as determined by the Administrator, except that the amount of such assets shall not be less than \$5,000, and need not be more than \$100,000. In case 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, as such, shall not be considered a liability. Any deficiency in the required net assets may be supplied by an increase

7 CFR Ch. VII (1-1-02 Edition)

in the amount of the warehouseman's bond in accordance with § 742.13(b).

§ 742.6 Modification or extension of license.

Each application for a modification or extension of a license under section 5 of the act shall be made to the Secretary, upon a form prescribed for the purpose and furnished by the Administrator, shall be in English, shall be signed by the applicant, and shall be filed with the Secretary not less than 30 days before the date of the termination of the license then in effect.

§ 742.7 License shall be posted.

Immediately upon receipt of his license or of any modification or extension thereof 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 terminated, in a conspicuous place in the principal office where receipts issued by such warehouseman are delivered to depositors.

§ 742.8 Suspension or revocation of warehouse licenses.

Pending investigation, the Secretary, 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 may, without hearing, suspend or cancel the license issued to such warehouseman. The Secretary may, after opportunity for hearing has been afforded in the manner prescribed in this section, suspend or cancel 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 licensed 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 nonexistent 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

Farm Service Agency, USDA

§ 742.13

to notify immediately the Administrator of the existing condition. Before a license is permanently suspended, revoked, or canceled 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 warehouseman involved shall be furnished by the Secretary, or by an official of the Department of Agriculture designated for the purpose, 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 § 742.84.

[SRA, BAE 102, as amended Sept. 1926, and at 13 FR 8730, Dec. 30, 1948. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.9 Return of suspended or revoked warehouse license.

In case a license issued to a warehouseman terminates or is suspended, revoked, or canceled by the Secretary, such license shall be immediately returned to the Secretary. At the expiration of any period of suspension of such license, unless it be in the meantime revoked or canceled, the dates of the beginning and termination of the suspension shall be indorsed thereon, it shall be returned to the licensed warehouseman to whom it was originally issued and it shall be posted as prescribed in § 742.7: *Provided*, That in the discretion of the Administrator a new license may be issued without reference to the suspension.

§ 742.10 Lost or destroyed warehouse license.

Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman a duplicate thereof may be issued under the same or a new number at the discretion of the Secretary.

§ 742.11 Unlicensed warehousemen must not represent themselves as licensed.

No warehouse or its warehouseman shall be designated 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 warehouseman holds an unsuspended, unrevoked, and uncanceled license for the conduct of such warehouse.

WAREHOUSE BOND

§ 742.12 Bond required; time of filing.

Each warehouseman applying for a warehouse license under the act shall, before such license is granted, file with the Secretary or his designated representative a bond containing the following conditions and such other terms as the Secretary or his designated representative may prescribe in the approved bond forms, with such changes as may be necessary to adapt the forms to the type of legal entity involved:

Now, therefore, if the said license(s) or any amendments thereto be granted and said principal, and its successors and assigns operating said warehouse(s), shall:

Faithfully perform during the period of 1 year commencing _____, or until the termination of said license(s) in the event of termination prior to the end of the 1 year period, all obligations of a licensed warehouseman under the terms of the Act and regulations thereunder relating to the above-named products; and

Faithfully perform during said 1 year period and thereafter, whether or not said warehouse(s) remain(s) licensed under the Act, such delivery obligations and further obligations as a warehouseman as exist at the beginning of said 1 year period or are assumed during said period and prior to termination of said license(s) under contracts with the respective depositors of such products in the warehouse(s);

Then this obligation shall be null and void and of no effect, otherwise to remain in full force. For purposes of this bond, the aforesaid obligations under the Act and regulations and contracts shall include obligations under any and all modifications of the Act, the regulations, and the contracts that may hereafter be made, notice of which modifications to the surety being hereby waived.

[28 FR 5637, June 8, 1963. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.13 Basis of amount of bond; additional amounts.

(a) Exclusive of any amount which may be added in accordance with paragraphs (b) and (c) of this section, the amount of such bond shall be at the rate of \$5 per ton or fractional part thereof of the maximum number of

§ 742.14

tons that the warehouse will accommodate when stored in the manner customary to the warehouse for which such bond is required, as determined by the Administrator, but not less than \$5,000 nor more than \$50,000. 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, and shall desire to give a single bond meeting the requirements of the act and the regulations in this part for said warehouses, such warehouses shall be deemed to be one warehouse for the purposes of the bond required, under §§ 742.12 through 742.16, but the maximum amount of the bond shall be raised to \$100,000.

(b) In case of a deficiency in net assets under § 742.5, there shall be added to the amount of the bond, fixed in accordance with paragraph (a) of this section, an amount equal to such deficiency.

(c) In case the Secretary finds the existence of conditions warranting such action, there shall be added to the amount fixed in accordance with paragraphs (a) and (b) of this section, a further amount, fixed by him, to meet such conditions.

§ 742.14 Extension bond.

In case an application is made under § 742.3 for a modification or an extension of a license and no bond previously filed by the warehouseman under §§ 742.12 through 742.16 covers obligations arising during the period of such modification or extension, the warehouseman shall, when notice has been given by the Secretary that his application for such modification or extension will be granted upon compliance by such warehouseman with the act, file with the Secretary, within a time, if any, fixed in such notice, a bond complying with the act. In the discretion of the Secretary, a properly executed instrument in form approved by him, amending, extending or continuing in force and effect the obligations of a valid bond previously filed by the warehouseman and otherwise complying with the act and the regulations in this part, may be filed in lieu of a new bond.

7 CFR Ch. VII (1-1-02 Edition)

§ 742.15 New bond required each year.

Whenever a continuous form of license has been issued such license shall not be effective beyond one year from its effective date unless the warehouseman shall have filed a new bond in the required amount with, and such bond shall have been approved by, the Secretary prior to the date on which that license would have expired had it been issued for but one year, subject to the provisions of § 742.14.

§ 742.16 Approval of bond.

No bond, amendment, or continuation thereof shall be accepted for the purposes of the act and the regulations in this part until it has been approved by the Secretary.

WAREHOUSE RECEIPTS

§ 742.17 Form.

(a) Every receipt, whether negotiable or nonnegotiable, issued for cottonseed stored in a licensed warehouse shall, in addition to complying with the requirements of section 18 of the act embody within its written or printed terms the following:

(1) The name of the licensed warehouseman and the designation, if any, of the warehouse; (2) the license number of the warehouse; (3) a statement whether the warehouseman is incorporated or unincorporated, and, if incorporated, under what laws; (4) the tag number given to each bag or lot of cottonseed in accordance with § 742.36; (5) a statement, conspicuously placed, whether or not the cottonseed is insured, and, if insured, to what extent, by the warehouseman against loss by fire, lightning, tornado, or flood; (6) a blank space designated for the purpose in which the condition of the cottonseed shall be stated; (7) the moisture content of the cottonseed at the time of storage; (8) the bin or compartment number in which the cottonseed is stored, if stored in bulk; (9) the words "Not Negotiable", or "Negotiable", according to the nature of the receipt, clearly and conspicuously printed or stamped thereon; and (10) a statement indicating the amount of shrinkage agreed upon between the depositor and the warehouseman.

Farm Service Agency, USDA

§ 742.19

(b) Every receipt, whether negotiable, or nonnegotiable, issued for cottonseed stored in a licensed warehouse shall specify a period, for which the cottonseed is accepted for storage under the Act and the regulations in this part not to extend beyond July 1 following the year in which harvested. Upon demand and the surrender of the old receipt by the lawful holder thereof on or before July 1, the warehouseman, upon such lawful terms and conditions as may be granted by him at such time to other depositors of cottonseed in the warehouse, if he then continues to act as a licensed warehouseman, may either extend the old receipt by making a proper notation thereon or issue a new receipt for a further specified period not exceeding 3 months: *Provided*, That receipts covering seed stored in sacks as specified in §742.2(i) may be extended or new receipts issued for a further period not extending beyond June 30 following the second crop year in which the seeds were harvested, and provided it is actually determined in either case that the quality of the cottonseed has not been impaired, but in no event shall cottonseed of two different crop years be stored in the same bin, lot, or compartment. If receipts are extended by endorsements, such endorsement shall be made across the face of the receipt, shall be signed and dated by the licensed warehouseman as of the date of the extension, and shall read as follows: "This receipt extended in accordance with the act and regulations not to extend beyond _____."

(c) The grade stated in a receipt issued for cottonseed, stored in a licensed warehouse, shall be stated in such receipt as determined by the licensed grader who last graded the cottonseed before the issuance of such receipt, and such receipt shall embody within its written or printed terms the following: (1) That the cottonseed was inspected by a licensed inspector, graded by a licensed grader, and weighed by a licensed weigher; (2) a form of indorsement which may be used by the depositor or his authorized agent, for showing the ownership of, and liens, mortgages, or other encumbrances on the cottonseed covered by the receipt.

(d) Whenever the grade or other class of the cottonseed is stated in a receipt

issued for cottonseed stored in a licensed warehouse, such grade or other class shall be stated in the receipt in accordance with §§742.77 through 742.79.

(e) If a warehouseman issues a receipt omitting the statement of grade on request of the depositor as permitted by section 18 of the act, such receipt shall have clearly and conspicuously stamped or written on the face thereof the words "Not graded on request of depositor."

(f) If a warehouseman issues a receipt under the Act omitting any information not required to be stated, for which a blank space is provided in the form of the receipt, a line shall be drawn through such space to show that such omission has been made by the warehouseman.

(Approved by the Office of Management and Budget under control number 0560-0120)

[SRA, BAE 102, as amended July 14, 1931, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.18 Copies of receipts.

At least one actual or skeleton copy of all receipts shall be made, and all copies, except skeleton copies, shall have clearly and conspicuously printed or stamped thereon the words "Copy—Not Negotiable." A copy of each receipt issued shall be retained by the warehouseman for a period of one year after December 31 of the year in which the corresponding original receipt is canceled.

(Approved by the Office of Management and Budget under control number 0560-0120)

[29 FR 13369, Sept. 26, 1964, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.19 Lost or destroyed receipts; bond.

(a) In the case of a lost or destroyed receipt, if there be no statute of the United States or law of a State applicable thereto, a new receipt upon the same terms, subject to the same conditions, and bearing on its face the number and the date of the receipt in lieu of which it is issued and a plain and conspicuous statement that it is a duplicate receipt issued in lieu of a lost or destroyed receipt, may be issued

§ 742.20

upon compliance with the conditions set out in paragraph (b) of this section.

(b) Before issuing such duplicate receipt the licensed warehouseman shall require the depositor or other person applying therefor to make and file with the warehouseman (1) an affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it, how the original receipt was lost or destroyed, and if lost, that diligent effort has been made to find the receipt without success, and (2) a bond in an amount double the value, at the time the bond is given, of the cottonseed represented by the lost or destroyed receipt. Such bond shall be in a form approved for the purpose by the Secretary, shall be conditioned to indemnify the warehouseman against any loss sustained by reason of the issuance of such duplicate receipt, and shall have as surety thereon (i) a surety company which is authorized to do business, and is subject to service or process in a suit on the bond, in the State in which the warehouse is located, or (ii) at least two individuals who are residents of such State and each of whom owns real property therein having a value, in excess of its exemptions and encumbrances, to the extent of double the amount of the bond.

(Approved by the Office of Management and Budget under control number 0560-0120)

[SRA, BAE 102; 13 FR 8731, Dec. 30, 1948; 19 FR 57, Jan. 6, 1954, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.20 Printing of receipts.

No receipt shall be issued by a licensed warehouseman unless it is:

(a) In a form prescribed by the Administrator,

(b) Upon distinctive paper or card stock specified by the Administrator,

(c) Printed by a printer with whom the United States has a subsisting agreement and bond for such printing, and

(d) On paper and/or card stock tinted with ink in the manner prescribed by the agreement under paragraph (c) of this section.

[62 FR 33542, June 20, 1997]

7 CFR Ch. VII (1-1-02 Edition)

§ 742.21 Partial delivery of cottonseed.

(a) If a warehouseman is requested to deliver a part only of cottonseed stored in one bin or compartment for which he has issued negotiable receipts under the act, and such delivery is made in such a manner that no accurate record of the weight of the portion delivered can be ascertained, he shall take up and cancel all receipts covering the entire contents of the bin or compartment before making such partial delivery and no receipt shall be issued for the undelivered portion until the weight of such undelivered seed has been determined.

(b) If a warehouseman is requested to deliver a part only of a lot of cottonseed for which he has issued a negotiable receipt under the act, and he can by actual accurate weight ascertain the amount to be delivered, he shall take up and cancel such receipt and issue a new receipt in accordance with the regulations in this part for the undelivered portion of the cottonseed. The new receipt shall show the date of issuance and also indicate the number and date of the old receipt.

§ 742.22 Return of receipts before delivery of cottonseed.

Except as permitted by law or by the regulations in this part, a warehouseman shall not deliver cottonseed for which he has issued a negotiable receipt until the receipt has been returned to him and canceled, and shall not deliver cottonseed for which he has issued a nonnegotiable receipt until such receipt has been returned to him or he has obtained from the person lawfully entitled to such delivery, or his authorized agent, a written acknowledgment thereof.

§ 742.23 Authority for delivery of cottonseed on nonnegotiable receipt.

Each person to whom a nonnegotiable receipt is issued shall furnish the warehouseman with a statement in writing indicating the person or persons having power to authorize delivery of cottonseed covered by such receipt, together with the bona fide genuine signature of such person or persons. No licensed warehouseman shall

Farm Service Agency, USDA

§ 742.30

honor an order for the release of cottonseed covered by a nonnegotiable receipt until he has first ascertained that the person issuing the order has authority to order such release and that the signature of the releasing party is genuine.

§ 742.24 Receipts for storage; one bin; several bins.

Any number of receipts may be issued for cottonseed in any one bin or compartment but a receipt shall not be issued for a lot of seed, a part of which is stored in one bin or compartment and a part in another bin or compartment.

§ 742.25 Omission of grade; no compulsion by warehouseman.

No licensed warehouseman shall, directly or indirectly by any means whatsoever, compel or attempt to compel the depositor of any cottonseed stored in his licensed warehouse to request the issuance of a receipt omitting the statement of grade.

DUTIES OF LICENSED WAREHOUSEMAN

§ 742.26 Cottonseed must be inspected.

No licensed warehouseman shall receive into his licensed warehouse for storage cottonseed other than as defined in § 742.2(i). Neither shall he receive such seed for storage until it has been inspected by an inspector licensed under this act and found by him to be in proper condition and suitable for storage.

[SRA, BAE 102, as amended Sept. 2, 1927. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.27 Insurance requirements.

(a) Each licensed warehouseman when so requested in writing as to any cottonseed by the depositor thereof or lawful holder of the receipt covering such cottonseed shall, to the extent to which in the exercise of due diligence he is able to procure such insurance, keep such cottonseed while in his custody as a licensed warehouseman insured in his own name or arrange for its insurance otherwise to the extent so requested against loss or damage by fire, lightning, tornado, or flood. When insurance is not carried in the warehouseman's name the receipts

shall show that the cottonseed is not insured by the warehouseman. Such insurance shall be covered by lawful policies issued by one or more insurance companies authorized to do such business, and subject to service of process in suits brought in the State where the warehouse is located. If the warehouseman is unable to procure such insurance to the extent requested, he shall, orally or by telegraph or by telephone and at his own expense, immediately notify the person making the request of the fact. Nothing in this section shall be construed to prevent the warehouseman from adopting a rule that he will insure all cottonseed stored in his warehouse.

(b) Each warehouseman shall keep exposed conspicuously in the place prescribed by § 742.7 and at such other place as the Administrator or his representative may from time to time designate, a notice stating briefly the conditions under which the cottonseed will be insured against loss or damage by fire, lightning, tornado, or flood.

§ 742.28 Premiums; inspections; reports.

Each warehouseman shall, in accordance with his contracts with insurance and bonding companies for the purpose of meeting the insurance and bonding requirements of this part, pay such premium, permit such reasonable inspections and examinations, and make such reasonable reports as may be provided for in such contracts.

§ 742.29 Insurance; collection and payment.

Each warehouseman shall promptly take such steps as may be necessary and proper to collect any moneys which may become due under contracts of insurance entered into by him for the purpose of meeting the requirements of this part, and shall, as soon as collected, promptly pay over to the persons concerned, any portion of such moneys which they may be entitled to receive from him.

§ 742.30 Shrinkage; agreement.

At the time cottonseed is received for storage the warehouseman and the depositor shall agree upon an amount to

§ 742.31

be allowed for shrinkage while the cottonseed is in storage, such shrinkage to include loss caused by natural drying out of the cottonseed, but in no event shall the total amount of shrinkage exceed 5 percent of the weight of the cottonseed at the time it entered storage. In case no agreement as to shrinkage has been made, the difference in the moisture content of the cottonseed at the beginning of the storage period and at the time of delivery shall form a basis for calculating shrinkage.

§ 742.31 Care of cottonseed in storage.

Each warehouseman shall at all times exercise such care in regard to cottonseed in his custody as a reasonably careful owner would exercise under the same circumstances and conditions. He shall also equip his warehouse with thermometers to determine the temperature of the cottonseed while in storage and shall make readings of the thermometers with such frequency as the Administrator or his representatives may direct, and permanently record the same, but in no event shall such readings be made less frequently than every third working day. If the cottonseed attains a temperature of 110° F. the warehouseman shall immediately take such action as is necessary to lower the temperature. If the depositor of the cottonseed or any other person to whom he may have transferred title or interest in the cottonseed desires to make temperature determinations he shall be permitted to do so in company with the warehouseman or the warehouseman's representative.

(Approved by the Office of Management and Budget under control number 0560-0120)

[SRA, BAE 102; 13 FR 8731, Dec. 30, 1948, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.32 Care of nonlicensed cottonseed, or other commodities.

If, at any time, a warehouseman shall handle or store cottonseed otherwise than as a licensed warehouseman, or shall handle or store any other commodity, he shall so protect the same, and otherwise exercise such care with respect to it, as not to endanger the cottonseed in his custody as a licensed warehouseman or impair his ability to

7 CFR Ch. VII (1-1-02 Edition)

meet his obligations and perform his duties under the act and the regulations in this part.

§ 742.33 Records to be kept in safe place.

Each warehouseman shall provide a metal fireproof safe, a fireproof vault or a fireproof compartment in which he shall keep, when not in actual use, all records, books, and papers pertaining to the licensed warehouse, including his current receipt book, copies of receipts issued and canceled receipts, except that with the written consent of the Administrator, or his representative, upon a showing by such warehouseman that it is not practicable to provide such fireproof safe, vault, or compartment, he may keep such records, books, and papers in some other place of safety, approved by the Administrator or his representative. Each canceled receipt shall be retained by the warehouseman for a period of six years after December 31 of the year in which the receipt is canceled and for such longer period as may be necessary for the purposes of any litigation which the warehouseman knows to be pending, or as may be required by the Administrator in particular cases to carry out the purposes of the act. Canceled receipts shall be arranged by the warehouseman in numerical order and otherwise in such manner as shall be directed, for purposes of audit, by authorized officers or agents of the Department of Agriculture.

(Approved by the Office of Management and Budget under control number 0560-0120)

[SRA, BAE 102; 13 FR 8731, Dec. 30, 1948; 19 FR 57, Jan. 6, 1954, as amended at 22 FR 1629, Mar. 14, 1957; 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.34 Warehouse charges.

A warehouseman shall not make any unreasonable or exorbitant charge for services rendered. Before a license to conduct a warehouse is granted under the act the warehouseman shall file with the Administrator a copy of his rules and a schedule of charges to be made by him if licensed. Before making any change in such rules or schedule of charges he shall file with the Administrator a statement in writing showing the proposed change and the reasons

Farm Service Agency, USDA

§ 742.39

therefor. Each licensed warehouseman shall keep exposed conspicuously in the place prescribed by § 742.7, and at such other place, accessible to the public, as the Administrator or his representative may from time to time designate, a copy of his current rules and schedule of charges.

§ 742.35 Business hours.

(a) Each licensed warehouse shall be kept open for the purpose of receiving cottonseed for storage and delivering cottonseed out of storage every business day for a period of not less than six hours between the hours of 8 a.m. and 6 p.m., except as provided in paragraph (b) of this section. The warehouseman shall keep conspicuously posted on the door of the public entrance to his office and to his warehouse a notice showing the hours during which the warehouse will be kept open, except when such warehouse is kept open continuously from 8 a.m. to 6 p.m.

(b) In case the warehouse is not to be kept open as required by paragraph (a) of this section, the notice posted as prescribed in that paragraph shall state the period during which the warehouse is to be closed and the name of an accessible person, with the address where he is to be found, who shall be authorized to deliver cottonseed stored in such warehouse, upon lawful demand by the depositor thereof or the holder of the receipt therefor, as the case may be.

(Approved by the Office of Management and Budget under control number 0560-0120)

[SRA, BAE 102; 13 FR 8731, Dec. 30, 1948; 19 FR 57, Jan. 6, 1954, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.36 Numbered tags to be attached to cottonseed.

Each warehouseman shall, upon acceptance for storage of any lot of sacked cottonseed, immediately attach to such lot a tag of good quality which shall identify the lot. Such tag shall show the lot number, the identification mark on each bag, the number of the receipt issued to cover such cottonseed, the number of sacks in the lot, the grade, if determined, and the gross

weight of the cottonseed at the time it entered storage.

[SRA, BAE 102, as amended July 14, 1931. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.37 Identification tag.

Each warehouseman shall so store each lot of cottonseed for which a receipt under the act has been issued that the tag thereon, required by § 742.36, is visible and readily accessible, and shall arrange all bags in his licensed warehouse so as to permit an accurate count thereof.

§ 742.38 Grade and weight determinations.

Each licensed warehouseman shall accept all cottonseed for storage and shall deliver out of storage all bulk cottonseed, other than specially binned or sacked cottonseed, in accordance with the grade of such cottonseed as determined by a person duly licensed to grade such cottonseed and to certificate the grade thereof, and in accordance with the weights of such cottonseed as determined by a person duly licensed to weigh such cottonseed and to certificate the weight thereof, under the act and the regulations in this part, and in accordance with the agreement regarding shrinkage as shown by the terms of the receipt or in the absence of such agreement in accordance with § 742.30.

§ 742.39 Bulk storage of identity-preserved cottonseed.

Upon the acceptance by a licensed warehouseman, for storage in his licensed warehouse, of any lot of bulk cottonseed the identity of which is to be preserved, he shall store, or cause to be stored, such cottonseed in an individual bin or compartment designated by lot numbers or letters, or other clearly distinguishable words or signs, permanently and securely affixed thereto, or shall so mark the container or containers of such cottonseed or so place the cottonseed in the warehouse that its identity will not be lost during the storage period.

§ 742.40

§ 742.40 Delivery of cottonseed; conditions.

Except as may be provided by law or the regulations in this part, each licensed warehouseman, (a) upon proper presentation of a receipt for any bulk, other than specially binned cottonseed, and upon payment or tender of all advances and legal charges, shall deliver to such depositor or lawful holder of such receipt cottonseed of the grade and quantity specified in such receipt, after making due allowance for shrinkage as provided in the regulations in this part, and (b) upon proper presentation of a receipt for any cottonseed 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 cottonseed stored in his licensed warehouse.

§ 742.41 System of accounts.

Each licensed warehouseman shall use for his licensed warehouse a system of accounts, approved for the purpose by the Administrator, which shall show for each bag or lot of cottonseed, the name of the depositor, the weight of the cottonseed, the number of bags in each lot, the grade when grade is required to be, or is ascertained, the location, the dates received for and delivered out of storage and the receipts issued and canceled, and a separate record for each depositor, and such accounts shall include a detailed record of all moneys received and disbursed and of all effective insurance policies. In the case of cottonseed stored in bags, the tag number mentioned in § 742.36 shall be shown. There shall also be kept a record or chart for each bin, showing the temperature of cottonseed in storage as determined by the readings required by § 742.31, and such other information as the Administrator may require. Such records shall be retained by the warehouseman for a period of six years after December 31 of the year in which created, and for such longer period as may be necessary for the purposes of any litigation which the warehouseman knows to be pending, or as may be required by the Administrator

7 CFR Ch. VII (1-1-02 Edition)

in particular cases to carry out the purposes of the Act.

(Approved by the Office of Management and Budget under control number 0560-0120)

[SRA, BAE 102; 13 FR 8731, Dec. 30, 1948; 19 FR 57, Jan. 6, 1954, as amended at 29 FR 13369, Sept. 26, 1964; 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.42 Reports.

Each licensed warehouseman shall, from time to time, when requested by the Administrator, make such reports, on forms prescribed and furnished for the purpose by the Service, concerning the condition, contents, operation, and business of the warehouse as the Administrator may require.

§ 742.43 Canceled receipts; auditing.

Each warehouseman, if requested by the Service, shall forward canceled receipts for auditing to an entity or office of the Service as may be designated from time to time.

[62 FR 33542, June 20, 1997]

§ 742.44 Copies of reports to be kept.

Each warehouseman shall keep on file, as a part of the records of the warehouse, for a period of three years after December 31 of the year in which submitted, an exact copy of each report submitted by such warehouseman under the regulations in this part.

(Approved by the Office of Management and Budget under control number 0560-0120)

[29 FR 13369, Sept. 26, 1964, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.45 Inspection and examination of warehouse.

Each licensed warehouseman shall permit any officer or agent of the Department of Agriculture, authorized by the Secretary for the purpose, to enter and inspect or examine, on any business day during the usual hours of business, any warehouse for the conduct of which such warehouseman holds a license, the office thereof, the books, records, papers, and accounts relating thereto, and the contents thereof, and such warehouseman shall furnish such

Farm Service Agency, USDA

§ 742.52

officer or agent the assistance necessary to enable him to make any inspection or examination under this section.

§ 742.46 Weighing apparatus; inspection.

The weighing apparatus used for ascertaining the weight stated in a receipt or certificate, issued for cottonseed stored in a licensed warehouse, shall be subject to examination by the officer or agent of the Department of Agriculture designated by the Administrator for the purpose. If the Service shall disapprove such weighing apparatus, it shall not thereafter, unless such disapproval be withdrawn, be used in ascertaining the weight of any cottonseed for the purposes of the act and the regulations in this part.

§ 742.47 Warehouse to be kept clean.

Each licensed warehouseman shall keep his warehouse clean and free from trash, dust, rubbish, and scattered cottonseed.

§ 742.48 Excess storage.

A warehouseman shall not store cottonseed in his licensed warehouse in excess of the capacity thereof determined in accordance with § 742.13(a).

§ 742.49 Removal from storage.

Except as may be permitted by law or the regulations in this part, a licensed warehouseman shall not remove any cottonseed for storage from the licensed warehouse or the part thereof designated in the receipt, if by such removal the insurance thereon will be impaired, without first obtaining the consent in writing of the holder of the receipt, and endorsing on such receipt the fact of such removal. Under no circumstances, unless it becomes absolutely necessary to protect the interests of holders of receipts, shall cottonseed be removed from the licensed warehouse, and immediately upon any such removal the warehouseman shall notify the Administrator of such removal and the necessity therefor.

[SRA, BAE 102; 13 FR 8731, Dec. 30, 1948; 19 FR 57, Jan. 6, 1954. Redesignated at 50 FR 1814, Jan. 14, 1985. Reinstated at 62 FR 33339, June 19, 1997]

EDITORIAL NOTE: Section 742.49 was erroneously omitted in the Jan. 1, 1995, through Jan. 1, 1997, revisions of the CFR.

§ 742.50 Storage of wet cottonseed prohibited.

A warehouseman shall not under any circumstances accept for storage any cottonseed in his licensed warehouse that is wet or otherwise of a condition rendering it unsuitable for storage.

§ 742.51 Storage to prevent damage.

A warehouseman shall not handle or store cottonseed in such manner as will injure or damage it or in any part of the warehouse in which it is likely to be injured or damaged by excessive moisture, or otherwise. If a licensed warehouseman accepts cottonseed for storage in bulk, unless his warehouse is equipped with both a conveyor and a cooling system, he shall not store such seed in an amount greater than 500 tons in any one bin or compartment.

§ 742.52 Deteriorating cottonseed; handling; notice.

(a) If the licensed warehouseman, with the approval of the licensed inspector, shall determine that any cottonseed is deteriorating and that such deterioration cannot be stopped, the licensed warehouseman shall give immediate notice of the fact, in accordance with paragraphs (b) and (c) of this section.

(b) Such notice shall state (1) the warehouse in which the cottonseed is stored; (2) the quantity, kind, and grade of the cottonseed at the time the notice is given; (3) the actual condition of the cottonseed as nearly as can be ascertained, and the reason, if known, for such condition; (4) the oldest outstanding receipts covering the amount of cottonseed out of condition, giving the number and date of each such receipt and the quantity, the kind, and grade of the cottonseed as stated in each such receipt; and (5) that such cottonseed will be delivered upon the return and cancellation of the receipt therefor.

(c) A copy of such notice shall be delivered in person or shall be sent by

§ 742.53

mail (1) to the persons holding the receipts, if known to the licensed warehouseman; (2) to the person who originally deposited the cottonseed; (3) to any other persons known by the licensed warehouseman to be interested in the cottonseed; and (4) to the Administrator. If the holders of the receipts and the owners of the cottonseed are known to the licensed warehouseman and cannot, in the regular course of the mails, be reached within 12 hours, the licensed warehouseman shall, whether or not requested to do so, also immediately notify such persons by telegraph or telephone at their expense. Public notice shall also be given by posting a copy of such notice at the place where the warehouseman is required to post his license. A copy of such notice shall be kept as a record of the warehouse.

(d) Any person, interested in any cottonseed or the receipt covering such cottonseed stored in a licensed warehouse, may, in writing, notify the licensed warehouseman, conducting such licensed warehouse, of the fact of his interest, and such licensed warehouseman shall keep a record of the fact. If such person requests in writing that he be notified regarding the condition of any such cottonseed and agrees to pay the cost of any telegraph or telephone charge, such licensed warehouseman shall notify such person in accordance with such request.

(e) Nothing contained in this section shall be construed as relieving the licensed warehouseman from properly caring for any cottonseed after notification of its condition in accordance with this section.

(f) Records required to be kept by this section shall be retained, as a part of the records of the warehouse, for a period of six years after December 31 of the year in which created, and for such longer period as may be necessary for the purposes of any litigation which the warehouseman knows to be pending, or as may be required by the Ad-

7 CFR Ch. VII (1-1-02 Edition)

ministrator in particular cases to carry out the purposes of the Act.

(Approved by the Office of Management and Budget under control number 0560-0120)

[SRA, BAE 102; 13 FR 8731, Dec. 30, 1948; 19 FR 57, Jan. 6, 1954, as amended at 29 FR 13369, Sept. 26, 1964; 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.53 Sale of deteriorating cottonseed.

Subject to State law, if the cottonseed advertised in accordance with the requirements of § 742.52 has not been removed from storage by the owner thereof within five days from the date of notice of its being out of condition, the licensed warehouseman in whose licensed warehouse such cottonseed is stored may immediately sell the same at public auction at the expense and for the account of the owner. Before such public sale is determined upon, the warehouseman shall immediately notify the Administrator by wire.

§ 742.54 Compliance with contracts.

Each warehouseman shall faithfully perform such obligations as a warehouseman as may be assumed by him under contracts with depositors of cottonseed in his warehouse.

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

§ 742.55 Reporting fire losses.

If at any time a fire occurs at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately the occurrence of such fire and the extent of damage to the Administrator.

[62 FR 33542, June 20, 1997]

§ 742.56 Grade or weight certificate; filing.

When a grade or weight certificate has been issued by a licensed grader or weigher, a copy of such certificate shall be filed with the warehouseman in whose warehouse the cottonseed covered by such certificate is stored, and such certificate shall become a

Farm Service Agency, USDA

§ 742.61

part of the records of the licensed warehouseman. Such certificates shall be retained, as a part of the records of the warehouse, for a period of 3 years after December 31 of the year in which the certificates are issued.

(Approved by the Office of Management and Budget under control number 0560-0120)

[SRA, BAE 102; 13 FR 8731, Dec. 30, 1948; 19 FR 57, Jan. 6, 1954, as amended at 29 FR 13369, Sept. 26, 1964; 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.57 Identity-preserved cottonseed; nonstorage.

Subject to the provisions of section 13 of the act, a licensed warehouseman may elect not to receive cottonseed for storage the identity of which is to be preserved while in storage.

FEES

§ 742.58 License fees.

(a) Fees are collected in advance for each original, amended, modified, extended, reinstated, or duplicate warehouseman's license; and for each original, duplicate, or modified license issued to inspect, sample, grade, classify, or weigh commodities.

(b) Fee changes, if applicable, will be announced by Notice in the FEDERAL REGISTER on or before July 1, and effective the following October 1.

[59 FR 51358, Oct. 11, 1994]

§ 742.59 Warehouse annual and inspection fees.

Warehousemen must pay:

(a) An annual fee which will be determined by computing the capacity for each warehouse location under a single license and adding those amounts together to determine the total due. The fee will be assessed and payable when the warehouse bond is furnished in accordance with these regulations, for acceptance by the Secretary and annually thereafter on the bond renewal date. The capacity for each identifiable location will be determined by the Secretary. The total capacity of all locations may not exceed the capacity stated in the current license. An identifiable location is a fully functional public warehouse as determined by the Secretary. The annual fee a licensed warehouseman is assessed may be ad-

justed by the amount Commodity Credit Corporation (CCC) pays, if CCC has a storage contract or agreement with the warehouseman.

(b) An inspection fee for each original and amendment inspection.

(c) An inspection fee at the rate of 100 percent of the annual fee charged warehouses without a CCC storage contract or agreement, in all cases where the license has been suspended and the warehouseman has requested reinstatement. No fee will be charged if the Secretary determines that the suspension was not justified.

(d) A fee for each inspection requested by the warehouseman at the rate of 100 percent of the annual fee charged warehouses without a CCC storage contract or agreement.

[59 FR 51358, Oct. 11, 1994]

§ 742.60 Advance deposit.

Before any license is granted, or an original examination or inspection is made, or reexamination or reinspection for modification of an existing license is made, or when the annual fee for the licensed warehouse is assessed, pursuant to the regulation in this part, the applicant or licensee shall deposit with the Service the amount of the fee prescribed. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post office or express money order, payable to the order of the Service.

[46 FR 63201, Dec. 30, 1981. Redesignated at 50 FR 1814, Jan. 14, 1985, as amended at 62 FR 33542, June 20, 1997]

§ 742.61 Return of excess deposit.

The Treasurer of the United States shall hold in his custody each advance deposit made under § 742.60 until the fee, if any, is assessed and he is furnished by the Service with a statement showing the amount thereof and against whom assessed. Any part of such advance deposit which is not required for the payment of any fee assessed shall be returned to the party depositing the same.

[SRA, BAE 102, as amended Sept. 1926, and at 3 FR 1400, June 14, 1938. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.62

LICENSED INSPECTORS, LICENSED
GRADERS, AND LICENSED WEIGHERS

§ 742.62 Inspector's, grader's, weigher's application.

(a) Application for licenses to inspect, to grade, or to weigh cottonseed under the act shall be made to the Administrator on forms furnished for the purpose by him.

(b) Each such application shall be in English, shall be signed by the applicant, shall be verified by him under oath or affirmation administered by a duly authorized officer, and shall contain or be accompanied by (1) the name and location of a warehouse or warehouses licensed, or for which application for license has been made, under the Act in which cottonseed sought to be inspected, graded, and weighed under such license is or may be stored; (2) a statement from the warehouseman conducting such warehouse showing whether or not the applicant is competent and is acceptable to such warehouseman for the purpose; (3) satisfactory evidence that he has had at least one year's experience in the kind of service for which a license is sought or the equivalent of such experience, and that he is competent to perform such services, except in the case of applicants for weighers' licenses one month's experience will be sufficient; (4) a statement by the applicant that he agrees to comply with and abide by the terms of the Act and the regulations in this part so far as the same may relate to him; and (5) such other information as the Administrator may deem necessary: *Provided*, That when an application for a license to grade cottonseed is filed by a person who does not intend to grade cottonseed for any particular licensed warehouseman but who does intend to grade cottonseed stored or to be stored in a licensed warehouse and to issue grade certificates therefor, as provided for by the Act and the regulations in this part, independent of the warehouse receipts issued to cover such cottonseed, it shall not be necessary to furnish such statement as is required by paragraph (b)(2) of this section.

(c) The applicant shall at any time furnish such additional information as the Secretary or the Administrator

7 CFR Ch. VII (1-1-02 Edition)

shall find to be necessary to the consideration of his application by the Secretary.

(d) A single application may be made by any person for a license to inspect, to grade, and to weigh upon complying with all the requirements of this section.

[SRA, BAE 102; 13 FR 8731, Dec. 30, 1948; 19 FR 57, Jan. 6, 1954, as amended at 41 FR 34006, Aug. 12, 1976. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.63 Examination of applicant.

Each applicant for a license as an inspector, a grader, or a weigher, and each licensed inspector, licensed grader, or licensed weigher shall, whenever requested by an authorized agent of the Department of Agriculture designated by the Administrator for the purpose, submit to an examination or test to show his ability properly to perform the duties for which he is applying for license or for which he has been licensed.

§ 742.64 Posting of license.

Each licensed grader shall keep his license conspicuously posted in the office where all or most of the grading is done and each licensed inspector or weigher shall keep his license conspicuously posted in the warehouse office or in such place as may be designated for the purpose by the Administrator.

§ 742.65 Duties of licensees.

Each licensed inspector, each licensed grader, and each licensed weigher when requested, shall, without discrimination, as soon as practicable, and upon reasonable terms inspect, grade, or weigh and certificate the condition for storage, grade, or weight of cottonseed stored or to be stored in a licensed warehouse for which he holds a license, if such cottonseed be offered to him under such conditions as permit proper inspection and the determination of the condition, grade, or weight thereof, as the case may be. Each such inspector, grader, or weigher shall give preference to persons who request his services as such over persons who request his services in any other capacity. No inspection, grade, or weight certificate shall be issued under the act

Farm Service Agency, USDA

§ 742.70

for cottonseed not stored or not to be stored in a licensed warehouse.

§ 742.66 Inspection certificate; form.

Each inspection certificate issued under the act by a licensed inspector shall be in a form approved for the purpose by the Administrator, and shall embody within its written or printed terms (a) the caption "United States Warehouse Act, Cottonseed Inspection Certificate"; (b) whether it is an original, a duplicate, or other copy; (c) the name and location of the licensed warehouse in which the cottonseed is or is to be stored; (d) the date of the certificate; (e) the location of the cottonseed at the time of inspection; (f) the identification number or mark of each bag of cottonseed, if in bags, given in accordance with § 742.36; (g) the condition of the cottonseed for storage at the time of inspection; (h) that the certificate is issued by a licensed inspector, under the United States Warehouse Act and regulations thereunder; (i) a blank space designated for the purpose in which may be stated any general remarks on the condition of the cottonseed; (j) the signature of such licensed inspector. In addition, the inspection certificate may include any other matter not inconsistent with the act or the regulations in this part, provided the approval of the Service is first secured.

§ 742.67 Grade certificate; form.

Each grade certificate issued under the act by a licensed grader shall be in a form approved for the purpose by the Administrator and shall embody within its written or printed terms (a) the caption "United States Warehouse Act, Cottonseed Grade Certificate"; (b) whether it is an original, a duplicate, or other copy; (c) the name and location of the licensed warehouse in which the cottonseed is or is to be stored; (d) the date of the certificate; (e) the location of the cottonseed at the time of grading; (f) the identification number or mark of each bag of cottonseed, if in bags, given in accordance with § 742.36; (g) the grade or other class of each bag or lot of cottonseed covered by the certificate, in accordance with §§ 742.77 through 742.79 as far as applicable, and the standard or description in accord-

ance with which the grade is made; (h) the approximate amount of cottonseed covered by the certificate; (i) that the certificate is issued by a licensed grader under the United States Warehouse Act and regulations thereunder; and (j) the signature of the licensed grader. In addition, the grade certificate may include any other matter not inconsistent with the act or the regulations in this part, provided the approval of the Service is first secured.

§ 742.68 Weight certificate; form.

Each weight certificate issued under the act by a licensed weigher shall be in a form approved for the purpose by the Administrator, and shall embody within its written or printed terms (a) the caption "United States Warehouse Act, Cottonseed Weight Certificate"; (b) whether it is an original, a duplicate, or other copy; (c) the name and location of the licensed warehouse in which the cottonseed is or is to be stored; (d) the date of the certificate; (e) the location of the cottonseed at the time of weighing; (f) the identification number or mark of each bag of cottonseed, if in bags, given in accordance with § 742.36; (g) the gross weight of the cottonseed; (h) that the certificate is issued by a licensed weigher, under the United States Warehouse Act and the regulations thereunder; and (i) the signature of such licensed weigher. In addition, the weight certificate may include any other matter not inconsistent with the act or the regulations in this part, provided the approval of the Service is first secured.

§ 742.69 Combination certificate; form.

The condition, grade, and weight of any cottonseed, ascertained by a licensed inspector, a licensed grader, and a licensed weigher may be stated on a certificate meeting the combined requirements of §§ 742.66 through 742.68, if the form of such certificate shall have been approved for the purpose by the Administrator.

§ 742.70 Copies of certificates to be kept.

Each licensed inspector, each licensed grader, and each licensed weigher shall keep for a period of one year in

§ 742.71

a place accessible to persons financially interested a copy of each certificate issued by him under the regulations in this part and shall file a copy of each such certificate with the warehouse in which the cottonseed covered by the certificate is stored.

§ 742.71 Licensees to permit and assist in examination.

Each licensed inspector, each licensed grader, and each licensed weigher shall permit any officer or agent of the Department of Agriculture, authorized by the Secretary for the purpose, to inspect or examine, on any business day during the usual hours of business, his books, papers, records, and accounts relating to the performance of his duties under the act and the regulations in this part, and shall, with the consent of the licensed warehouseman concerned, assist any such officer or agent in the inspection or examination of records mentioned in § 742.41, as far as any such inspection or examination relates to the performance of the duties of such licensed inspector, licensed grader, or licensed weigher under the act and the regulations in this part.

§ 742.72 Reports.

Each licensed inspector, each licensed grader, and each licensed weigher shall, from time to time, when requested by the Administrator, make reports on forms furnished for the purpose by the Service, bearing upon his activities as such licensed inspector, licensed grader, or licensed weigher.

§ 742.73 Licenses; suspension; revocation.

Pending investigation the Secretary may, whenever he deems necessary, suspend the license of a licensed inspector, licensed grader, or licensed weigher temporarily, without hearing. Upon a written request and a satisfactory statement of reasons therefor, submitted by the licensed inspector, licensed grader, or licensed weigher, the Secretary may, without hearing, suspend or cancel the license issued to such licensed inspector, licensed grader, or licensed weigher. The Secretary may, after opportunity for hearing has been afforded in the manner prescribed in this section, suspend or cancel a li-

7 CFR Ch. VII (1-1-02 Edition)

ense issued to a licensed inspector, licensed grader, or licensed weigher when such licensee, (a) has ceased to perform services as such inspector, grader, or weigher, or (b) has in any other manner become incompetent or incapacitated to perform the duties of such licensed inspector, licensed grader, or licensed weigher. As soon as it shall come to the attention of a licensed warehouseman that either of the conditions mentioned under paragraphs (a) and (b) of this section exist, it shall be the duty of such warehouseman to notify in writing the Administrator. Before the license of any licensed inspector, licensed grader, or licensed weigher is permanently suspended or revoked pursuant to section 12 of the Act, such licensed inspector, licensed grader, or licensed weigher shall be furnished by the Secretary, or by an official of the Department of Agriculture designated for the purpose, 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 § 742.84.

[SRA, BAE 102, as amended Sept. 1926, and at 13 FR 8730, Dec. 30, 1948. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 742.74 Suspended or revoked license; return; termination of license.

(a) In case a license issued to a licensed inspector, licensed grader, or licensed weigher is suspended, revoked, or canceled by the Secretary, such license shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless in the meantime it be revoked or canceled, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the licensed inspector, licensed grader, or licensed weigher to whom it was originally issued, and it shall be posted as prescribed in § 742.64.

(b) Any license issued under the act and the regulations in this part to an inspector, a grader, or a weigher shall automatically terminate as to any licensed warehouse whenever the license of such warehouse shall be revoked or canceled. Thereupon the license of such inspector, grader, or weigher shall be

Farm Service Agency, USDA

§ 742.80

returned to the Secretary. In case such license shall apply to other warehouses the Secretary shall issue him a new license, omitting the names of the warehouses covering which licenses have been revoked or canceled. Such new license shall be posted as prescribed in § 742.64.

§ 742.75 Lost or destroyed licenses.

Upon satisfactory proof of the loss or destruction of a license issued to a licensed inspector, licensed grader, or licensed weigher, a duplicate thereof may be issued under the same or a new number, in the discretion of the Secretary.

§ 742.76 Unlicensed inspectors, graders, weighers; misrepresentation.

No person shall in any way represent himself to be an inspector, grader, or weigher licensed under the act unless he holds an unsuspended, unrevoked, and uncanceled license issued under the act.

COTTONSEED GRADING

§ 742.77 Classification; statement.

Whenever the grade or condition of cottonseed is required to be or is stated for the purposes of this act and the regulations in this part, it shall be stated in accordance with §§ 742.78 and 742.79.

§ 742.78 Standards to be used.

Until such time as official cottonseed grades of the United States are in effect, the grade and condition of cottonseed shall be stated as far as applicable (a) in accordance with the State standards, if any, established in the State in which the warehouse is located, (b) in the absence of any State standards, in accordance with the standards, if any, adopted by any cottonseed organization or by the cottonseed trade generally in the locality in which the warehouse is located, subject to the disapproval of the Administrator, or (c) in the absence of the aforesaid standards in accordance with any standards approved by the Administrator.

§ 742.79 Statement of grade; condition.

Whenever the grade or condition of the cottonseed is stated for the purposes of this act and this part, the

terms used shall be correctly applied and shall be so selected as not to convey a false impression of the cottonseed. In case of doubt as to the grade or condition of a given lot of cottonseed a determination shall be made of such facts by drawing at least six samples of five (5) pounds each, fairly representative of the contents of the car, or two samples of two (2) pounds each fairly representative of the contents of the wagon from the various parts of the carload or wagonload of cottonseed offered for storage. These samples shall be thoroughly mixed and after being so mixed, from this mixture by quartering, not less than 100 grams shall be taken, which shall constitute the sample for the purpose of determining the grade.

ARBITRATION

§ 742.80 Arbitration.

(a) Except when agreements have been made in accordance with the "United States Arbitration Act" (43 Stat. 883; 9 U.S.C. 1-14), in case a question arises as to whether the condition, grade, or weight of cottonseed was correctly stated in a receipt, inspection certificate, grade certificate, or weight certificate issued under the act and the regulations in this part or as to whether an official sample was properly drawn by a licensed inspector in accordance with the regulations in this part, the licensed warehouseman concerned or any person financially interested in the cottonseed involved may, after reasonable notice to the other interested party, submit the question to an arbitration committee for determination in accordance with this section.

(b) Such arbitration committee shall be composed of three or more disinterested persons who are competent to pass upon the questions involved. If there be a local trade organization such as a board of trade, chamber of commerce, exchange, or inspection department which provides such a committee under a rule or practice acceptable to the Administrator for the purpose, such a committee may determine the question. In the absence of such a committee, or if for any good reason not inconsistent with the act and the

§ 742.81

regulations in this part such committee is not acceptable to either of the parties interested the complainant and the other party shall each name a member and the two members so named shall select a third member, who shall constitute the arbitration committee. Each member of any such committee shall at all times be subject, for good cause, to the disapproval of the Administrator, and in case any member is so disapproved he shall not thereafter act on an arbitration committee which is considering any questions relating to the same lot of cottonseed unless such disapproval be withdrawn.

(c) It shall be the duty of the interested parties to acquaint the arbitration committee with the exact nature of the question to be determined and all the necessary facts and to permit the committee to examine the receipt, certificate, sample, or cottonseed involved or any papers or records needed for the determination of the question. The committee shall make a written finding setting forth the question involved, the necessary facts, and its determination. Such findings or a true copy thereof, shall be filed as a part of the records of the licensed warehouseman involved. It may dismiss the matter without determination upon the request of the complainant, or for non-compliance by the complainant with the law or the regulations in this part, or because it is without sufficient evidence to determine the question, in which case the decision shall be deemed to be against the complainant. Except as otherwise provided by law, its decision shall be final for the purposes of the act and the regulations in this part, unless the Administrator shall direct a review of the question. Any necessary and reasonable expense of such arbitration shall be borne by the losing party, unless the committee shall decide that such expense shall be prorated between the parties.

(d) If the decision of the arbitration committee be that the grade, condition, or weight was not correctly stated, the receipt or certificate involved shall be returned to and canceled by the licensee who issued it and he shall substitute therefor one conforming to the decision of the committee. If the

7 CFR Ch. VII (1-1-02 Edition)

decision of the committee be that a sample was not properly drawn in accordance with the regulations in this part, it shall cease to be an official sample for the purposes of regulations in this part, and the licensed inspector, at the request of any of the parties of the arbitration, shall draw and substitute a new sample, complying with this part with respect to such sample.

[SRA, BAE 102, as amended Sept. 1926. Redesignated at 50 FR 1814, Jan. 14, 1985]

MISCELLANEOUS

§ 742.81 Bonds required.

Every person applying for a license, or licensed under section 9 of the act shall as such, be subject to all portions of the regulations in this part except § 742.5, so far as they may relate to warehousemen. In case there is a law of any State providing for a system of warehouses owned, operated, or leased by such State, a person applying for a license under section 9 of the act, to accept the custody of cottonseed and to store the same in any of said warehouses, may, in lieu of a bond or bonds, complying with §§ 742.12 and 742.13, file with the Secretary a single bond meeting the requirements of the act and the regulations in this part, in such form, and in such amount not less than \$5,000 as he shall prescribe, to insure the performance by such person, with respect to the acceptance of the custody of cottonseed and its storage in the warehouse in such system for which licenses are or may be issued, of his obligations arising during the periods of such licenses, and in addition, if desired by the applicant, during the periods of any modifications or extensions thereof. In fixing the amount of such bond, consideration shall be given, among other appropriate factors, to the character of the warehouses involved, their actual or contemplated capacity, the bonding requirements of the State, and its liability with respect to such warehouses. If the Secretary shall find the existence of conditions warranting such action, there shall be added to the amount of the bond so fixed, a further amount, fixed by him, to meet such conditions.

Farm Service Agency, USDA

§ 742.87

§ 742.82 Publications.

Publications under the act and the regulations in this part shall be made in such media as may be deemed proper by the Administrator.

[62 FR 33542, June 20, 1997]

§ 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 applica-

tion, 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]