

**§ 737.40**

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

the tobacco as stated in each such receipt; and (4) that such tobacco will be delivered upon the return and surrender of the receipts therefor.

(c) A copy of such notice shall be delivered in person or shall be sent by mail (1) to the persons holding the receipts, if known to the warehouseman; (2) to the person who originally deposited the tobacco; (3) to any other persons known by the warehouseman to be interested in the tobacco; and (4) to the Administrator. 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. If the holders of the receipts and the owners of the tobacco are known to the warehouseman and cannot, in the regular course of the mails, be reached within 36 hours, the warehouseman shall, whether or not requested so to do, also immediately notify such persons by telegraph or telephone at their expense.

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

(e) If the tobacco advertised in accordance with the requirements of this section has not been removed from storage by the owner thereof within seven days from the date of notice of its being out of condition, the warehouseman in whose warehouse such tobacco is stored may sell the same at public auction at the expense and for the account of the owner, after giving seven days' notice of such proposed sale in the manner specified in paragraphs (b) and (c) of this section.

(f) Nothing contained in this section shall be construed as relieving the warehouseman from properly caring for any tobacco after notification of its condition has been given in accordance with this section.

(g) 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 Administrator 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 129, rev.; 7 FR 6806, Aug. 29, 1942; 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]

**§ 737.40 System of accounts.**

A warehouseman shall use for his licensed warehouse a system of accounts, approved for the purpose by the Administrator or his representative, which shall show for each package of tobacco the name of the depositor, the identification number mentioned in § 737.33, its weight, type, grade, form, and condition when same is required to be or is ascertained, its location, the dates received and delivered out of storage, the receipts issued and canceled, and a separate record for each depositor of his tobacco, and such accounts shall include a detailed record of all moneys received and disbursed and of all insurance policies taken out and canceled. 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 in particular cases to carry out the purposes of the Act.

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**§ 737.41 Reports; copies.**

(a) Each warehouseman shall, from time to time, when requested by the Administrator or his representative,

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make reports, on forms prescribed and furnished for the purpose by the Service, concerning the condition, contents, operation, and business of the warehouse.

(b) 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)

[SRA, BAE 129, rev.; 7 FR 6806, Aug. 29, 1942; 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]

### § 737.42 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 33540, June 20, 1997]

### § 737.43 Examination of warehouses.

Each warehouseman shall permit any officer or agent of the Department, authorized by the Secretary, or his designated representative, for the purpose, to enter and inspect or examine, at any time, any warehouse for the conduct of which such warehouseman has been licensed, the office thereof, the books, records, papers, and accounts relating thereto, and the contents thereof, and such warehouseman shall furnish such officer or agent the assistance necessary to enable him to make any inspection or examination under this section.

### § 737.44 Weighing apparatus.

The weighing apparatus used for ascertaining the weight stated in a receipt or certificate, issued for tobacco stored in a licensed warehouse, shall be subject to examination by any officer or agent of the Department employed for the purpose. If the Service shall disapprove such weighing apparatus, it shall not thereafter, unless such disapproval is withdrawn, be used in ascertaining the weight of tobacco for

the purposes of the act and the regulations in this part.

### § 737.45 Licensee preferred for service.

(a) Except as authorized by the Administrator, a warehouseman shall not have any tobacco stored or to be stored in his warehouse, sampled, inspected, graded, or weighed for the purpose of his record or receipts by any person not licensed under the act to perform such services, if there be a person so licensed for such warehouse.

(b) When a grade or weight certificate has been issued by a grader or weigher and delivered to the warehouseman with the first copy of such certificate, the warehouseman shall fill in the identification numbers required in § 737.33, on each certificate, and shall mail or deliver the original certificate to the depositor and file the copy of such certificate as a part of the records of the warehouse.

### § 737.46 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 33540, June 20, 1997]

### § 737.47 [Reserved]

#### FEES

### § 737.48 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]

### § 737.49 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