

Subpart 2-Administrative Rules
Chapter 10 - Grain Warehouses

Definitions

- 100 As used in these regulations, unless the context otherwise clearly requires:
1. "Act" shall mean the "Mississippi Grain Warehouse Law," Title 75, Chapter 44, Section 1-71, Miss. Code Ann. , as amended.
 2. "Bin" shall mean a bin, tank, interstice, or other container in a warehouse in which bulk grain may be stored.
 3. The term "Commissioner" shall mean the Commissioner of the Mississippi Department of Agriculture and Commerce, or his designated representative.
 4. "Grain" shall mean all grains for which standards have been established pursuant to the United States Grain Standards Act as amended, and rice as defined by the Agriculture Marketing Act of 1946, as amended.
 5. "Grain Bank Grain" shall mean grain owned by a depositor and held temporarily by the warehouseman for use in the formulation of feed to be returned to the depositor on demand.
 6. "Inspector" shall mean a person authorized by the warehouseman to weigh, inspect, grade and/or certificate the weight and grade of grain stored or to be stored in a grain warehouse.
 7. "License" shall mean a license issued under the Act to a warehouse or warehouseman.
 8. "Person" includes individuals, corporations, partnerships and all associations of two (2) or more persons having a joint or common interest.
 9. "Grain Warehouse" shall mean any building, structure or other protected enclosure in the state used for the purpose of storing grain for a consideration.
 10. "Grain Warehouseman" shall mean any person who operates a grain warehouse as herein defined.
 11. "Station" shall mean two (2) or more warehouses, which do not exceed eight (8) miles in distance, operated by one (1) person.
 12. "Stored grain" shall mean any grain received in any public grain warehouse, located in this state, if same is not purchased and beneficially owned by the grain warehouseman.
 13. "Warehouse receipt" shall mean a negotiable grain storage receipt and/or a nonnegotiable scale ticket by a grain warehouse.

Source: *Miss. Code Ann.* §75-44-5 and §75-44-7.

Application of Rules and Regulations

- 101 These rules and regulations apply to all persons engaged in the business of storing grain, whether or not any of the grain therein is owned by the person, as defined by the "Mississippi Grain Warehouse Law" and are subject to change and modification as the Commissioner may from time to time deem advisable and to such exceptions as may be considered just and reasonable in individual cases.

Source: *Miss. Code Ann.* §75-44-7.

Licensing Requirements

102.01 Any person engaged in, or desiring to establish a grain warehouse business shall make application to the Mississippi Department of Agriculture and Commerce on forms prescribed by the Commissioner. Each application shall be accompanied with an application fee of \$150.00 and a license fee as provided for. The license fee will be returned if a license is refused.

102.02 A chart showing the location of all facilities to be licensed, including a bin chart assigning a number to each bin or compartment, will be attached to the application.

102.03 Each application for license or renewal thereof shall be accompanied by a financial statement prepared by an independent public accountant and the grain warehouseman. The accountant, in addition to preparing the financial statement, must check and certify to the accuracy of the accounts receivable and listed inventories. Such financial statement to include, but not limited to, a balance sheet and operating statement as of the close of the most recent fiscal year. A warehouse may furnish a detailed listing of insurable assets such as buildings, machinery, equipment and merchandise inventory listing the current market value of such assets and the extent that such assets are protected by insurance against loss or damage. A Certificate of Insurance on the insurable assets, providing that no cancellation shall be effective unless thirty (30) days advance notice of such cancellation is given to the Commissioner is to be furnished to comply with the net asset requirement of Section 75-44-21 of the Act.

102.04 Each application for license or renewal thereof shall be accompanied by a Certificate of Issuance of Insurance. Such insurance to at all times keep the grain stored in the grain warehouse insured for its full market value against loss by fire, inherent explosion, lightning and windstorm. All policies shall provide that no cancellation shall be effective unless thirty (30) day prior notice is given to the Commissioner.

102.05 Every grain warehouseman shall file, with his application for license, a copy of his schedule of charges for storage and other services. The schedule of charges shall be kept conspicuously posted and shall be strictly adhered to.

102.06 Before any person is granted a license, such person shall give a bond to the Commissioner executed by the grain warehouseman as principal and by corporate surety licensed to do business in this state as a surety. The bond shall be in favor of the Commissioner for the benefit of all persons interested, their legal representative, attorneys or assigns, conditioned upon the faithful compliance by

the grain warehouseman. The amount of bond to be furnished for each grain warehouse is detailed in Section 75-44-31 of the Act.

102.07 Immediately upon the receipt of his license, the grain warehouseman shall keep it posted in a conspicuous place in the office of the public warehouse where receipts issued by such grain warehouseman are delivered to depositors.

Source: *Miss. Code Ann.* §§75-44-7.

Examinations

103.01 Each licensed warehouse or warehouseman shall permit any officer or authorized representative of the Mississippi Department of Agriculture and Commerce to enter and inspect or examine, on any business day, during usual business hours, the grain warehouse's business, mode of conducting the same, facilities, equipment, inventories, property, books, records, accounts, papers and minutes of proceedings held at such grain warehouse, and any other records deemed relevant to the operation of the grain warehouse. The warehouseman shall provide the necessary assistance required for any examination made in accordance with the Act.

103.02 All scales used for the weighing of property in grain warehouses shall be subject to test by a scale inspector of the Weights and Measures Division of the Mississippi Department of Agriculture and Commerce.

103.03 Every grain warehouse shall be examined at least yearly by a representative of the Commissioner of Agriculture and Commerce. Additional examinations may be made at any time, at the discretion of the Commissioner.

Source: *Miss. Code Ann.* §75-44-7.

Bonding

104.01 Each applicant for a warehouse license shall, as a condition to the granting thereof, file or have on file with the Commissioner a current and effective bond, running to the Commissioner, executed by the applicant as principal, and by a corporate surety licensed to do business in this state, as surety.

104.02 The bond shall be on the form provided by the Commissioner.

104.03 1. The bond shall be conditioned upon

- a. the faithful performance of all obligations of a warehouseman under the law and these regulations from the effective date of the bond until the earlier of the time the license is revoked or the bond is canceled, and
- b. such faithful performance from the effective date of the bond and thereafter, whether or not the warehouse or warehouses operated by

the warehouseman exist on the effective date of the bond or are assumed subsequent to that date but prior to the earlier of the time the license of the warehouseman is revoked or the bond is canceled.

2. The determination as to whether the obligations of the warehouseman have been faithfully performed shall be made at a hearing before the commissioner or his designated representative. At that hearing, to be held in accordance with the provisions of the Act, interested parties shall be deemed to include the warehouseman, corporate surety, the holders of outstanding and uncanceled receipts and scale tickets and any other person or party claiming any rights under the bond. At such hearing, the Commissioner or his designated representative shall hear evidence and determine whether a loss has occurred. Upon a determination that a loss has occurred, the presiding officer shall determine the date of the loss, the fair market value at the place of loss or in the region immediately surrounding the place of loss, whether payments should be made by the corporate surety and, if so, to what parties and in what amounts. Recovery under the bond shall be prorated by the Commissioner or his designated representative when the claims exceed the liability of the corporate surety under the bond. The burden of establishing such proration shall be on the corporate surety as a matter of defense. The final determination as to liability under the bond and as to payment to interested parties who are claiming under the bond shall be final, binding and conclusive on all parties.

104.04 If a warehouseman elects to file a single bond for all warehouses operated by him, the entire amount of the bond shall be held on behalf of any depositor of any warehouse operated by him. Any person claiming any rights under the bond, which rights are asserted with respect to one warehouse operated by a warehouseman who operates more than one warehouse, shall be entitled to recover the entire amount of the warehouseman's bond for such claim.

104.05 The total and aggregate liability of the surety on any bond required by law shall be limited to the amount specified in the bond.

104.06 The surety bond shall be effective on the date of issue, shall not be affected by the expiration of the license period and shall continue in full force and effect until cancelled. The continuous nature of the bond shall in no event be construed as allowing the liability of the surety under a bond to accumulate for each successive license period during which the bond is in force but shall be limited in the aggregate to the bond amount stated or changed by appropriate endorsement or rider.

104.07 Any corporate surety licensed to do business in this state which acts or intends to act as a surety on an undertaking required by the Act shall maintain at all times on file with the Commissioner a correct statement appointing and authorizing an individual to act as such corporate surety's attorney-in-fact and to execute on behalf of and to bind such corporate surety bonds filed under this Act. Only one such appointment and authorization shall be required for each corporate surety

and that shall relate to and be effective with respect to all bonds signed by such attorney-in-fact on behalf of the corporate surety. The power-of-attorney granted such attorney-in-fact may be modified or terminated only upon ten (10) days prior notice to the Commissioner.

Source: *Miss. Code Ann.* §§75-44-7.

Insurance

105.01 Each applicant for a warehouse license shall, as a condition to the granting thereof, file or have on file a current and effective certificate of insurance evidencing a current and effective policy of insurance issued by an insurance company authorized to do business in this state insuring in the name of the applicant all commodities which are or may be in such warehouse for their full market value against loss by fire, inherent explosion, lightning and windstorm.

105.02 In the event that fire, inherent explosion, lightning or windstorm destroys or damages any commodities in a licensed warehouse, the warehouseman shall, upon demand by the depositor and upon being presented with the receipt, ticket or other evidence of ownership, make settlement, after deducting the warehouseman's charges and advances, at the market value of the commodity based on the value at the average price for the commodity of the same grade and quality on the date of the loss at the location of the warehouse. In the event such settlement is not made within sixty (60) days from the date of such demand, the depositor shall have the right to seek recovery from the insurance company.

105.03 In the event of a dispute regarding (1) the date of loss or (2) the market value of the commodity, the parties to such dispute shall submit the issue or issues in dispute to the Commissioner or his designated representative who shall resolve such dispute after a hearing, provided that such hearing shall be an informal hearing unless otherwise requested by a party to the dispute.

Source: *Miss. Code Ann.* §§75-44-7.

Cancellation of Bond/Insurance

106.01 No warehouseman may cancel an approved bond or approved insurance without the prior written approval of the Commissioner and his approval of substitute bond or insurance. The surety on a bond may cancel a bond required by the Act only after the expiration of thirty-five (35) days from the date the surety shall have been mailed to the Commissioner, by registered or certified mail, with return receipt, a notice of intent to cancel such bond. An insurance company may cancel insurance required by the Act only after the expiration of a thirty (30) day period from the mailing to the Commissioner, by registered or certified mail, with return receipt, of notice of intent to cancel such insurance. The surety and the insurance company shall, at the time of giving notice to the Commissioner, send a copy of

such notice to any other governmental agency requesting it. Upon receipt of any such notice, the Commissioner shall promptly notify the affected warehouseman.

106.02 Notwithstanding any other provisions of the Act, the license of a warehouse shall automatically be suspended for failure

1. to file a new bond within the thirty-five (35) day period as provided in subsection 106.01 of this chapter, or
 2. file new evidence of insurance within the thirty (30) day period as provided in the Act, or
 3. maintain at all times a bond and insurance as provided in the Act.
- Such suspension shall continue as long as any such failure exists.

106.03 Not later than eighteen (18) days prior to the date upon which the bond cancellation becomes effective and not later than fifteen (15) days prior to the date upon which the insurance cancellation becomes effective, the warehouseman shall give written notice to the Commissioner that he has obtained a new bond or insurance coverage which will become effective and is to be in full force and effect on and after the date upon which his existing bond or insurance, as the case may be, is to be cancelled.

Source: *Miss. Code Ann.* §§75-44-7.

Warehouse Receipts

107.01 Except as provided in additional regulations, the issuance of receipts by grain warehouses shall be governed by Section 75-44-47 through 75-44-67 of the Act.

107.02 The Commissioner shall prescribe the form of warehouse receipts to be used and no other character or form of receipt shall be issued except those so authorized. Warehousemen shall procure receipt forms by submitting their order, in lots of fifty (50) forms, to the Commissioner accompanied by a check or money order for the cost of printing, payable to the Mississippi Department of Agriculture and Commerce.

107.03 When several warehouses are operated by one grain warehouseman, each such warehouse will be numbered. This numerical designation will be on all receipts.

107.04 Receipts from only one receipt book will be issued for commodities stored, or received for storage, in any one warehouse. When all of the receipts of any one book have been issued, a new book will be substituted for it. No receipt will be issued from a book pertaining to one warehouse for commodities stored in another warehouse.

107.05 Receipts of each grain warehouse must be issued in numerical sequence and executed in at least quadruplicate. The first (original-negotiable) to the depositor, the second (copy-non-negotiable) to the depositor, the third (copy-non-negotiable)

to the Mississippi Department of Agriculture and Commerce within seven (7) calendar days from date of receipt, and the fourth (copy-non-negotiable) to be retained in the receipt book and not to be removed therefrom.

107.06 If a warehouseman or manager of a grain warehouse omits any information from a receipt, for which a blank space is provided, he shall indicate by an "X" in such space that the information was intentionally omitted. However, this requirement shall not be interpreted as encouraging or approving the omission of any requisite information.

107.07 Each grain warehouse shall file with the Commissioner the name and specimen of signature of each person authorized to sign warehouse receipts for the grain warehouse. The use of facsimile signature stamps is prohibited on receipts. Any changes or additions to such authorization shall be immediately brought to the attention of the Commissioner by the grain warehouseman.

Source: *Miss. Code Ann.* §75-44-7.

Scale Tickets

108.01 Upon the deposit in a licensed warehouse facility of any agricultural commodity, the warehouseman shall issue a scale ticket which conforms to the provisions of this regulation.

108.02 Each warehouseman shall have sequentially pre-numbered scale tickets which shall have an original and not less than one (1) copy.

108.03 Each scale ticket shall contain the following information:

1. The name and location of the licensed warehouse facility where delivered.
2. The name and other information sufficient to identify the owner of the grain.
3. The type, quantity, and grade or applicable grade factors necessary to determine the net value of the grain received.
4. The date the grain was delivered.
5. One of the following, as appropriate:
 - a. If the grain is to be deposited for market, the phrase "MARKET or SALE."
 - b. If the grain is to be deposited for storage, the phrase "STORAGE."
 - c. If the grain is to be deposited for processing, the phrase "PROCESSING."
 - d. If the grain is to be deposited for contract, the phrase "CONTRACT."

108.04 A current copy of the form of scale ticket used by the warehouseman shall be kept on file with the Commissioner.

108.05 A copy of all scale tickets shall be maintained in numerical sequence as part of the warehouseman's records.

Source: *Miss. Code Ann.* §75-44-7.

Lost Receipts

109.01 In the case of lost or destroyed warehouse receipts, a new receipt upon the same terms, subject to the same conditions, and bearing on its face the number and the date of the receipt in lieu of which it is issued and a plain and conspicuous statement that it is a duplicate receipt issued in lieu of a lost or destroyed receipt, may be issued upon compliance with this regulation.

109.02 Before issuing such new or duplicate receipt the warehouseman shall require the depositor or other person applying therefor to make and file with him:

1. an affidavit showing that the applicant is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it, how the original receipt was lost or destroyed, and if lost, that diligent effort has been made to find the receipt without success, and
2. a bond in an amount double the market value, at the time the bond is given, of the grain represented by the lost or destroyed receipt. Such bond shall be in a form approved for that purpose by the Commissioner, shall be conditioned to indemnify the warehouseman against any loss sustained by reason of the issuance of such receipt, and shall be executed by the depositor as principal and by a corporate surety licensed to do business in this state, as surety.

109.03 Upon receipt of such affidavit and bond, the warehouseman shall send copies thereof to the Commissioner.

109.04 The original affidavit and bond shall be retained by the warehouseman not fewer than five (5) years after the duplicate receipt is cancelled.

Source: *Miss. Code Ann.* §75-44-7.

Issuing of Warehouse Receipts

110.01 Each lot of grain received in any warehouse for which there has not been a bona fide sale shall be considered as received for storage. Grain Bank grain is considered stored grain and there will be a non-negotiable warehouse receipt issued.

110.02 A warehouseman shall issue a warehouse receipt only upon actual delivery of grain into storage. The receipt must be issued from the warehouse of storage, except as otherwise provided. The warehouseman shall not issue more than one receipt for the same lot of grain, except where partial receipts are desired. The total of the aggregate receipts of a particular lot shall be no greater than the total of the original lot unless additional grain is deposited. Should the depositor desire to consolidate several receipts into one, the warehouseman may issue a new consolidated receipt, but only after the original receipts have been cancelled.

110.03 A warehouseman or his employee shall not issue, cause to be issued, or assist in issuing warehouse receipts for grain that has not been delivered to a warehouse or not under their control as otherwise provided in the statute or rules and regulations. The issuer of such a receipt and the receiver of such a receipt shall be subject to the penalty provision of the Act.

Source: *Miss. Code Ann.* §75-44-7.

Transfer and Redeposit of Grain

111.01 Licensed warehousemen may transfer and redeposit grain in another licensed warehouse or a warehouse licensed by the U. S. Government. The warehouseman redepositing grain must increase his performance bond (surety bond) to cover the redeposited grain.

111.02 If the warehouseman issues warehouse receipts to depositors for redeposited grain, the warehouseman shall stamp across the face of the warehouse receipt received for the redeposited grain “Non-negotiable” and stamp across the face of warehouse receipts issued to depositors of the redeposited grain this phrase, “Grain represented by this receipt has been redeposited.”

Source: *Miss. Code Ann.* §75-44-7.

Delivery of Grain and Cancellation of Warehouse Receipt

112.01 The holder of a warehouse receipt for grain in a warehouse may request the grain to be delivered to him. The grain must be delivered in the quantity and grade as designated on the warehouse receipt. The warehouse receipt holder, upon delivery of grain, must surrender the warehouse receipt properly endorsed and pay storage, warehouseman’s liens, and any other charges.

112.02 The warehouseman shall take a sample of each lot or truckload of grain so delivered and shall grade it or have it graded by a licensed grain inspector or competent person. When grain is delivered from storage or sold to the warehouseman where stored, receipts must be cancelled, date cancelled, and shall be so marked across the face of receipts.

112.03 The settlement sheet non-negotiable warehouse receipt must indicate each transaction of grain delivered in lots from a grain bank. The depositor in a Grain Bank is entitled to grain of the same quality as the grain deposited, except as necessary to keep the grain in condition as required by the Act.

112.04 The depositor of grain in a Grain Bank shall pay upon delivery the storage, drying charges, and other liens for services.

112.05 If only a portion of the commodity represented by a receipt is delivered, the original receipt must be returned to the issuing warehouseman at or before the time of such delivery and must be cancelled as provided in this regulation. At the time of cancellation, a new receipt shall be issued covering the balance or undelivered portion of the commodity, which new receipt shall state in the remarks section that it represents grain which was previously evidenced by the original receipt and giving the number thereof.

112.06 Receipts voided by the warehouseman for any reason shall be so marked, signed, and dated and all copies of the voided receipts shall be held in the same manner and for the same period as are cancelled receipts.

Source: *Miss. Code Ann.* §75-44-7.

Grain Bank

113.01 Grain Deposited for Grain Bank purposes must be accounted for in a separate record on an approved non-negotiable warehouse receipt listing each lot of grain deposited and withdrawn showing a net balance.

113.02 The warehouseman will furnish a statement to each depositor monthly or after each transaction indicating the current balance. Grain Bank obligations will be determined by the total amount due depositors in bushels or pounds or both.

Source: *Miss. Code Ann.* §75-44-7.

Surrender of Warehouse Receipts

114 When a license is revoked, cancelled, or has expired, and at the direction of the Commissioner, upon the suspension of a license, all unused receipts under such license shall be immediately surrendered to the Commissioner or the designated representative. Upon the revocation, cancellation, or expiration of a warehouse license and, at the direction of the Commissioner, upon the suspension of a license, all receipts which have been issued that are still outstanding shall immediately be recalled and, upon delivery of the commodity, such receipts shall be marked cancelled, signed and dated by the warehouseman who shall notify the Commissioner that such receipts have been recalled and cancelled.

Source: *Miss. Code Ann.* §75-44-7.

Stored Grain

115.01 Every warehouseman shall maintain stored grain inventories of sufficient quantities, qualities, and grade to meet at all times his storage obligations.

115.02 Grain evidenced by outstanding and uncanceled warehouse receipts shall be maintained in the specific warehouse facility shown on the warehouse receipt issued when the grain was deposited originally. For the purposes of this regulation each separate warehouse facility must maintain such an inventory for receipts issued by it at that location; thus the operation of two or more warehouses as a station shall not allow one warehouse facility to hold warehouse-receipted grain on behalf of another facility even though they constitute a single station.

Source: *Miss. Code Ann.* §75-44-7.

Price Later contracts

116.01 “Price Later Contract,” “Basis Contract,” “Deferred Price Contract,” “Delayed Price Contract,” “Growers Option Contract” or similar agreement means a complete written contract and it constitutes a bona fide sale and a change in ownership when either the price for the grain or the formula for determining the price has been agreed upon and the contract obligation is either paid in full or carried as an account payable.

116.02 A “price later contract” shall be made out in duplicate on a form approved by the Department. One copy shall be given to the producer and the other copy kept for the warehouseman’s files. A statement that the grain is not covered by the warehouse bond shall be printed on the contract directly above the place for the producer to sign. To validate the contract, both the producer and the warehouseman shall sign this agreement. This contract must be written and contain a clear agreement between the two parties involved as to how the price will be determined.

Source: *Miss. Code Ann.* §75-44-7.

Out of Condition Grain

117.01 If any warehouseman considers that any portion of the commodities stored in his warehouse is out of condition, or is becoming so, he shall direct a grain inspector to examine the commodity in question. If the grain inspector finds such commodity to be out of condition or becoming so and he is of the opinion that by conditioning, the commodity can be brought back into condition, or that further deterioration can be prevented, such warehouseman shall immediately, in his warehouse to the extent to which it has equipment suitable for the purpose or, upon giving notice to the Commissioner in another warehouse so equipped to the extent to which his warehouse is not equipped with suitable equipment, subject the commodity to such conditioning.

117.02 Notice of out of condition grain.

1. If the warehouseman with the approval of the grain inspection, shall determine that further deterioration of any commodity cannot be prevented by

reconditioning or after treating it in accordance with subsection 117 of this chapter, it is still out of condition, the warehouseman shall give immediate notice of that fact.

2. The notice shall state:
 - a. The warehouse in which the commodity is stored,
 - b. The quantity, kind, and grade, if determined, of the commodity at the time the notice is given.
 - c. The actual condition of the commodity as nearly as can be ascertained, and the reason, if known, for such condition,
 - d. Either:
 - i. receipts or tickets relating to the kind of commodity out of condition, other than sacked or specially binned commodities, upon which the commodity will be delivered, giving the number and date of each such receipt or ticket and the quantity, the kind and grade of the commodity as stated on such receipts or tickets, or
 - ii. the outstanding receipts or tickets relating to the kind of commodity out of condition, the identity of which was to have been preserved, giving the number and date of each such receipt or ticket and the designation of the bin, container, or location of such commodity as stated thereon, and
 - e. That such commodity will be delivered upon the return and cancellation of the receipts or ticket therefor.
3. A copy of the notice shall be delivered in person or shall be sent by mail
 - a. to the persons holding the receipts or tickets covering the kind of commodity in question mentioned in paragraph (2) (d) of this subsection, if known to the warehouseman,
 - b. to any other person, including the persons mentioned in paragraph (4) of this subsection, known by the warehouseman to be interested in the commodity, and
 - c. to the Commissioner.
 - d. If the holders of the receipts or tickets and the owners of that kind of commodity are known to the warehouseman cannot, in the regular course of the mails, be reached within twelve (12) hours, the warehouseman shall, whether or not requested to do so, also immediately notify such person by telegraph or telephone at their expense.
 - e. Public notice shall also be given by posting a copy of such notice in a conspicuous place in the main office of the warehouse where the receipts or tickets are issued.
4. Any person interested in any commodity or the receipt or ticket covering such commodity stored in a warehouse, may notify the warehouseman operating such warehouse, in writing, of the fact and nature of his interest, and such warehouseman shall keep a record of such written notices. If such person requests, in writing, that he be notified regarding the change in condition of any such commodity and agrees to pay the cost of any telegraph or telephone toll charge, such warehouseman shall notify such person in accordance with such request.

117.03 Nothing contained in this regulation shall be construed as relieving the warehouseman from properly caring for any commodity and the warehouseman shall be liable and held accountable for his failure to do so.

117.04 If the commodity, advertised in accordance with the requirements of subsection 117.02 of this chapter has not been removed from storage by the depositor thereof or other arrangements made under the supervision of the Commissioner or his designated representative within ten (10) days from the date of notice of its being out of condition, the warehouseman in whose warehouse such commodity is stored may sell the same at public auction or as may be authorized by the Commissioner or his designated representative for the account of the depositor.

Source: *Miss. Code Ann.* §75-44-7.

Duties of the Warehouseman

118.01 Each grain warehouse shall employ, during all regular business hours, a grain inspector who shall be responsible for the accuracy of weights and grades noted on all warehouse receipts.

118.02 All licensed grain storage facilities shall be maintained in such a manner as to be suitable for proper and safe storage of grain. Safe and adequate means of ingress and egress to the various storage bins and compartments of the warehouse shall be provided and maintained by the warehouseman. Storage bins and compartments having an entrance above ground on floor level shall be equipped with a fixed ladder or a safe and adequate lift. When equipped with a fixed ladder, such ladder shall have side rails and rungs; the rungs to be spaced not to exceed one foot centers. There shall be sufficient space between ladder rungs and face of the bin or compartment to permit safe foothold. Catwalks, walkways, lifts, and ladders shall be kept clean and free of grain and other foreign matter. Storage facilities failing to meet these standards will be brought to the attention of the warehouseman. It shall be his responsibility to immediately make the necessary corrections to bring his storage facility into compliance.

118.03 Each licensed warehouseman shall keep his warehouse reasonably clean at all times, free from rubbish, accumulation of dust and grain, or material that would increase fire hazards or interfere with proper handling and storage of grain.

118.04 Each warehouse shall be kept open for the purposes of receiving grain for storage and delivering out of storage every business day, except those warehouses which are open only for certain periods (example – harvest time). Every warehouseman shall post in a conspicuous place in his office and warehouse a notice stating the days of the week and the hours of each business day that he will remain open. Warehouses which are open only for certain periods shall have posted the name, address and telephone number of a responsible contact.

118.05 License; posting requirements.

1. There shall be posted in a conspicuous place in the office of each warehouse the warehouse license and schedule of storage rates. Before making any changes in the schedule of rates, the warehouseman shall submit to the Department in writing the proposed changes at least thirty (30) days in advance of such change.
2. Each licensed warehouse must have a permanent sign, not smaller than sixteen(16) inches high and thirty-six (36) inches wide, posted at or near the main entrance to the warehouse so as to be visible at such main entrance, which shall include the following in letters or type not smaller than three (3) inches high:
 - a. The name under which the licensed warehouse is operated.
 - b. The following: "STATE BONDED WAREHOUSE"

118.06 The operator of a warehouse shall keep all grain in his warehouse in condition by whatever means so deemed necessary to prevent the quality of such grain from deteriorating. When an operator discovers or is advised that grain in storage in his warehouse is out of condition, he shall immediately comply with the requirements of section 117 of this chapter.

118.07 The warehouseman shall immediately give written notice to the Commissioner upon the occurrence of any of the following:

1. Loss or damage to stored grain or licensed storage facilities.
2. The death or legal incapacity of an individual or any member of a partnership operating a licensed warehouse.
3. Change of ownership of a licensed warehouse, including a change in the members of a partnership, firm or association.
4. Change in shareholders or the relative amount of stock held by stockholders where the licensee is a corporation with twenty (20) or fewer share holders.
5. Change in name under which a licensed warehouse is operated.
6. Any major structural change to a bin or storage facility licensed for storage.
7. The termination of a lease on a licensed warehouse, the destruction or removal of storage facilities, or the leasing of such a facility to any other person.

Source: *Miss. Code Ann.* §75-44-7.

Change of Management or Cessation of Operation

119.01 If upon the change of management, cessation of operations, change of partners in a partnership, change of corporate structure of a corporation, or sale, the Commissioner may suspend a warehouse license. It becomes the duty of every licensed warehouse receipts to immediately notify the Commissioner as to such change; and if directed by the Commissioner, to deliver his license and all unused warehouse receipts to the office of the Commissioner together with a notarized statement accounting for all receipts, and setting forth the arrangements made

with depositors for final disposition of the grain in storage and for fulfilling the obligations of the retiring warehouseman.

119.02 When there is a change of management or cessation of operations, the Commissioner, when deemed appropriate, may cause an audit and examination to be made. The cost of such audit or examination will be charged to the operator as provided for by the Law.

Source: *Miss. Code Ann.* §75-44-7.

Records and Reporting

120.01 Records of Warehouse Receipts – Every warehouseman shall maintain at his place of business a warehouse receipt register containing the duplicate copy of all issued receipts and a list thereof, each by consecutive number. Upon cancellation of a receipt, the original shall be retained in the warehouseman's files attached to its duplicate, and after cancellation neither the original nor the duplicate shall be removed from the files.

120.02 Records of Transaction –

1. The warehouseman shall maintain at each licensed warehouse facility current and complete records with respect to all agricultural commodities delivered to, withdrawn from, and received, stored, or processed by, the warehouseman for each such licensed warehouse facility. Such records shall include but not be limited to the following:
 - a. A perpetual inventory showing the total quantity of each kind and class of grain received and loaded out and the quantity of each kind and class of grain remaining in the warehouse and the total storage obligations for each kind and class of grain. This record shall be kept current as of the close of each business day, provided that if no transaction takes place during a business day a record showing the actual status as to quantity and storage obligations as of the close of the next preceding business day during which recordable transactions occurred shall be deemed to be current.
 - b. A rail and/or truck ledger.
 - c. Prenumbered warehouse receipts.
 - d. Prenumbered scale tickets.
 - e. Prenumbered grain bank contracts.
 - f. A current copy of the periodic insurance report submitted to the insurer.
 - g. If all issued warehouse receipts and scale tickets do not recite the name and complete address of the owner or owners of stored grain, a current and complete list of the name and complete address of the owner or owners of said grain.
2. On or before the tenth (10th) day of each month, the warehouseman shall send to the Commissioner copies of the following:
 - a. The perpetual inventory for the last business day of the preceding month.
 - b. The monthly report to the warehouseman's insurance carrier.

- c. A periodic statement on a form prescribed by the Commissioner, which may include but is not limited to a schedule of all warehouse receipts issued or cancelled by the warehouseman, prepared as of close of business at the end of that period if such is required by the Commissioner. If required, a statement must be filed for a calendar month regardless of whether or not the warehouseman has commodities in storage.

Source: *Miss. Code Ann.* §75-44-7.

120.03 Financial Records –

1. In addition to the records required by subsections 120.01 and 120.02 of this chapter, the warehouseman shall maintain such adequate financial records as will clearly reflect his current financial position and as will clearly support such financial information as is required to be submitted to the Commissioner from time to time. Such records shall be brought current not less often than once a month, and shall include a general ledger or its equivalent which provides a summarization of information reflected in detail in subsidiary records.
2. Every warehouseman shall also maintain the necessary journals to sustain the entries recorded in the general ledger, which journals may include:
 - a. A general journal in which necessary periodic adjusting entries are recorded;
 - b. A cash receipts journal wherein each cash collection is recorded;
 - c. A cash disbursements journal which details each disbursement on behalf of the dealer;
 - d. Supporting documents and other information.
3. Every warehouseman shall use and maintain:
 - a. Prenumbered checks;
 - b. Prenumbered grain bank contracts, if the warehouseman is operating a grain bank;
 - c. Prenumbered warehouse receipts, if the warehouseman is to issue such receipts;
 - d. Prenumbered scale tickets;
 - e. A periodic detailed aging of accounts receivable; and
 - f. A periodic listing of accounts payable.
4. If, upon written request of a warehouseman, the Commissioner determines that any of the records called for by these regulations are not necessary to clearly support the warehouseman's current financial condition, he may waive, in writing, the maintenance of such unnecessary records.

120.04 Each contract, instrument, document or record which is to be prenumbered shall be used in numerical order.

120.05 All books, records, and accounts of warehousemen shall be kept and held available for inspection for a period of not less than five (5) years after the close of the period for which such book or record was required.

120.06 All of the books, records and accounts required by this regulation shall be kept separate and distinct from the books, records, and accounts held and maintained by the warehouseman in connection with any other business

120.07 A warehouseman shall keep available for inspection all of his books, records and accounts required by these regulations and any other books, records and accounts relevant to his operation of warehouses as a warehouseman. An inspection may be performed by the Commissioner, his designated representative, or an auditor, and may take place at any time during the normal business hours of the warehouseman, or if prior notice of the inspection is given to the warehouseman, at such time as is prescribed in that notice.

Source: *Miss. Code Ann.* §75-44-7.