

Statutes:

**Buying, Selling and Storing of
Grain**

Regulations:

**Chapter 17 – Regulations for
Handling, Buying, Selling and Storing
of Grain**

BUYING, SELLING AND STORING OF GRAIN

11-11-101. Definitions.

(a) As used in this chapter:

- (i) "Director" means the director of the Wyoming department of agriculture;
- (ii) "Warehouseman" means any person except the grower who handles grain for commercial storage or solicits grain for the purpose of intrastate, interstate or foreign commerce;
- (iii) "Grain" means any variety of beans, wheat, corn, oats, barley, rye, grain sorghum, millet, oil seeds, sunflower, soybean, flax, or seeds of legumes and grasses;
- (iv) To "store" or "warehouse" means any method by which grain owned by another is held for the owner by one not the owner except for the transportation thereof;
- (v) "Stored grain" means grain held or placed in storage in an elevator, grain cleaning plant, grain warehouse or public warehouse of whatever kind by any person not the actual bona fide owner of the grain;
- (vi) "Scale ticket" means a load slip or other evidence of delivery, other than a warehouse receipt, given to the party making delivery by a warehouse licensed under the provisions of this act;
- (vii) "Warehouse" means an elevator, mill, storage bin or building, subterminal grain storage facility, public storage facility or other structure or facility in which grain is received for commercial storage or for the purpose of intrastate, interstate or foreign commerce;
- (viii) "Audit" means an examination of records or financial accounts to determine their accuracy;
- (ix) "Depositor" means any person who is in possession of a commodity and entrusts or delivers the commodity to a warehouse for storage;
- (x) "Inspection" means the physical review or examination of the grain warehouse or storage facility and may include an official audit;
- (xi) "Loss" means the destruction of the commodity due to fire, theft or weather;
- (xii) "Receipt" means a warehouse receipt issued under this act, including an electronic receipt;
- (xiii) "Transportation" means the movement of grain from one (1) point to another;

(xiv) "Verified" means signed and sworn to be accurate before a person authorized to administer oaths.

11-11-102. Applicability.

W.S. 11-11-101 through 11-11-117 do not apply to any person licensed under the laws or regulations of the United States relating to storing and handling grain.

11-11-103. Warehousemen to procure licenses; fee; annual renewal.

Before engaging in business in Wyoming, a warehouseman or any person operating a warehouse shall procure a license from the department of agriculture. The fee under this section for the initial license and for each annual renewal thereof shall be one hundred twenty-five dollars (\$125.00). All licenses shall be issued for the fiscal year, or fraction thereof, ending June 30. No license shall be renewed unless the department finds from the audit required under W.S. 11-11-109 of the warehouse or warehouseman's records that the operations are conducted properly.

11-11-104. Application for license; form; contents; refusal to issue license; appeal; care of agricultural products.

(a) The department shall prescribe forms for application for a warehouseman's or warehouse license. The application shall contain information necessary to inform the department of the qualifications, facilities, experience and financial ability of the applicant to carry on the business of buying, selling, warehousing and storing grain. The department shall require the submission of any tax return, bank statement, financial statement or audit prepared by a public accountant or a certified public accountant and any additional information as required by rules and regulations in order to establish the financial responsibility of the applicant. If a license is refused by the department, appeal may be made to the director. All hearings for appeal shall be conducted in accordance with the Wyoming Administrative Procedure Act.

(b) Each warehouseman shall at all times, including during any period of suspension of his license, exercise such care in regard to stored and nonstorage agricultural commodities in his custody as required under the licensing agreement.

11-11-105. Surety bond required; amount; approval by department; conditions; exception.

(a) Each applicant for a warehouseman's or warehouse license shall post a cash bond, acceptable irrevocable letter of credit or execute and file with the department a good and sufficient surety bond in an amount determined by the department based on the maximum number of hundred weight the warehouseman can store in the warehouses for which the bond is required, but not less than twenty thousand dollars (\$20,000.00). A surety bond shall be executed by a responsible surety company licensed to do business in this state and conditioned upon the faithful performance of the obligation of the warehouseman or person operating a warehouse under the laws of this state and of any additional obligations assumed by him under contract with those who deposit grain with him. All bonds shall be payable to the state for the benefit of any injured party, and shall be in the form and contain additional conditions as the department may

prescribe. No person is required to file a bond who has already posted similar bond with the United States department of agriculture pursuant to the United States Warehouse Act of August 11, 1916, as amended.

(b) Cash bonds, irrevocable letters of credit and surety bonds shall not be released by the department until an audit has been completed and satisfied. The department shall publish a public notice for sixty (60) days prior to any bond being released.

(c) In the event a warehouseman does not renew his license in accordance with W.S. 11-11-103 or suspends normal business operations, the department shall post a public notice in a paper of local distribution for sixty (60) days prior to the closure of the warehouse.

11-11-106. Action on bond for breach of obligations; joinder of parties.

Any person injured by the warehouseman's or warehouse's breach of any obligation provided by law may sue on the bond in his own name in any court of competent jurisdiction to recover the damage sustained by the breach. Where more than one (1) person is injured, the action may be brought in the name of all injured persons by any one or all interested parties, or by the state of Wyoming in their behalf.

11-11-107. Investigation by department; complaint; service; hearing.

The department upon its own motion or upon verified complaint against any warehouseman shall investigate as the department deems necessary, and shall at all times have free and unimpeded access to all facilities or places in which grain is kept, stored, handled or transported. If the department, upon investigation, has reason to believe that any warehouseman is not acting as required by law, or upon the filing of a verified complaint against the warehouseman, the department shall have a complaint or copy of the verified complaint served upon the warehouseman by personal service, service upon a registered agent or by registered mail. If the warehouseman fails to make prompt adjustment or settlement of the charges set forth, to the satisfaction of the department, the department shall give notice of the time and place of a hearing thereon. The hearing shall be held in accordance with the Wyoming Administrative Procedure Act.

11-11-108. Warehouse receipts generally.

All warehouse receipts issued for stored grain shall be in a form prescribed by the department and shall be obtainable only by the warehouseman from the department at cost. Each warehouse receipt issued must show the amount of any cash or the value of any merchandise the warehouseman has advanced on the grain represented by the receipt, but such notation shall not be construed as fixing the date of sale of the grain.

11-11-109. Audit of records; inspection of warehouse.

(a) At least once each year and more often if necessary or if requested by an interested person the department shall inspect each licensed warehouse and shall audit the warehouse records. The

director after conferring with interested industry groups shall fix, assess and collect fees for the inspection of facilities storing farm products. The fees shall not exceed fifty percent (50%) of the cost of the inspection and shall be paid by the person requesting the inspection, if any.

(b) If a warehouseman is delinquent in renewing his license in accordance with W.S. 11-11-103, the department shall initiate an inspection and audit of the warehouse immediately.

11-11-110. Warehouseman's records; generally.

Every licensed warehouseman shall maintain complete records of all grain stored, all grain withdrawn from storage, all warehouse receipts issued and all receipts returned to and cancelled by him. The records shall be available for examination and audit by the department at any reasonable time.

11-11-111. Warehouseman's records; contents; inspection and audit by department; issuance of warehouse receipts.

(a) Every warehouseman shall keep a complete record of all grain handled by him including the following:

(i) Name, address and phone number of the grower and of the owner;

(ii) Date of issuance of receipt;

(iii) Kind, quantity, quality and grade of grain received;

(iv) Agreed purchase price, if purchased;

(v) Agreed commission charged, if consigned;

(vi) Date of sale of consigned grain, to whom sold and price for which sold;

(vii) Date and details of settlement with vendor or consignor;

(viii) Documentation stating the location of the stored commodity. If the commodity is stored in another warehouse, then proof of bonding by that facility shall be included in the records.

(b) The above records shall be open to the confidential inspection of the department or its authorized agents at all times. Upon request of the depositor, every warehouseman shall issue a receipt for all grain received for storage on a form furnished by the department.

11-11-112. Stored grain to be insured; insurance requirements; disaster loss to be reported.

(a) All grain stored shall be insured against loss for full value by an insurance company licensed to do business in this state. A copy of the insurance policy in effect shall be provided to the department at the time of the license application and the audit.

(b) Each warehouseman shall comply fully with the terms of insurance policies or contracts covering their warehouse and all products stored therein, and shall not commit any acts, nor permit others to commit any acts, that might impair or invalidate such insurance.

11-11-113. Grading of grain; notation on warehouse receipt.

All grain accepted for storage shall be graded by the warehouseman or designee according to standards of the United States department of agriculture, and the grade established shall be specified upon the warehouse receipt issued for the grain.

11-11-114. Stored grain to constitute bailment; amount in storage to equal issued storage certificates; exceptions; conversion; seizure.

(a) The storage of grain with a warehouse and the movement of grain by a warehouseman constitutes a bailment and not a sale. Upon return of the scale ticket bearing the name of the bailee or warehouse receipt properly endorsed and payment or tender of all advances and charges, the owner of the scale ticket or warehouse receipt is entitled to, and the warehouseman or person operating a warehouse shall deliver the identical grade and amount of grain placed in storage or transported. Every person operating a warehouse shall maintain at all times in storage, in the state of Wyoming, grain equal in amount and grade to all scale tickets and warehouse receipts issued, unless authorized in writing by holders of scale tickets or warehouse receipts or by the department to move to other storage, and failure to do so is a conversion thereof.

(b) Grain stored with a warehouse is not liable to seizure upon process of a court against the bailee except upon action by the owners of scale tickets or warehouse receipts to enforce the terms of the scale tickets or receipts. In the event of the failure or insolvency of the bailee, the grain shall be first applied as soon as ownership is established and within one hundred twenty (120) days exclusively to the redemption and satisfaction of outstanding scale tickets and warehouse receipts for grain stored or moved with the bailee and grain on hand in a particular warehouse of the bailee shall be first applied to the redemption and satisfaction of the scale tickets or receipts issued by that warehouseman or person operating a warehouse as the bailee.

(c) The department shall, by rule and regulation, require posting of current tariffs.

11-11-115. Disposition of collected funds.

There is created the grain warehouse inspection account. All funds collected by the department shall be deposited in the account created by this section. Interest earned by the account shall be retained in the account. The account is appropriated for use and expenditure by the department for the costs of administering the programs under this article. Itemized vouchers shall be submitted to the department for approval. Upon approval, a warrant for the payment of each

voucher shall be issued by the state auditor for payment from the grain warehouse inspection account.

11-11-116. Revocation and cancellation of license.

Failure of any warehouseman or person operating a warehouse to comply with the provisions of this chapter will render the license of the warehouseman or person operating a warehouse subject to revocation and cancellation by the department.

11-11-117. Prohibited acts; penalties for violations.

(a) Any person who engages in or carries on any grain warehousing business without first having obtained a license, or who continues to engage in or carry on such business after his license has been suspended, revoked or expires is guilty of a misdemeanor and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. Each day that such unlicensed business is carried on is a separate offense.

(b) Any warehouseman or person operating a warehouse who converts to his own use or that of another, any grain stored or accepted for storage of the value of one thousand dollars (\$1,000.00) or more, is guilty of a felony and shall be fined not less than five hundred dollars (\$500.00) for each day of violation and imprisoned for not to exceed fourteen (14) years. If the value of the grain converted is less than one thousand dollars (\$1,000.00), the warehouseman or person operating a warehouse is guilty of a misdemeanor and shall be fined not to exceed five hundred dollars (\$500.00) or imprisoned not to exceed six (6) months, or both.

11-11-118. Perjury.

Any affirmation under this chapter shall be given under penalty of perjury.

11-11-119. Cease and desist orders; warehousemen; notice; opportunity for hearing.

(a) After notice and opportunity for hearing, the department shall issue a final cease and desist order to a warehouseman if the warehouseman or any officer, director, employee or agent of the warehouse is violating any state statute or rule relating to warehouses or warehousemen.

(b) Before issuing a final cease and desist order, the department shall serve notice of intent to issue the order upon the warehouseman. The notice shall be in writing and shall contain the information required by W.S. 11-11-121(a). The proposed order shall direct the warehouseman to discontinue the violations of law, rule or regulation.

(c) The warehouseman may request a hearing on the proposed order before the director in accordance with W.S. 11-11-121(b). If the warehouseman does not request a hearing in writing within the prescribed time period, the proposed order shall become a final cease and desist order and the department shall serve the final order upon the warehouseman.

11-11-120. Temporary cease and desist order; warehousemen; service.

(a) If the department believes the actions of a warehouseman or of any officer, director, employee or agent of the warehouse pose an immediate threat to the safety and soundness of the warehouse or to the interests of the depositors or creditors of the warehouse, the department shall issue a temporary cease and desist order to the warehouseman or officer, director, employee or agent of the warehouse pending final action on the proposed cease and desist order issued pursuant to W.S. 11-11-119(a).

(b) The temporary order shall be in writing and shall be served upon the warehouseman. The temporary order shall take effect upon service and shall remain in effect until the director issues the final cease and desist order, the department dismisses the proposed cease and desist order or a court of competent jurisdiction dismisses the proposed cease and desist order after hearing.

(c) On or after the effective date of the temporary order, the attorney general, upon request from the department, may apply to the district court for the county in which the warehouse is located for enforcement of the temporary order. If the warehouseman operates warehouses in two (2) or more counties, the request may be made in any county where the warehouseman operates a warehouse. The application for enforcement shall be given precedence over other cases pending in court and shall in every way be expedited.

(d) The warehouseman, officer, director, employee or agent to whom a temporary cease and desist order is issued may apply to the district court for the county in which the warehouse is located for a stay of the temporary cease and desist order. The application for stay shall be given precedence over other civil cases pending in court and shall be expedited. The court shall grant the stay only if the warehouseman, officer, director, employee or agent shows he will be irreparably harmed unless the stay issues and there is substantial likelihood he will prevail on the merits.

11-11-121. Procedures for enforcement actions; service of notice; content of orders; contested case proceedings; appeal.

(a) All notices and orders required to be served by the department under this article shall be served by certified mail return receipt requested to the last known address of the warehouseman or may be served as provided by the Wyoming Rules of Civil Procedure. Notice of a proposed order issued by the department under this article shall include:

(i) A statement of the grounds for issuing the proposed order, including a citation to the statute or rule involved;

(ii) A statement of the facts in support of the allegations;

(iii) A statement informing the warehouseman subject to the proposed order of the right to a hearing on the order before the director, right of appeal of any subsequent order in accordance with the Wyoming Administrative Procedure Act and that failure to timely request a hearing will result in the order becoming final; and

(iv) A copy of the proposed order.

(b) A request for hearing on a proposed order issued by the department under this article shall be in writing and shall be submitted to the director no later than seven (7) days after receipt of the notice of intent from the department. The director shall hold the hearing no later than fifteen (15) days after receipt of the request for hearing, unless the warehouseman subject to the proposed order requests an extension of time for good cause shown.

(c) A hearing on a proposed order issued under this article shall be a contested case hearing conducted in accordance with the Wyoming Administrative Procedure Act. After the hearing, the director shall issue findings of fact and conclusions of law and a final decision either confirming or dismissing a proposed order. The director shall confirm a proposed order only if the director finds by a preponderance of the evidence that grounds exist under this article for issuing the order. Otherwise, the director shall dismiss the proposed order. If the director confirms a proposed order it shall become a final order.

(d) The department shall serve a final order under this article upon the warehouseman who is the subject of the order. The final order shall take effect upon service and shall remain in effect until the department or the court terminates the final order. The warehouseman who is the subject of the order may appeal the issuance of a final order in accordance with the Wyoming Administrative Procedure Act.

(e) On or after the effective date of a final order under this article, the attorney general, upon request from the department, may apply to the district court of the county in which the warehouse is located for enforcement of the final order. The application for enforcement shall be given precedence over other cases pending in court and shall in every way be expedited.

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) “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) 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 establishments. Seed cleaning 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 establishments who take in grain or seed for cleaning only without storage agreements, and which hold the seed 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:

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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.

(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.

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 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) 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.

(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 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.

(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 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 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 deposits, purchases, sales contracts, storage obligations and load outs and shall include the following:

(i) A daily position record 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.

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

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

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

(v) 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 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.

Section 10. **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 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.

(c) Computation of bond amount.

(i) The amount of bond for grain to be furnished for each warehouse or warehouseman under the regulations in this part shall be fixed at a rate based upon the simple average price per bushel on July 1 of the previous year and March 1 of the current year or the nearest open market day(s) at Kansas City, Missouri, less freight charges. Formula is six percent (6%) of price per bushel times warehouse capacity for upright storage and twelve percent (12%) of price per bushel times warehouse capacity for flat storage. All capacities shall be determined by the Department.

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Example: Upright storage
Capacity 100,000 bushels
Kansas City Price/Bushel on July 1, 2004 = \$3.18
Kansas City Price/Bushel on March 1, 2005 = \$3.26
Average = \$3.22
 $6\% \times \$3.22 = .1932 \times 100,000 \text{ bushels} = \$19,320.00$
Bond for next year for upright storage: \$19,320.00

Flat Storage
Capacity 25,000 bushels
Kansas City Price/Bushel on July 1, 2004 = \$3.18
Kansas City Price/Bushel on March 1, 2005 = \$3.26
Average = \$3.22
 $12\% \times \$3.22 = .3864 \times 25,000 \text{ bushels} = \$9,660.00$
Bond for next year for flat storage: \$9,660.00

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

(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 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 price per hundredweight times total warehouse capacity. All capacities shall be determined by the Department.

Example: Capacity 100,000 hundredweight
Denver, Co. 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

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

(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, 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 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) during the course of inspection and audit.

Section 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.