

## Chapter 17

### REGULATIONS FOR HANDLING, BUYING, SELLING AND STORING GRAIN

Section 1. **Authority.** Pursuant to the authority vested in the Department of Agriculture by W.S. 11-11-101 through 11-11-121 - ( Buying, Selling and Storing of Grain) and W.S. 16-3-101 through 16-3-115) (Wyoming Administrative Procedure Act), the following regulations are hereby promulgated and adopted.

Section 2. **Statement of Purpose.** The purpose of these regulations is to establish standards for the construction and operation of warehouses; and procedures for Department inspections and audits of warehouses and warehousemen.

#### Section 3. **Definitions.**

(a) “Cash sale” means payment to the producer by the warehouse contemporaneously with the transfer of grain to the warehouse.

(b) “Credit-sale contract” means an agreement in writing whereby the producer transfers a specific quantity of grain to a warehouse or broker with a price or payment to the producer by the warehouse or broker to be made at a later date or on the occurrence of a specific event expressed in the agreement.

(c) “Department” means the Wyoming Department of Agriculture.

~~(d) “Deposit for service” means deposit of grain by a person for cleaning, processing, reconditioning or the rendering of other similar services by a warehouse, but does not include either a cash sale, credit sale or open storage.~~

~~(e)~~(d) “Grain processing establishments” means any facility that cleans, processes or reconditions grain or renders other similar services to grain.

~~(f)~~(e) “License” means an official document issued by the Department to an applicant who has paid all applicable fees and meets all requirements to entitle the holder to legally operate as a warehouse or warehouseman in the State of Wyoming.

(f) “Open storage” means the deposit of grain by the producer for a period of time with the subsequent disposition of the same or like, kind and grade of grain or a fungible substitute.

~~(g) “Seed cleaning establishment” means any facility operating under Chapter 26 seed cleaning establishment rules.~~

~~(h)~~(g) Terms defined in W.S. 11-11-101 shall have the same meaning when used in these regulations.

#### Section 4. **Licensing.**

(a) Information required for licensing. Applicants for a grain warehouse license shall provide the Department with all information as described within the grain warehouse licensing forms.

(b) Trucking companies. Trucking companies that handle grain for commercial storage or solicit grain for commerce are warehouses and shall be licensed as such in accordance with W.S. 11-11-101 through 11-11-121.

(c) ~~Seed-cleaning Grain Processing~~ establishments. ~~Seed-cleaning Grain processing~~ establishments holding grower owned grain or seed in storage for future sale shall be licensed in accordance with W.S. 11-11-103. ~~Seed-cleaning Grain processing~~ establishments ~~who that~~ take in grain ~~or seed for cleaning only~~ without storage agreements, and which hold the ~~seed grain~~ for less than four (4) business days, are exempt from warehouse licensing.

(d) Posting of license. Upon receipt, the warehouse or warehouseman shall post the license, renewal, extension or modification in a conspicuous place in each place of business and in any other places the Department may determine.

(e) Return of suspended or terminated license. Any license issued to a warehouse or warehouseman which has lapsed or been suspended, revoked or canceled by the Department shall immediately be returned to the Department. The license shall be returned to the warehouse or warehouseman to whom it was originally issued at the expiration of any period of suspension and shall be posted as required by Section 4 Subsection (d) of these regulations.

(f) Suspension due to neglect. If inspection or other information indicates that the commodities in storage are deteriorating due to neglect of the warehouse or warehouseman the Department may issue a temporary cease and desist order in accordance with W.S. 11-11-120.

(g) Loss of license. Upon receipt of satisfactory proof of the loss or destruction of a license issued to a warehouse or warehouseman, the Department may issue a duplicate license using the same number.

#### Section 5. **Warehouse Receipts.**

~~(a) Warehouse receipts generally. All negotiable warehouse receipts issued for stored grain shall be obtained from the Department of Agriculture.~~

~~Approved pre-numbered scale tickets may be honored by the issuing warehouse in lieu of negotiable warehouse receipts. To be honored as an approved receipt, a scale ticket shall contain the following warehouse information:~~

~~\_\_\_\_\_~~  
~~\_\_\_\_\_ name~~  
~~\_\_\_\_\_ address~~  
~~\_\_\_\_\_ city~~  
~~\_\_\_\_\_ state~~  
~~\_\_\_\_\_ zip code;~~

~~and, the name of the depositor or person to whom the scale ticket is issued, the kind of grain, the grade, gross weight, tare weight and net weight. In addition, the scale ticket shall plainly show the amount of cash or value of merchandise the warehouseman has advanced on the grain represented on the scale ticket and shall be signed by the warehouseman or his authorized representative.~~

(a) \_\_\_\_\_ Negotiable warehouse receipts. Every warehouse or warehouseman shall issue a negotiable warehouse receipt when requested by the depositor.

(i) All negotiable warehouse receipts issued for stored grain shall be obtained from the Department of Agriculture.

(ii) Negotiable warehouse receipts shall be furnished by the Department to the warehouse at cost. Orders for receipts shall be submitted at least thirty (30) days prior to the time they are needed. The amount required shall be submitted with the order.

~~(b) \_\_\_\_\_ Receipt procurement. Uniform warehouse receipts shall be furnished by the Department to the warehouse at cost. Orders for receipts shall be submitted at least fifteen (15) days prior to the time they are needed. The number required shall be submitted with the order.~~

(b) \_\_\_\_\_ Lost Negotiable warehouse receipt. In order to issue a warehouse receipt replacing one that has been lost or destroyed or to cancel an outstanding warehouse receipt that has been lost or destroyed, the licensed warehouse or warehouseman shall require the following from the depositor or other applicant:

(i) \_\_\_\_\_ An affidavit stating that the depositor is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it and an explanation of how the original receipt was lost or destroyed; and \_\_\_\_\_

(ii) \_\_\_\_\_ A bond of double the market value of the grain represented by the lost or destroyed receipt. The market value shall be determined at the time the bond is submitted. This bond shall remain in place until the replacement receipt is returned to the \_\_\_\_\_

issuing warehouse. Warehouse receipts issued in lieu of lost or destroyed receipts shall duplicate the original and bear a statement that it is issued in lieu of the lost or destroyed receipt. A replacement warehouse receipt shall clearly state that it is a replacement receipt, the number of the original receipt and the license number of the warehouse or warehouseman which issued the original receipt.

(c) Scale Tickets. Every warehouse or warehouseman shall issue a pre-numbered scale ticket for each load of grain deposited into their facility.

(i) Every scale ticket shall include the following information:

Producer of the grain

Type, class and grade of the grain delivered

Date the grain was delivered

Gross weight of the grain load

Net weight of the grain load

Tare weight of the grain load

Total amount of the grain load in bushels, hundred weight or pounds

Any other factor on which the load may be discounted or given a premium, including but not limited to bushel weight, protein, moisture, etc.

(d) Nonnegotiable warehouse receipts. Scale tickets which contain all required information as well as the name, address, city, state and zip code of the receiving warehouse and plainly show the amount of cash or value of merchandise the warehouseman has advanced on the grain represented on the scale ticket, if any, shall be considered nonnegotiable warehouse receipts and may be considered sufficient for all purposes.

(i) All scale tickets to be used as nonnegotiable warehouse receipts shall be signed by the warehouseman or his authorized representative.

## **Section 6. Receipts**

~~(a) — Negotiable warehouse receipts. Every warehouse or warehouseman shall issue a negotiable warehouse receipt when requested by the depositor.~~

~~———— (b) — Nonnegotiable warehouse receipts. Nonnegotiable warehouse receipts which contain the information required for warehouse receipts are sufficient for all purposes. Copies of all nonnegotiable warehouse receipts shall be retained for five (5) years by the issuing warehouse or warehouseman.~~

~~———— (c) — Lost warehouse receipt. In order to issue a warehouse receipt replacing one that has been lost or destroyed or to cancel an outstanding warehouse receipt that has~~

~~been lost or destroyed, the licensed warehouse or warehouseman shall require the following from the depositor or other applicant:~~

~~\_\_\_\_\_ (i) \_\_\_\_\_ An affidavit stating that the depositor is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it and an explanation of how the original receipt was lost or destroyed; and —~~

~~\_\_\_\_\_ (ii) \_\_\_\_\_ A bond of double the market value of the grain represented by the lost or destroyed receipt. The market value shall be determined at the time the bond is submitted. Warehouse receipts issued in lieu of lost or destroyed receipts shall duplicate the original and bear a statement that it is issued in lieu of the lost or destroyed receipt. A replacement warehouse receipt shall clearly state that it is a replacement receipt, the number of the original receipt and the license number of the warehouse or warehouseman which issued the original receipt.~~

#### Section 6 ~~7~~. **Condition of warehouses-generally.**

(a) Inspection. All warehouses shall be subject to inspection by the Department or its designated agent. The inspection reports shall be retained on file at the Department of Agriculture.

(i) Warehouse shall be of sound construction and in good repair.

~~(ii) \_\_\_\_\_ Warehouse shall not be subject to undue fire or other hazards, such as floods.~~

~~(iii)~~(ii) Warehouse shall have adequate firefighting equipment for fighting flash fires. Products which are flammable shall not be stored in the areas of the warehouse that are licensed for storage.

~~(iv) \_\_\_\_\_ Warehouse shall be constructed to prevent access by rodents, birds, etc.~~

(b) Sanitation of Warehouse. All facilities and grain stored shall be kept in a sanitary condition which conforms to the food and drug laws of the State of Wyoming.

(i) Warehouse shall be provided with an adequate insect and rodent control program.

(ii) \_\_\_\_\_ Warehouse shall be constructed to prevent access by rodents, birds, etc.

(c) Warehouse size. Warehouse shall be of adequate size for storing the grain received. The routine practice of storing depositor grain outside on the ground or in unapproved facilities is a reason for revoking a license. A warehouse needing outside storage on the ground shall petition the Department for permission. If the Department gives permission for outside storage on the ground, the bonding amount shall be equivalent to that for flat storage as per Section 10 of this chapter.

(d) Warehouse equipment. The warehouse shall be equipped with all equipment required for handling, weighing, caring for and properly storing all grain received.

(e) Licensed warehouse areas. The portion of the warehouse designated and approved for storing grain shall not be used for any other purpose which may create a safety hazard that is not incidental to grain storage and handling.

(f) Warehouse drawings. A copy of the blueprint or a scale drawing of the warehouse giving correct dimensions of bins, rooms, etc., shall be available to the Department.

#### Section 7 **8. Records.**

(a) Warehouse receipts. All warehouse receipts, cancelled or outstanding, shall be filed in numerical order. Cancelled warehouse receipts shall be retained for five (5) years. Original receipts shall accompany all cancelled receipts.

(b) Scale tickets. All scale tickets dealing with the movement of grain are to be filed in numerical or alphabetical order and maintained for three (3) years from date of issuance. Scale tickets, except tickets for electronic scales that are recorded and maintained electronically, shall be pre-numbered and one (1) copy of each ticket shall be maintained in numerical or alphabetical order. All scale tickets shall show the quantity delivered, the ownership, the date of delivery or receipt and the type, class and grade of the grain. Scale tickets used as nonnegotiable warehouse receipts shall be retained for five (5) years from the date of issuance.

(c) Depositor ledger or settlement sheet. Each page shall show depositor name, telephone number, mailing address, city, state and zip code. Separate pages shall be maintained for each individual account and grain. Depositor ledger or settlement sheet shall show each individual transaction, whether in or out, by date, type of grain, volume, and price of grain. The last transaction on a depositor ledger or settlement sheet shall indicate the actual position of the account. Zeros shall be used to indicate a zero balance.

(d) Financial ability. All licensed grain warehouses shall have net assets equal to at least twenty cents (\$.20) a bushel for the maximum number of bushels the

warehouse ~~can~~ is licensed and bonded to accommodate. All licensed warehouses, which are bonded according to the price of dry beans, shall have net assets equal to at least forty cents (\$.40) a hundredweight for the maximum number of hundredweight the warehouse ~~can~~ is licensed and bonded to accommodate.

(i) All licensed warehouses and warehousemen shall submit their year end financial statements to the Department within 120 days of the warehouse or warehouseman's fiscal year end.

(e) Office records. All warehouses and warehousemen shall maintain complete and sufficient records to show ~~all grain deposits, purchases, sales contracts, storage obligations and load outs and shall include~~ the following:

(i) All individual grain deposits, purchases, sales contracts, storage obligations and load outs

~~(ii)~~(ii) A daily position record (DPR) showing the total quantity of each kind and class of grain received, loaded out, the amount remaining in storage and the warehouseman's total storage obligation for each kind and class of grain at the close of each business day. Each grain shall be entered on its own page in the DPR.

~~(iii)~~(iii) Receipts and scale tickets in the warehouse or warehouseman's possession which have not been issued.

~~(iii)~~(iv) Receipts and scale tickets issued, returned to and cancelled by the warehouse or warehouseman.

~~(iv)~~(v) ~~Insurance documentation.~~ A copy of the current insurance policy in effect for the licensed warehouse or warehouseman.

~~(v)~~(vi) ~~Electronic records.~~ If any electronic records are maintained outside of the State of Wyoming, the Department shall be allowed to examine them at any reasonable time and place as determined by the Department, and may require any records to be made available within the State of Wyoming during normal business hours.

## Section 8 **9.** **Capacity Changes.**

(a) Notification of change. The Department of Agriculture shall be notified of any increase or decrease in the storage capacity of a warehouse. Notice of completion of additional storage capacity shall be provided to the Department of Agriculture before usage.

(b) Additional bonding. No additional storage capacity shall be allowed to be used until the warehouse or warehouseman has provided sufficient additional bond to the Department. Capacities and bond amount shall be provided by the Department.

Section ~~9~~ **10. Warehouse Bonds.**

(a) Effective dates. All bonds shall be secured by the warehouse or warehouseman and shall remain in effect at all times the warehouse or warehouseman is licensed and until released by the Department.

(b) Acceptable forms. The following types of bonds are acceptable:

(i) A cash bond in the form of a certificate of deposit, assigned to the State of Wyoming; or

(ii) An acceptable irrevocable letter of credit issued and guaranteed by a federally insured financial institution; or

(iii) A surety bond issued by a surety company properly licensed and insured to do business in the state of Wyoming.

(c) Computation of bond amount.

(i) The amount of bond for grain (except for beans and grass seed) to be furnished for each warehouse or warehouseman under the regulations in this part shall be fixed at a rate based upon the three (3) year weighted average of the highest reported Denver Cash Grain price as recorded by the USDA; Agricultural Marketing Service ~~simple average price~~ per bushel on ~~July 1 of the previous year and March 1 of the current year~~ January 15 or the nearest open market day(s) ~~at Kansas City, Missouri, less freight charges~~. The ~~F~~ formula for upright storage is six percent (6%) of the average price per bushel times warehouse upright capacity for upright storage. The formula for flat storage is ~~and~~ twelve percent (12%) of the average price per bushel times warehouse flat capacity for flat storage. All capacities shall be determined by the Department.

**Example:** Upright storage  
Capacity 100,000 bushels  
~~Kansas City~~ Denver, CO average Price/Bushel ~~on July 1, 2004~~ = \$3.18  
~~Kansas City Price/Bushel on March 1, 2005~~ = \$3.26  
-----  
~~Average~~ = \$3.22  
6% x ~~\$3.22~~ 3.18 = \$ ~~.190832~~ .3816 x 100,000 bushels = \$19,~~320.00~~080.00  
Bond for next licensing period ~~year~~ for upright storage: \$19,~~320.00~~080.00  
Flat Storage  
Capacity 25,000 bushels  
~~Kansas City~~ Denver, CO average Price/Bushel ~~on July 1, 2004~~ = \$3.18  
~~Kansas City Price/Bushel on March 1, 2005~~ = \$3.26  
-----  
~~Average~~ = \$3.22  
12% x ~~\$3.22~~ 3.18 = \$ ~~.3864~~ .3816 x 25,000 bushels = \$9,~~660.00~~540.00  
Bond for next licensing period ~~year~~ for flat storage: \$9,~~660.00~~540.00



Total warehouse bond for next licensing period: \$28,~~980.00~~620.00

(ii) The amount of bond for beans to be furnished for each warehouse or warehouseman under the regulations in this part shall be fixed at a rate based upon the three (3) year weighted average of the highest reported Denver Cash Grain price as recorded by the USDA; Agricultural Marketing Service price per hundredweight on January 15 ~~of the current year~~ or the nearest open market day, ~~at Denver, Colorado, less freight charges~~. Formula is six percent (6%) of the average price per hundredweight times total warehouse capacity. All capacities shall be determined by the Department.

**Example:** Capacity 100,000 hundredweight  
Denver, CO ~~Co.~~ average price/hundredweight, January 15, 2005 = \$22.75  
 $6\% \times \$22.75 = \$1.3650 \times 100,000 \text{ hundredweight} = \$136,500.00$   
Total warehouse bond for next licensing period: \$136,500.00

(iii) The amount of bond for grass seed to be furnished for each warehouse or warehouseman under the regulations in this part shall be fixed at a rate based upon the price per pound of each particular species or the nearest like species using the simple average of the previous calendar years redistribution prices at the Bureau of Land Management Regional Seed Warehouse in Boise, Idaho. Formula is five percent (5%) of price per pound times total warehouse capacity. All capacities shall be determined by the Department.

**Example:** Capacity 500,000 pounds  
BLM Warehouse redistribution species price/lb on May 3, 2006=\$4.57  
BLM Warehouse redistribution species price/lb on July 16, 2006=\$4.34  
BLM Warehouse redistribution species price/lb on August 23, 2006=\$3.87  
Average=\$4.26  
 $5\% \times \$4.26 = .21 \times 500,000 \text{ pounds} = \$105,000.00$   
Bond for next licensing period: \$105,000.00

(iv) The minimum bond for all grain warehouses shall be twenty thousand dollars (\$20,000).

(iv) All warehouse bonds shall be determined by the Department no later than April 1 of each year. The three (3) year weighted average shall include the current year and the two (2) previous years.

(d) Determination of grain stored. The principal grain stored, to be used for computation of bond, shall be determined by the Department.

(e) Sharing of information. The Department may share inspection reports, audits and any information on a warehouse or warehouseman, with a financial institution

which has issued an irrevocable letter of credit, if the warehouse or warehouseman has consented in writing to release the information.

**Section 10 ~~11~~. Inspection and Audit.**

(a) Departmental rights. The Department may access all warehouses and associated facilities during normal business hours to carry out the provisions of this chapter and W.S. 11-11-101 through W.S. 11-11-121.

(i) If, through inspection and audit, the Department determines that it is necessary to issue a temporary cease and desist order pursuant to W.S. 11-11-120, the Department may take all necessary actions to protect the grains stored by the warehouse or warehouseman.

(b) Shortages. If inspection and audit determine that the warehouse or warehouseman is short in grain, the warehouse or warehouseman shall replace the shortage with like grain of the same grade within two (2) business days and shall provide proof of replacement to the Department.

(c) Inspection and audit practices. The Department shall use those practices which are commonly accepted by the ~~American Association of Warehouse Control Officials (AAWCO)~~ Association of Grain Regulatory Officials (AGRO) during the course of inspection and audit.

**Section 11 ~~12~~. Posting of tariffs.**

(a) Warehouses. All licensed warehouses and warehousemen that store or handle grain shall have current tariffs posted at all times.

(b) Precedence. Contracts or other separately negotiated written agreements between the warehouse or warehouseman and the depositor shall take precedence over posted tariffs.

## Chapter 17

### REGULATIONS FOR HANDLING, BUYING, SELLING AND STORING GRAIN

Section 1. **Authority.** Pursuant to the authority vested in the Department of Agriculture by W.S. 11-11-101 through 11-11-121 - ( Buying, Selling and Storing of Grain) and W.S. 16-3-101 through 16-3-115) (Wyoming Administrative Procedure Act), the following regulations are hereby promulgated and adopted.

Section 2. **Statement of Purpose.** The purpose of these regulations is to establish standards for the construction and operation of warehouses; and procedures for Department inspections and audits of warehouses and warehousemen.

Section 3. **Definitions.**

(a) “Cash sale” means payment to the producer by the warehouse contemporaneously with the transfer of grain to the warehouse.

(b) “Credit-sale contract” means an agreement in writing whereby the producer transfers a specific quantity of grain to a warehouse or broker with a price or payment to the producer by the warehouse or broker to be made at a later date or on the occurrence of a specific event expressed in the agreement.

(c) “Department” means the Wyoming Department of Agriculture.

(d) “License” means an official document issued by the Department to an applicant who has paid all applicable fees and meets all requirements to entitle the holder to legally operate as a warehouse or warehouseman in the State of Wyoming.

(e) “Open storage” means the deposit of grain by the producer for a period of time with the subsequent disposition of the same or like, kind and grade of grain or a fungible substitute.

(f) “Grain processing establishments” means any facility that cleans, processes, reconditions or renders other similar services.

(g) Terms defined in W.S. 11-11-101 shall have the same meaning when used in these regulations.

#### Section 4. **Licensing.**

- (a) Information required for licensing. Applicants for a grain warehouse license shall provide the Department with all information as described within the grain warehouse licensing forms.
- (b) Trucking companies. Trucking companies that handle grain for commercial storage or solicit grain for commerce are warehouses and shall be licensed as such in accordance with W.S. 11-11-101 through 11-11-121.
- (c) **Grain Processing** establishments. Grain processing establishments holding grower owned grain or seed in storage for future sale shall be licensed in accordance with W.S. 11-11-103. Grain processing establishments that take in grain without storage agreements, and which hold the grain for less than four (4) business days, are exempt from warehouse licensing.
- (d) Posting of license. Upon receipt, the warehouse or warehouseman shall post the license, renewal, extension or modification in a conspicuous place in each place of business and in any other places the Department may determine.
- (e) Return of suspended or terminated license. Any license issued to a warehouse or warehouseman which has lapsed or been suspended, revoked or canceled by the Department shall immediately be returned to the Department. The license shall be returned to the warehouse or warehouseman to whom it was originally issued at the expiration of any period of suspension and shall be posted as required by Section 4 Subsection (d) of these regulations.
- (f) Suspension due to neglect. If inspection or other information indicates that the commodities in storage are deteriorating due to neglect of the warehouse or warehouseman the Department may issue a temporary cease and desist order in accordance with W.S. 11-11-120.
- (g) Loss of license. Upon receipt of satisfactory proof of the loss or destruction of a license issued to a warehouse or warehouseman, the Department may issue a duplicate license using the same number.

#### Section 5. **Warehouse Receipts.**

- (a) Negotiable warehouse receipts. Every warehouse or warehouseman shall issue a negotiable warehouse receipt when requested by the depositor.
- (i) All negotiable warehouse receipts issued for stored grain shall be obtained from the Department of Agriculture.

(ii) Negotiable warehouse receipts shall be furnished by the Department to the warehouse at cost. Orders for receipts shall be submitted at least thirty (30) days prior to the time they are needed. The amount required shall be submitted with the order.

(b) Lost Negotiable warehouse receipt. In order to issue a warehouse receipt replacing one that has been lost or destroyed or to cancel an outstanding warehouse receipt that has been lost or destroyed, the licensed warehouse or warehouseman shall require the following from the depositor or other applicant:

(i) An affidavit stating that the depositor is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it and an explanation of how the original receipt was lost or destroyed; and

(ii) A bond of double the market value of the grain represented by the lost or destroyed receipt. The market value shall be determined at the time the bond is submitted. This bond shall remain in place until the replacement receipt is returned to the issuing warehouse. Warehouse receipts issued in lieu of lost or destroyed receipts shall duplicate the original and bear a statement that it is issued in lieu of the lost or destroyed receipt. A replacement warehouse receipt shall clearly state that it is a replacement receipt, the number of the original receipt and the license number of the warehouse or warehouseman which issued the original receipt.

(c) Scale Tickets. Every warehouse or warehouseman shall issue a pre-numbered scale ticket for each load of grain deposited into their facility.

(i) Every scale ticket shall include the following information:

Producer of the grain  
Type, class and grade of the grain delivered  
Date the grain was delivered  
Gross weight of the grain load  
Net weight of the grain load  
Tare weight of the grain load  
Total amount of the grain load in bushels, hundred weight or pounds  
Any other factor on which the load may be discounted or given a premium, including but not limited to bushel weight, protein, moisture, etc.

(d) Nonnegotiable warehouse receipts. Scale tickets which contain all required information as well as the name, address, city, state and zip code of the receiving warehouse and plainly show the amount of cash or value of merchandise the warehouseman has advanced on the grain represented on the scale ticket, if any, shall be considered nonnegotiable warehouse receipts and may be considered sufficient for all purposes.

(i) All scale tickets to be used as nonnegotiable warehouse receipts shall be signed by the warehouseman or his authorized representative.

**Section 6. Condition of warehouses-generally.**

(a) Inspection. All warehouses shall be subject to inspection by the Department or its designated agent. The inspection reports shall be retained on file at the Department of Agriculture.

(i) Warehouse shall be of sound construction and in good repair.

(ii) Products which are flammable shall not be stored in the areas of the warehouse that are licensed for storage.

(b) Sanitation of Warehouse. All facilities and grain stored shall be kept in a sanitary condition which conforms to the food and drug laws of the State of Wyoming.

(i) Warehouse shall be provided with an adequate insect and rodent control program.

(ii) Warehouse shall be constructed to prevent access by rodents, birds, etc.

(c) Warehouse size. Warehouse shall be of adequate size for storing the grain received. The routine practice of storing depositor grain outside on the ground or in unapproved facilities is a reason for revoking a license. A warehouse needing outside storage on the ground shall petition the Department for permission. If the Department gives permission for outside storage on the ground, the bonding amount shall be equivalent to that for flat storage as per Section 10 of this chapter.

(d) Warehouse equipment. The warehouse shall be equipped with all equipment required for handling, weighing, caring for and properly storing all grain received.

(e) Licensed warehouse areas. The portion of the warehouse designated and approved for storing grain shall not be used for any other purpose which may create a safety hazard that is not incidental to grain storage and handling.

(f) Warehouse drawings. A copy of the blueprint or a scale drawing of the warehouse giving correct dimensions of bins, rooms, etc., shall be available to the Department.

## Section 7. **Records.**

(a) Warehouse receipts. All warehouse receipts, cancelled or outstanding, shall be filed in numerical order. Cancelled warehouse receipts shall be retained for five (5) years. Original receipts shall accompany all cancelled receipts.

(b) Scale tickets. All scale tickets dealing with the movement of grain are to be filed in numerical or alphabetical order and maintained for three (3) years from date of issuance. Scale tickets, except tickets for electronic scales that are recorded and maintained electronically, shall be pre-numbered and one (1) copy of each ticket shall be maintained in numerical or alphabetical order. All scale tickets shall show the quantity delivered, the ownership, the date of delivery or receipt and the type, class and grade of the grain. Scale tickets used as nonnegotiable warehouse receipts shall be retained for five (5) years from the date of issuance.

(c) Depositor ledger or settlement sheet. Each page shall show depositor name, telephone number, mailing address, city, state and zip code. Separate pages shall be maintained for each individual account and grain. Depositor ledger or settlement sheet shall show each individual transaction, whether in or out, by date, type of grain, volume, and price of grain. The last transaction on a depositor ledger or settlement sheet shall indicate the actual position of the account. Zeros shall be used to indicate a zero balance.

(d) Financial ability. All licensed grain warehouses shall have net assets equal to at least twenty cents (\$.20) a bushel for the maximum number of bushels the warehouse is licensed and bonded to accommodate. All licensed warehouses, which are bonded according to the price of dry beans, shall have net assets equal to at least forty cents (\$.40) a hundredweight for the maximum number of hundredweight the warehouse is licensed and bonded to accommodate.

(i) All licensed warehouses and warehousemen shall submit their year end financial statements to the Department within 120 days of the warehouse or warehouseman's fiscal year end.

(e) Office records. All warehouses and warehousemen shall maintain complete and sufficient records to show the following:

(i) All individual grain deposits, purchases, sales contracts, storage obligations and load outs

(ii) A daily position record (DPR) showing the total quantity of each kind and class of grain received, loaded out, the amount remaining in storage and the warehouseman's total storage obligation for each kind and class of grain at the close of each business day. Each grain shall be entered on its own page in the DPR.

(iii) Receipts and scale tickets in the warehouse or warehouseman's possession which have not been issued.

(iv) Receipts and scale tickets issued, returned to and cancelled by the warehouse or warehouseman.

(v) A copy of the current insurance policy in effect for the licensed warehouse or warehouseman.

(vi) If any electronic records are maintained outside of the State of Wyoming, the Department shall be allowed to examine them at any reasonable time and place as determined by the Department, and may require any records to be made available within the State of Wyoming during normal business hours.

#### Section 8. **Capacity Changes.**

(a) Notification of change. The Department of Agriculture shall be notified of any increase or decrease in the storage capacity of a warehouse. Notice of completion of additional storage capacity shall be provided to the Department of Agriculture before usage.

(b) Additional bonding. No additional storage capacity shall be allowed to be used until the warehouse or warehouseman has provided sufficient additional bond to the Department. Capacities and bond amount shall be provided by the Department.

#### Section 9. **Warehouse Bonds.**

(a) Effective dates. All bonds shall be secured by the warehouse or warehouseman and shall remain in effect at all times the warehouse or warehouseman is licensed and until released by the Department.

(b) Acceptable forms. The following types of bonds are acceptable:

(i) A cash bond in the form of a certificate of deposit, assigned to the State of Wyoming; or

(ii) An acceptable irrevocable letter of credit issued and guaranteed by a federally insured financial institution; or

(iii) A surety bond issued by a surety company properly licensed and insured to do business in the state of Wyoming.

(c) Computation of bond amount.



(i) The amount of bond for grain (except for beans and grass seed) to be furnished for each warehouse or warehouseman under the regulations in this part shall be fixed at a rate based upon the three (3) year weighted average of the highest reported Denver Cash Grain price as recorded by the USDA; Agricultural Marketing Service per bushel January 15 or the nearest open market day. The formula for upright storage is six percent (6%) of the average price per bushel times upright capacity. The formula for flat storage is twelve percent (12%) of the average price per bushel times flat capacity. All capacities shall be determined by the Department.

**Example:** Upright storage  
Capacity 100,000 bushels  
Denver, CO average Price/Bushel = \$3.18

$6\% \times \$3.18 = \$1.908 \times 100,000 \text{ bushels} = \$19,080.00$   
Bond for next licensing period for upright storage: \$19,080.00  
Flat Storage  
Capacity 25,000 bushels  
Denver, CO average Price/Bushel = \$3.18  
 $12\% \times \$3.18 = \$3.816 \times 25,000 \text{ bushels} = \$9,540.00$   
Bond for next licensing period for flat storage: \$9,540.00

Total warehouse bond for next licensing period: \$28, 620.00

(ii) The amount of bond for beans to be furnished for each warehouse or warehouseman under the regulations in this part shall be fixed at a rate based upon the three (3) year weighted average of the highest reported Denver Cash Grain price as recorded by the USDA; Agricultural Marketing Service per hundredweight on January 15 or the nearest open market day. Formula is six percent (6%) of the average price per hundredweight times total warehouse capacity. All capacities shall be determined by the Department.

**Example:** Capacity 100,000 hundredweight  
Denver, CO average price/hundredweight= \$22.75  
 $6\% \times \$22.75 = \$1.3650 \times 100,000 \text{ hundredweight} = \$136,500.00$   
Total warehouse bond for next licensing period: \$136,500.00

(iii) The amount of bond for grass seed to be furnished for each warehouse or warehouseman under the regulations in this part shall be fixed at a rate based upon the price per pound of each particular species or the nearest like species using the simple average of the previous calendar years redistribution prices at the Bureau of Land Management Regional Seed Warehouse in Boise, Idaho. Formula is five percent (5%) of price per pound times total warehouse capacity. All capacities shall be determined by the Department.

**Example:** Capacity 500,000 pounds  
BLM Warehouse redistribution species price/lb on May 3, 2006=\$4.57  
BLM Warehouse redistribution species price/lb on July 16, 2006=\$4.34  
BLM Warehouse redistribution species price/lb on August 23, 2006=\$3.87  
Average=\$4.26  
 $5\% \times \$4.26 = .21 \times 500,000 \text{ pounds} = \$105,000.00$   
Bond for next licensing period: \$105,000.00

(iv) The minimum bond for all grain warehouses shall be twenty thousand dollars (\$20,000).

(iv) All warehouse bonds shall be determined by the Department no later than April 1 of each year. The three (3) year weighted average will include the current year that the bond was determined in as well as the two (2) most previous years.

(d) Determination of grain stored. The principal grain stored, to be used for computation of bond, shall be determined by the Department.

(e) Sharing of information. The Department may share inspection reports, audits and any information on a warehouse or warehouseman, with a financial institution which has issued an irrevocable letter of credit, if the warehouse or warehouseman has consented in writing to release the information.

#### Section 10. **Inspection and Audit.**

(a) Departmental rights. The Department may access all warehouses and associated facilities during normal business hours to carry out the provisions of this chapter and W.S. 11-11-101 through W.S. 11-11-121.

(i) If, through inspection and audit, the Department determines that it is necessary to issue a temporary cease and desist order pursuant to W.S. 11-11-120, the Department may take all necessary actions to protect the grains stored by the warehouse or warehouseman.

(b) Shortages. If inspection and audit determine that the warehouse or warehouseman is short in grain, the warehouse or warehouseman shall replace the shortage with like grain of the same grade within two (2) business days and shall provide proof of replacement to the Department.

(c) Inspection and audit practices. The Department shall use those practices which are commonly accepted by Association of Grain Regulatory Officials (AGRO) during the course of inspection and audit.

**Section 11. Posting of tariffs.**

- (a) Warehouses. All licensed warehouses and warehousemen that store or handle grain shall have current tariffs posted at all times.
- (b) Precedence. Contracts or other separately negotiated written agreements between the warehouse or warehouseman and the depositor shall take precedence over posted tariffs.