

**§ 735.87**

renewals or extensions thereof. In fixing the amount of such bond, consideration shall be given, among other appropriate factors, to the character of the warehouses involved, their actual or contemplated capacity, the bonding requirements of the State, and its liability with respect to such warehouses. If the Secretary, or his designated representative, shall find the existence of conditions warranting such action, there shall be added to the amount of the bond so fixed, a further amount, fixed by him, to meet such conditions.

**§ 735.87 Publications.**

Publications under the act and the regulations in this part shall be made in such media as may be deemed proper by the Administrator.

[62 FR 33540, June 20, 1997]

**§ 735.88 Information of violations.**

Every person licensed under the act shall immediately furnish the Service any information which comes to the knowledge of such person tending to show that any provision of the act or the regulations in this part has been violated.

**§ 735.89 Procedure in hearings.**

Hearings under the Act or the regulations in this part, except those relating to appeals or arbitrations shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130 through 1.151).

[45 FR 6775, Jan. 30, 1980. Redesignated at 50 FR 1814, Jan. 14, 1985]

**§ 735.90 One document and one license to cover several products.**

A license may be issued for the storage of two or more agricultural products in a single warehouse. Where such a license is desired, a single application, inspection, bond, record, report or other paper, document or proceeding relating to such warehouse, shall be sufficient unless otherwise directed by the Administrator.

**7 CFR Ch. VII (1-1-01 Edition)**

**§ 735.91 Assets and bond; combination warehouses.**

Where such license is desired, the amount of the bond, net assets, and inspection and license fees shall be determined by the Administrator in accordance with the regulations applicable to the particular agricultural product which would require the largest bond and the greatest amount of net assets and of fees if the full capacity of the warehouse was used for its storage.

**§ 735.92 Amendments.**

Any amendment to, or revision of this part, unless otherwise stated therein, shall apply in the same manner to persons holding licenses at the time it becomes effective as it applies to persons thereafter licensed under the act.

**§ 735.93 OMB control number assigned pursuant to Paperwork Reduction Act.**

The information collection requirements contained in these regulations (7 CFR part 735) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control number 0560-0120.

[53 FR 27151, July 19, 1988]

**§§ 735.94-735.99 [Reserved]**

**ELECTRONIC WAREHOUSE RECEIPTS**

**§ 735.100 General statement.**

The regulations in §§ 735.100 through 735.105 give a USWA licensed warehouseman the option of issuing EWRs instead of paper warehouse receipts for the cotton stored in its facility. EWRs may only be created through a provider who is approved by the Service.

[59 FR 15038, Mar. 31, 1994, as amended at 62 FR 33540, June 20, 1997]

**§ 735.101 Electronic warehouse receipts.**

(a) EWRs issued pursuant to this part establish the same rights and obligations with respect to a bale of cotton as a paper receipt. With the exception of the requirement that warehouse receipts be issued on paper (§ 735.19), all other requirements applicable to paper

warehouse receipts shall apply to EWRs, unless otherwise specified. The person identified as the “holder” of an EWR shall be entitled to the same rights and privileges as the holder of a paper warehouse receipt.

(b) EWRs may only be issued through a provider.

(c) Warehousemen must notify all holders of cotton receipted by inclusion in the CFS at least 30 calendar days before changing providers, unless otherwise required or allowed by the Secretary.

(d) Licensed warehousemen may cancel EWRs only when they are the holder of such receipts.

(e) Licensed warehousemen, only as holder, may correct information on the EWR.

(f) Only the holder of the receipt may transfer the receipt to a new holder.

(g) The identity of the holder must be included as additional information for every EWR.

(h) An EWR shall only designate one entity as a holder at any one time.

(i) An EWR shall not be issued for a bale of cotton if another receipt, paper or electronic, on such bale is outstanding. No two warehouse receipts issued by a licensed warehouse may have the same receipt number.

(j) Prior to issuing EWRs, each warehouseman shall request and receive from the Service a range of consecutive warehouse receipt numbers which the warehouseman shall use for the EWRs it issues.

(k) If a warehouseman has a contract with a provider, all warehouse receipts issued by the warehouseman shall initially be issued as EWRs.

(l) An EWR may only be issued to replace a paper receipt if the current holder of the warehouse receipt agrees.

(m) Licensed warehousemen must inform the Secretary of the identity of their approved provider 60 calendar days in advance of issuing warehouse receipts through that provider. The Secretary may waive or modify this 60 day requirement.

(n) Holders and licensed warehousemen may authorize any other user of a provider to act on their behalf with respect to their activities with such provider. Such authorization must be in

writing, acknowledged, and retained by the provider.

(o) Provisions of §735.18 shall be applicable to lost or destroyed EWRs.

[59 FR 15038, Mar. 31, 1994, as amended at 62 FR 33540, June 20, 1997; 64 FR 54511, Oct. 7, 1999]

#### § 735.102 Provider requirements and standards for applicants.

(a) *Financial requirements.* All providers to be approved under this part must meet the following requirements:

(1) Have a net worth of at least \$25,000, and

(2) Maintain two insurance policies; one for “errors and omissions” and another for “fraud and dishonesty”. Each policy must have a minimum coverage of \$2 million.

(b) *User fee charges.* Providers shall pay to the Service user fees set by the Service and announced annually prior to April of each calendar year.

(c) *Provider agreement.* The provider agreement shall contain, but not be limited to, the following basic elements:

(1) *Records.* The retention period for records.

(2) *Liability.* The liability of the provider.

(3) *Transfer of records.* The requirements for transferring EWRs to another provider.

(d) *Suspension and termination.* (1) The Secretary may suspend or terminate a provider’s agreement for cause at any time.

(2) Hearings and appeals will be conducted in accordance with procedures that are contained in §§735.7 and 735.89.

(3) Without specific written authority by the Secretary, suspended or terminated providers may not accept, transfer, or execute any other function pertaining to EWRs during the pendency of any appeal or subsequent to such appeal if the appeal is denied.

(4) The provider or the Service may terminate the provider agreement without cause solely by giving the other party written notice 60 calendar days prior to termination.

(e) *Renewal.* Each provider agreement will be automatically renewed annually on April 30th as long as the provider complies with the terms contained in the provider agreement, the