

Farm Service Agency, USDA

§ 736.2

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

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CROSS REFERENCE: For official grain standards of the United States, see chapter VIII, part 810 of this title.

DEFINITIONS

§ 736.1 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.

§ 736.2 Terms defined.

For the purposes of this part, unless the context otherwise requires, 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) *Department*. The United States Department of Agriculture.

(d) *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.

(e) *Designated representative*. The Administrator.

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

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

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

(i) *Dockage*. Dockage in grain as defined by the official grain standards of the United States.

(j) *Grain*. All products commonly classed as grain such as wheat, corn, oats, barley, rye, flaxseed, rough, brown, and milled rice, sunflower seeds, field peas, soybeans, emmer, sorghum, safflower seed, triticale, millet and such other products as are ordinarily stored in grain warehouses, subject to the disapproval of the Administrator.

(k) *Nonstorage grain*. Grain received temporarily into a warehouse for conditioning, transferring, assembling for shipment, or lots of grain moving through a warehouse for current merchandising or milling use, against which no receipts are issued and no storage charges assessed: *Provided*, That merchandising or milling stocks held in storage as reserve stocks, or stored for use at an indefinite future date, may not be treated as nonstorage grain.

(l) *Warehouse*. Unless the context otherwise clearly indicates, any building, structure, or other protected inclosure licensed or to be licensed under the act, in which grain 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 grain is or may be stored.

(m) *Bin*. A bin, tank, interstice, or other container in a warehouse in which bulk grain may be stored.

(n) *Warehouseman*. Any person lawfully engaged in the business of storing grain, who holds an effective warehouseman's license under the act, or who has applied for such a license.

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

(p) *Warehouseman's bond*. The bond required by the act to be given by a warehouseman.

(q) *Inspector*. (1) A person licensed under the provisions of section 11 of the U.S. Warehouse Act, section 8 of the U.S. Grain Standards Act, or the provisions of the Agricultural Marketing Act of 1946 and (2) a Federal employee authorized under section 8 of the U.S. Grain Standards Act, or under the provisions of the Agricultural Marketing Act of 1946 to inspect, grade and/or certificate the grade of grain stored or to be stored in a warehouse licensed under the U.S. Warehouse Act (the terms "duly licensed to inspect" and "licensed inspector" shall be defined accordingly).

(r) *Weigher*. (1) A person licensed under the provisions of section 11 of the U.S. Warehouse Act, section 8 of the U.S. Grain Standards Act, or the provisions of the Agricultural Marketing Act of 1946 and (2) a Federal employee authorized under section 8 of the U.S. Grain Standards Act, or under the provisions of the Agricultural Marketing Act of 1946, to weigh and/or certificate the weight of grain stored or to be stored in a warehouse licensed under the U.S. Warehouse Act (the terms "duly licensed to weigh" and "licensed weigher" shall be defined accordingly).

(s) *Grain Standards Act*. The United States Grain Standards Act, approved

August 11, 1916 (39 Stat. 482; 7 U.S.C. 71-87) as amended.

(t) *Agricultural Marketing Act of 1946*. The Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) as amended.

(u) *Official Standards of the United States*. The standards of the quality or condition for grain, fixed and established under the U.S. Grain Standards Act or the Agricultural Marketing Act of 1946.

(v) *Receipt*. A licensed warehouse receipt issued under the act.

(w) *Net assets*. The difference remaining when liabilities are subtracted from allowable assets as determined by the Secretary after review of the warehouseman's financial statement. 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, lightning, and tornado. Such insurance shall be in the form of lawful insurance policies issued by 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.

(x) *Warehouse capacity*. Warehouse capacity is defined as the maximum number of bushels of grain that the warehouse could accommodate when stored in the manner customary to the grain for the warehouse, as determined by the Secretary.

(y) *Current assets*. Assets, including cash, that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business or within one year if the operating cycle is shorter than one year.

(z) *Current liabilities*. Those financial obligations which are expected to be satisfied during the normal operating cycle of the business or within one year if the operating cycle is shorter than one year.

(aa) *Storage grain*. All grain received into, stored in, or delivered out of the warehouse which is not classified as

nonstorage grain under § 736.19(c) of this part.

[29 FR 15730, Nov. 24, 1964, as amended at 41 FR 7751, Feb. 20, 1976; 42 FR 12143, Mar. 3, 1977; 43 FR 14006, Apr. 4, 1978; 45 FR 5661, Jan. 24, 1980. Redesignated and amended at 50 FR 1814, Jan. 14, 1985; further amended at 52 FR 37126, Oct. 5, 1987; 56 FR 40220, Aug. 14, 1991]

WAREHOUSE LICENSES

§ 736.3 Application form.

Applications for licenses and for amendments of licenses under the act shall be made to the Secretary upon prescribed forms 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 his designated representative, shall find to be necessary to the consideration of his application.

§ 736.3a All facilities to be licensed or exempted.

All facilities within the same city or town used for the storage of grain by an applicant for a warehouse license must qualify for a license and be licensed under the act if the applicant is to be licensed to operate as a grain warehouseman in such city or town, unless the facilities which are not to be covered by a license are exempted by the Secretary or his designated representative upon a finding that, due to the exercise of adequate controls by some independent agency over the operation of the nonfederally licensed facilities, there would be no likelihood of interchange, substitution, or commingling of grain stored in such facilities with grain stored in the federally licensed facilities. If all such facilities do not qualify for a license or for an exemption under this section, the applicant shall not be licensed under the act as a grain warehouseman in the city or town in which the facilities in question are located. Each applicant for a grain warehouse license must apply for a license covering all facilities operated by him for the storage of grain within the same city or town or for exemption as provided in this section. If a licensed grain warehouseman acquires any addi-

tional grain storage facilities within the same city or town in which his licensed warehouse is located, he shall file promptly an application for a license or an exemption of the additional facilities. No grain storage facility acquired by a licensed grain warehouseman, subsequent to the issuance of his license, in the same city or town as his licensed facilities, shall be used for the storage of grain until it qualifies for license and is licensed or is exempted as provided in this section. If any one of the licensed grain 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 grain until the condition making it ineligible is removed or an exemption is granted as provided in this section. The use for the storage of grain 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 grain.

§ 736.4 Scales; bin numbers.

(a) Each warehouse must be equipped with suitable scales in good order, and so arranged that all grain, 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 grain for the purposes of this act, until such disapproval be withdrawn.

(b) Both bulk grain bins and compartments for sacked grain 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 grain bins shall be numbered so as to be easily identified at the openings on top and also on or near the outlet valves underneath. Compartments shall be