

storage of nuts until it qualifies for license and is licensed or is exempted as provided in this section. If any one of the licensed nut storage facilities operated by a warehouseman in the same city or town becomes ineligible for a license at any time for any reason, it shall not thereafter be used for the storage of nuts, until the condition making it ineligible is removed or an exemption is granted as provided in this section. The use for the storage of nuts by a licensed warehouseman of a facility which is in the same city or town as his licensed facilities and is neither licensed nor exempted, or other violation of the provisions of this section, shall be cause for suspension or revocation of any license issued to the warehouseman for the storage of nuts.

§ 740.5 Scales; bin and compartment numbers.

(a) Each warehouse must be equipped with suitable scales in good order, and so arranged that all nuts, whether for storage or for nonstorage purposes, can be weighed in and out of the warehouse. The scales in any warehouse shall be subject to examination by representatives of the Department and to disapproval by the Administrator. If he disapproves any weighing apparatus, it shall not thereafter be used in ascertaining the weight of nuts for the purposes of this Act, until such disapproval be withdrawn.

(b) Both bulk bins and compartments for sacked nuts of all warehouses licensed under the Act shall be identified by means of clearly discernible numbers securely affixed thereto. The series of numbers to be used shall be approved by the Service. Bulk bins shall be numbered so as to be easily identified at the openings on top and also on or near the outlets. Compartments shall be numbered in such a manner as to clearly show the space covered by each number.

§ 740.6 Net assets.

(a) Each warehouseman conducting a warehouse licensed, or for which application for a license has been made under the regulations in this part, shall have and maintain above all exemptions and liabilities, total net assets liable for the payment of any in-

debtedness arising from the conduct of the warehouse, to the extent of at least \$25 per ton for the maximum number of tons of peanuts, 2 cents per pound for the maximum number of pounds of walnuts or filberts, and/or 3 cents per pound for the maximum number of pounds of pecans, that the warehouse could accommodate when stored in the manner customary to the warehouse as determined by the Administrator: *Provided*, That no person may be licensed as a warehouseman under the regulations in this part unless he has allowable net assets of at least \$10,000: *And provided further*, That any deficiency in net assets required above the \$10,000 minimum may be supplied by an increase in the amount of the warehouseman's bond in accordance with § 740.14(c). In determining total net assets, credit may be given for insurable property such as buildings, machinery, equipment, and merchandise inventory, only to the extent that such property is protected by insurance against loss or damage by fire. Such insurance shall be in the form of 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 in which the warehouse is located.

(b) 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 quantity of nuts which all such warehouses will accommodate when stored in the manner customary to the warehouse, as determined by the Administrator, shall be considered in determining whether the warehouseman meets the net assets requirements specified in paragraph (a) of this section.

(c) For the purposes of paragraphs (a) and (b) of this section only, capital stock as such shall not be considered a liability.

§ 740.7 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 that the warehouse is not suitable for the proper storage of nuts;

§ 740.8

that the warehouseman does not possess a good reputation, or does not have a net worth of at least \$10,000, 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 nuts 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 nut 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 § 740.4.

§ 740.8 License shall be posted.

Immediately upon receipt of his license 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.

§ 740.9 Suspension, cancellation or revocation of warehouse licenses.

(a) 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 revoke a license issued to a warehouseman when he determines that such warehouseman:

- (1) Does not have a net worth of at least \$10,000;
- (2) Has parted, in whole or in part, with his control over the licensed warehouse;
- (3) Is in process of dissolution or has been dissolved;
- (4) Has ceased to operate such licensed warehouse;

7 CFR Ch. VII (1-1-01 Edition)

(5) Has in any other manner become nonexistent or incompetent or incapacitated to conduct the business of the warehouse;

(6) Has made unreasonable or exorbitant charges for services rendered;

(7) Is operating in the same city or town in which his licensed warehouse facilities are located, any facility for storage of nuts which is not covered by a license or an exemption as provided in § 740.4, or

(8) Has in any other manner violated or failed to comply with any provision of the Act or the regulations in this part.

(b) Whenever any of the conditions mentioned in paragraphs (a)(1) through (8) of this section shall come into existence, it shall be the duty of the warehouseman to notify the Administrator immediately of the existing condition. Before a license is revoked or suspended (other than temporarily pending investigation) 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 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 § 740.81.

§ 740.10 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, it shall be returned immediately 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, and it shall be returned to the licensed warehouseman to whom it was originally issued, and it shall be posted as required in § 740.8: *Provided*, That in the discretion of the Administrator a new license may be issued without reference to such suspension.