

**RULES
OF
THE TENNESSEE DEPARTMENT OF AGRICULTURE
DIVISION OF QUALITY AND STANDARDS
CHAPTER 0080-5-14
COMMODITY WAREHOUSE REGULATIONS**

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0080-5-14-.01 DEFINITIONS.

(1) WHEN USED IN THIS CHAPTER, UNLESS THE CONTEXT REQUIRES OTHERWISE:

(a) *Commissioner* means the commissioner of the Tennessee Department of Agriculture, or his designated representative;

(b) *Department* means the Tennessee Department of Agriculture;

(c) *Commodity* means grain;

(d) *Grain* means shelled corn, wheat, oats, rye, soybean, rape seed, canola and grain sorghums;

(e) *Producer* means the owner, tenant or operator of land in this state who has an interest in and receives all or any part of the proceeds from the sale of the commodities produced therein;

(f) *Person* includes individuals, corporations, partnerships and all associations of two (2) or more persons having a joint or common interest;

(g) *Warehouse or commodity warehouse* shall mean any building, structure, or other protected enclosure in this state used for the purpose of storing commodities for a consideration;

(h) *Stored commodities* means any commodities received in any commodities warehouse, located in this state, if such commodities are not purchased and beneficially owned by the commodities warehouseman;

(i) *Warehouseman or commodities warehouseman* means any person who owns, controls or manages a public commodities warehouse in which commodities are stored for compensation and is authorized to issue warehouse receipts and includes any grain warehouse licensed under the "United States Warehouse Act" that has entered into a cooperative agreement;

(j) "*United States Warehouse Act*" means the "United States Warehouse Act", enacted August 11, 1916, as amended;

(k) *Warehouse receipt* means:

1. A warehouse receipt issued under this act in accordance with the Uniform Commercial Code; or

2. A warehouse receipt issued under the “United States Warehouse Act”.

(1) *Grain Banking* means grain delivered to a grain dealer or warehouse that is also a milling operation which the title does not pass to the mill at the time of delivery. The grain is held by the dealer or warehouse until it is processed and returned to the owner of the grain.

Authority: T.C.A. §§4-3-203 and 43-32-213. Administrative History: Original rule filed July 10, 1991; effective August 24, 1991. Amendment filed June 10, 1993; effective July 25, 1993.

0080-5-14-.02 APPLICATION FOR LICENSE AND SECURITY REQUIREMENTS.

(1) The application for the license shall include:

(a) Name of the owner of the public grain warehouse;

(b) The name of the operator of the warehouse;

(c) The location of the warehouse;

(d) The storage capacity of the warehouse;

(e) The annual volume of storage at the warehouse over the past twelve (12) months;

(f) The types of grain stored in the warehouse over the past twelve (12) months.

(2) The application shall be accompanied by a surety bond or irrevocable letter of credit or certificate of deposit which shall be in an amount equivalent to twenty cents (\$.20) per bushel storage capacity or equal to 10% of the aggregated dollar amount paid by the applicant (to the nearest \$1,000) to producers for grain purchased from them during the applicant’s last completed fiscal year, which ever is larger. In the case of an applicant who has been engaged in business as a grain dealer or warehouseman for less than one year or who has not heretofore engaged in such business, 10% of the estimated aggregate dollar amount to be paid by the applicant to producers for grain purchased from them during the next fiscal year. These bonding requirements are subject to a twenty thousand dollar (\$20,000) minimum and a one hundred thousand (\$100,000) dollar maximum limit.

(3) Any warehouseman who is of the opinion that his net worth and assets are sufficient to guarantee payment to producers for grain stored or purchased by him may request the department

relieve it from the obligation of filing a bond in excess of the minimum bond of \$20,000. Such request shall be accompanied by a reviewed financial statement prepared by a certified public accountant or a licensed public accountant and shall include a balance sheet and an income statement of retained earnings, cash flow statements and notes to financial statements.

(4) The department may waive that portion of the required bond in excess of \$20,000; if the department is otherwise satisfied as to the financial ability and resources of the applicant; if the financial statements submitted disclose a net worth of an amount equal to at least 3 times the amount of bond required; and if the applicant or licensee has met the following requirements:

(a) The applicant or licensee's financial statement and balance sheet show a current ratio of total adjusted current assets to the total adjusted current liabilities of at least one to one. Adjusted current assets shall be calculated by deducting from the stated current assets shown on the balance sheet submitted by the applicant or licensee, any non-liquid current assets including, but not limited to, notes receivable from officers and stock holders, stock subscriptions receivable, intra company receivables or receivables from an affiliate or any related party receivables. Any disallowed asset shall be netted against any related liability and the net result, if an asset, shall be subtracted from the current assets, or if a liability, it shall remain an adjusted current liability.

(b) The financial statement and balance sheet show an adjusted debt to adjusted equity ratio of not more than 3 to one when calculated as follows:

1. Adjusted debt shall be obtained by totaling current and long term liabilities and reducing the amount of current liabilities, up to the amount of current liabilities, by the liquid assets appearing in the current assets section of the balance sheet submitted by the applicant or licensee. Liquid assets shall include but not be limited to cash, marketable securities, accounts receivable from the sale of grain, grain in transit, drying and storage receivables on stored grain, grain inventory, margin accounts and tax funds.

2. Adjusted equity shall be calculated by deducting from the stated net worth shown on the balance sheet submitted by the applicant after disallowing any non-liquid current assets including, but not limited to, notes receivable from officers or stockholders, accounts receivable from officers or stockholders, stock subscriptions receivable, intra-company receivables or receivables from an affiliate or any other related party receivables. Any disallowed asset shall be netted against any related liability and the net result, if an asset, shall be subtracted from the financial statement, or if a liability, it shall remain a liability.

(c) Such person's financial statement and balance sheet show an adjusted equity of at least \$50,000 as determined pursuant to the method specified in paragraph (2), subparagraph (b). However, in the case of a grain dealer whose net worth is not equal to three times the amount of the bond required, the department may allow such grain dealers to waive, in \$1,000 increments, a portion of the bond required in excess of \$20,000. The percentage factor to be applied to the bond required in excess of \$20,000 shall be determined by dividing actual net worth by the net worth required to waive all bond in excess of \$20,000. If the result of this

computation provides a percentage factor of 80 percent or greater, then that same percentage of the amount in excess of \$20,000 may be waived. The grain dealer shall then provide to the department a surety bond in the amount of \$20,000 plus any additional bond required in excess thereof.

(5) Having a license as a warehouse in accordance with this chapter shall mean that warehouse is also licensed as a dealer under chapter 0080-5-13.

Authority: T.C.A. § 4-3-203 and 43-32-213. Administrative History: Original rule filed July 10, 1991; effective August 24, 1991. Amendment filed June 10, 1993; effective July 25, 1993.

0080-5-14-.03 WAREHOUSE RECEIPTS AND RECORDS.

(1) Receipts must be issued for all grain stored in a warehouse. Receipts need not be issued against nonstorage grain, but each warehouseman shall keep accurate records of the weights, kinds, and grades, if graded, of all lots of non-storage grain received into and delivered from his warehouse. Whenever the purpose for which any lot of non-storage grain was received into a warehouse is changed so that its approximate delivery period from the warehouse becomes indeterminate, receipts shall be issued to cover such grain. Records required under this section respect to non-storage grain shall be retained, as a part of the records of the warehouse, for a period of one (1) year after December 31 of the year in which the loss of non-storage grain is delivered from the warehouse.

(2) No warehouse receipt shall be issued except upon actual delivery of grain into storage in the warehouse from which it purports to be issued; nor shall any receipt be issued for a greater quantity of grain than was contained in the lot or parcel so received for storage; nor shall more than one receipt be issued for the same lot of grain, except in case where a receipt for a part of a lot is desired; and then the aggregate receipts for a particular lot shall cover that lot and no more.

(3) No warehouseman shall issue or aid the issuance of a receipt for grain knowing that the grain for which such receipt is issued has not actually been received by such warehouseman, or that the grain is not under his actual control at the time of issuing such receipt.

(4) Every public grain warehouseman shall keep in a place of safety complete, separate and correct records and accounts pertaining to the public grain warehouse including, but not limited to, records and accounts of gross and net worth and liabilities, records and accounts of all grain received therein and withdrawn therefrom, all unissued receipts and tickets in its possession, copies of all receipts and tickets issued by it, and the receipts and tickets returned to and cancelled by it. Such records shall be retained by the public grain warehouseman for a period of five (5) years.

(5) Every warehouse receipt shall have embodied within its written or printed terms the following:

(a) The legal name of the warehouse;

(b) If the license covers multiple locations, the receipt must indicate at which location delivery was made;

(c) The kind of grain;

(d) The number of bushels stored;

(e) The words “Negotiable” or Non-negotiable” according to the nature of the receipt.

(f) The date the grain was delivered for storage; and

(g) Be numbered consecutively.

(6) Warehouse receipts need not be issued for “Grain Bank” grain stored at a mill.

(7) A daily position record (grain inventory accountability record) shall be maintained on a daily basis by commodity. Postings for each day shall reflect actual changes in inventory for that day. The daily position record shall provide for a separate accounting, by column, for the following:

(a) Summary stock record showing amounts of grain received, loaded out of the warehouse, adjustments, total inventory in the warehouse, redeposited grain (if applicable).

(b) Storage obligation:

1. Negotiable and non-negotiable warehouse receipts liability; and

2. Storage liability to depositors (indicated by settlement sheet records, scale tickets, and other such documents, other than a warehouse receipt.)

(c) Un-rejected company owned grain:

1. Grain in the warehouse; and

2. Redeposited grain, if applicable.

(d) The daily position record shall show a summary of total outstanding obligations and unreceipted company owned grain which shall equal the total of inventory in the warehouse and redeposited grain.

Authority: T.C.A. §§4-3-203 and 43-32-213. **Administrative History:** Original rule filed July 10, 1991; effective August 24, 1991. Amendment filed June 10, 1993; effective July 25, 1993.