

**§ 735.104**

(b) Payment of applicable licensing and examination fees;

(c) Receipt of bonding or other financial assurance if required in the applicable licensing agreement; and

(d) Receipt of a report on the examination of the proposed facilities pending inclusion or exclusion, if determined necessary by DACO.

**§ 735.104 Insurance requirements.**

Each warehouse operator must comply fully with the terms of insurance policies or contracts covering their licensed warehouse and all products stored therein, and must not commit any acts, nor permit others to do anything, that might impair or invalidate such insurance.

**§ 735.105 Care of agricultural products.**

Each warehouse operator must at all times, including during any period of suspension of their license, exercise such care in regard to stored and non-storage agricultural products in their custody as required in the applicable licensing agreement.

**§ 735.106 Excess storage and transferring of agricultural products.**

(a) If at any time a warehouse operator stores an agricultural product in a warehouse subject to a license issued under the Act in excess of the warehouse capacity for which it is licensed, such warehouse operator must immediately notify DACO of such excess storage and the reason for the storage.

(b) A warehouse operator who desires to transfer stored agricultural products to another warehouse may do so either by physical movement, by other methods as may be provided in the applicable licensing agreement, or as authorized by DACO.

**§ 735.107 Warehouse charges and tariffs.**

(a) A warehouse operator must not make any unreasonable or exorbitant charge for services rendered.

(b) A warehouse operator must follow the terms and conditions for each new or revised warehouse tariff or schedule of charges and rates as prescribed in the applicable licensing agreement.

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**§ 735.108 Inspections and examinations of warehouses.**

(a) Warehouse operators must permit any agent of the Department to enter and inspect or examine, on any business day during the usual hours of business, any licensed warehouse, the offices of the warehouse operator, the books, records, papers, and accounts.

(b) Routine and special inspections and examinations will be unannounced.

(c) Warehouse operators must provide safe access to all storage facilities.

(d) Warehouse operators must inform any agent of the Department, upon arrival, of any hazard.

(e) Agents of the Department must accomplish inspections and examinations of warehouses in a manner that is efficient and cost-effective without jeopardizing any inspection and examination integrity.

**§ 735.109 Disaster loss to be reported.**

If at any time a disaster or loss occurs at or within any licensed warehouse, the warehouse operator must report immediately the occurrence of the disaster or loss and the extent of damage, to DACO.

**§ 735.110 Conditions for delivery of agricultural products.**

(a) In the absence of a lawful excuse, a warehouse operator will, without unnecessary delay, deliver the agricultural product stored or handled in the warehouse on a demand made by:

(1) The holder of the warehouse receipt for the agricultural product; or

(2) The person that deposited the agricultural product, if no warehouse receipt has been issued.

(b) Prior to delivery of the agricultural product, payment of the accrued charges associated with the storage or handling of the agricultural product, including satisfaction of the warehouse operator's lien, must be made if requested by the warehouse operator.

(c) When the holder of a warehouse receipt requests delivery of an agricultural product covered by the warehouse receipt, the holder must surrender the warehouse receipt to the warehouse operator before obtaining the agricultural product.

(d) A warehouse operator must cancel each warehouse receipt surrendered to

the warehouse operator upon the delivery of the agricultural product for which the warehouse receipt was issued and in accordance with the applicable licensing agreement.

(e) For the purpose of this part, unless prevented from doing so by force majeure, a warehouse operator will deliver or ship such agricultural products stored or handled in their warehouse as prescribed in the applicable licensing agreement.

**§ 735.111 Fair treatment.**

(a) Contingent upon the capacity of a warehouse, a warehouse operator will deal in a fair and reasonable manner with persons storing, or seeking to store, an agricultural product in the warehouse if the agricultural product is:

- (1) Of the kind, type, and quality customarily stored or handled in the area in which the warehouse is located;
- (2) Tendered to the warehouse operator in a suitable condition for warehousing; and
- (3) Tendered in a manner that is consistent with the ordinary and usual course of business.

(b) Nothing in this section will prohibit a warehouse operator from entering into an agreement with a depositor of an agricultural product to allocate available storage space.

**§ 735.112 Terminal and futures contract markets.**

(a) DACO may issue service licenses to weigh-masters or their deputies to perform services relating to warehouse receipts that are deliverable in satisfaction of futures contracts in such contract markets or as may be prescribed in any applicable licensing agreement.

(b) DACO may authorize a registrar of warehouse receipts issued for an agricultural product in a warehouse licensed under the Act that operates in any terminal market or in any futures contract market the official designated by officials of the State in which such market is located if such individual is not:

- (1) An owner or employee of the licensed warehouse;
- (2) The owner of, or an employee of the owner of, such agricultural product

deposited in any such licensed warehouse; or

(3) As may be prescribed in any applicable licensing or provider agreement.

**Subpart C—Inspectors, Samplers, Classifiers, and Weighers**

**§ 735.200 Service licenses.**

(a) FSA may issue to a person a license for:

- (1) Inspection of any agricultural product stored or handled in a warehouse subject to the Act;
- (2) Sampling of such an agricultural product;
- (3) Classification of such an agricultural product according to condition, grade, or other class and certify the condition, grade, or other class of the agricultural product;
- (4) Weighing of such an agricultural product and certify the weight of the agricultural product; or
- (5) Performing two or more services specified in paragraphs (a)(1), (a)(2), (a)(3) or (a)(4) of this section.

(b) Each person seeking a license to perform activities described in this section must submit an application on forms furnished by DACO that contain, at a minimum, the following information:

- (1) The name, location and license number of the warehouses where the applicant would perform such activities;
- (2) A statement from the warehouse operator that the applicant is competent and authorized to perform such activities at specific locations; and
- (3) Evidence that the applicant is competent to inspect, sample, classify, according to grade or weigh the agricultural product.

(c) The warehouse operator will promptly notify DACO in writing of any changes with respect to persons authorized to perform such activities at the licensed warehouse.

**§ 735.201 Agricultural product certificates; format.**

Each inspection, grade, class, weight or combination certificate issued under the Act by a licensee to perform such services must be:

- (a) In a format prescribed by DACO;