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make any inspection or examination under this section.

§ 739.42 Weighing apparatus; inspection.

The weighing apparatus used for ascertaining the weight stated in a receipt or certificate shall be subject to examination by an officer or agent of the Department employed for such 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 If the Service shall disapprove such weighing apparatus, it shall not thereafter, unless such disapproval be withdrawn, be used in ascertaining the weight of any beans for the purposes of the act and the regulations in this part.

§ 739.43 Warehouse to be kept clean.

Each warehouseman shall keep his warehouse clean and free from trash, excessive dirt, rubbish, and scattered beans. He shall also exercise every precaution to keep his warehouse free of rats or other pests that might cause damage or injury to beans in storage. The warehouseman shall not under any circumstances accept for storage in his warehouse beans showing the presence of weevil or the larvae of weevil, nor continue to keep in storage beans so affected, without treating them in such manner as will destroy such weevil and larvae or with such chemicals as may be approved by the Service for that purpose.

§ 739.44 Fumigation of warehouse.

When necessary, in the opinion of the Administrator or his representative, the warehouseman shall fumigate thoroughly his warehouse with chemicals approved by the Service.

§ 739.45 Damp, dirty, frosted beans; no storage.

A warehouseman shall not, under any circumstances, accept for storage any beans with moisture content in excess of 17 percent and which contain foreign material likely to injure the keeping qualities of the beans or adversely affect their commercial value, or that are otherwise of a condition rendering them unsuitable for storage, but he may accept such beans for conditioning purposes and for storage after conditioning.

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

§ 739.46 Care in storage of beans.

A warehouseman shall so handle and so store beans as not to injure or damage them in any manner.

§ 739.47 Reconditioning deteriorated beans.

If the warehouseman considers that any beans in his warehouse are out of condition, or becoming so, he shall direct the licensed inspector to examine the beans in question, and, if such inspector finds such beans to be out of condition or becoming so, and he is of the opinion that such beans can be brought back into condition by mechanical or other means, or that further deterioration can be prevented, the warehouseman shall give immediate notice of the facts to the persons and in the manner specified in § 739.48 (b) and (c). If, within 24 hours after the giving of such notice, the owners of such beans have not otherwise directed as to the disposition of same, such warehouseman, with the approval of the licensed inspector, shall subject the beans to the proper reconditioning process in his licensed warehouse to the extent to which it is equipped with machinery suitable for the purpose, otherwise in any other warehouse so equipped.

§ 739.48 Procedure in handling deteriorated beans.

(a) If a warehouseman, with the approval of the licensed inspector, shall determine that any beans are deteriorating and that such deterioration can not be stopped, he shall give immediate notice thereof in accordance with paragraphs (b) and (c) of this section.

(b) Such notice shall state (1) the name of the warehouse in which the beans are stored, (2) the quantity, kind, and grade of the beans at the time the notice is given, (3) the actual condition of the beans as nearly as can be ascertained, and the reason, if known, for such condition, and (4) the outstanding receipts covering the beans out of condition, giving the number and date of each such receipt and the quantity, the kind and grade of the beans as stated in each such receipt.

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

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mail (1) to the persons holding the receipts if known to the warehouseman, (2) to the person who originally deposited the beans, (3) to any other persons known by the licensed warehouseman to be interested in the beans, (4) to the Administrator, and (5) 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 beans are known to the warehouseman and cannot, in the regular course of the mails, be reached within 12 hours, the warehouseman shall, whether or not requested to do so, also immediately notify such persons by telegraph or telephone at their expense.

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

(e) If the beans advertised in accordance with the requirements of this section have not been removed from storage by the owner thereof within seven days from the date of notice of their being out of condition, the warehouseman 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 beans after sending notification of their condition 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)

[10 FR 4964, May 4, 1945, as amended at 29 FR 13369, Sept. 26, 1964; 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 739.49 Excess storage.

If at any time a warehouseman shall be offered for storage in his warehouse beans in excess of the licensed capacity as shown on his license, he shall not accept such beans until he has first secured authority through an amended license, and after such authority has been granted, the warehouseman shall continue to so arrange the beans as not to obstruct free access thereto and the proper use of sprinklers or other fire protection equipment provided for such warehouse.

§ 739.50 Removal of beans from storage.

Except as may be permitted by law or the regulations in this part, a warehouseman shall not remove any beans from the warehouse or the part thereof designated in the receipt, unless such receipt is first surrendered and canceled. Under no circumstances, unless it becomes absolutely necessary to protect the interests of holders of receipts, shall beans be removed from the warehouse before the surrender of receipts, and immediately upon any such removal the warehouseman shall notify the Administrator of such removal and the necessity therefor.

§ 739.51 Signatures of persons signing receipts.

Each warehouseman shall file with the Department the name and genuine signature of each person authorized to sign warehouse receipts for the licensed warehouseman, and shall promptly notify the Department of any changes as to persons authorized to sign, and shall file signatures of such persons.