

(1) Physically and operationally suitable for proper storage of the applicable agricultural product or agricultural products specified in the license;

(2) Operated according to generally accepted warehousing activities and practices in the industry for the applicable agricultural product or agricultural products stored in the facility; and

(3) Subject to the warehouse operator's control of the facility including all contiguous storage space with respect to such facilities.

(c) As specified in individual licensing agreements, a warehouse operator must:

(1) Meet the basic financial requirements determined by DACO; and

(2) Meet the net worth requirements determined by DACO;

(d) In order to obtain a license, the warehouse operator must correct any exceptions made by the warehouse examiner at the time of the original warehouse examination.

(e) DACO may issue a license for the storage of two or more agricultural products in a single warehouse as provided in the applicable licensing agreements. The amount of the bond or financial assurance, net worth, and inspection and license fees will be determined by DACO in accordance with the licensing agreements applicable to the specific agricultural product, based upon the warehouses' total capacity for storing such product, that would require:

(1) The largest bond or financial assurance;

(2) The greatest amount of net worth; and

(3) The greatest amount of fees.

**§ 735.101 Financial records and reporting requirements.**

(a) Warehouse operators must maintain complete, accurate, and current financial records that must be available to DACO for review or audit at DACO's request as may be prescribed in the applicable licensing agreement.

(b) Warehouse operators must, annually, present a financial statement as may be prescribed in the applicable licensing agreement to DACO.

**§ 735.102 Financial assurance requirements.**

(a) Warehouse operators must file with DACO financial assurances approved by DACO consisting of:

(1) A warehouse operator's bond; or

(2) Obligations that are unconditionally guaranteed as to both interest and principal by the United States, in a sum equal at their par value to the amount of the bond otherwise required to be furnished, together with an irrevocable power of attorney authorizing DACO to collect, sell, assign and transfer such obligations in case of any default in the performance of any of the conditions required in the licensing agreement; or

(3) An irrevocable letter of credit issued in the favor of DACO with a term of not less than two years; or

(4) A certificate of participation in, and coverage by, an indemnity or insurance fund as approved by DACO, established and maintained by a State, backed by the full faith and credit of the applicable State, which guarantees depositors of the licensed warehouse full indemnification for the breach of any obligation of the licensed warehouse operator under the terms of the Act. If a warehouse operator files a bond or financial assurance in the form of a certification of participation in an indemnity or insurance fund, the certification may only be used to satisfy any deficiencies in assets above the minimum net worth requirement as prescribed in the applicable licensing agreement. A certificate of participation and coverage in this fund must be furnished to DACO annually; or

(5) Other alternative instruments and forms of financial assurance approved by DACO as may be prescribed in the applicable licensing agreement.

(b) The warehouse operator may not withdraw obligations required under this section until one year after license termination or until satisfaction of any claims against the obligations, whichever is later.

**§ 735.103 Amendments to license.**

FSA will issue an amended license upon:

(a) Receipt of forms prescribed and furnished by DACO outlining the requested changes to the license;

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(b) Payment of applicable licensing and examination fees;

(c) Receipt of bonding or other financial assurance if required in the applicable licensing agreement; and

(d) Receipt of a report on the examination of the proposed facilities pending inclusion or exclusion, if determined necessary by DACO.

**§ 735.104 Insurance requirements.**

Each warehouse operator must comply fully with the terms of insurance policies or contracts covering their licensed warehouse and all products stored therein, and must not commit any acts, nor permit others to do anything, that might impair or invalidate such insurance.

**§ 735.105 Care of agricultural products.**

Each warehouse operator must at all times, including during any period of suspension of their license, exercise such care in regard to stored and non-storage agricultural products in their custody as required in the applicable licensing agreement.

**§ 735.106 Excess storage and transferring of agricultural products.**

(a) If at any time a warehouse operator stores an agricultural product in a warehouse subject to a license issued under the Act in excess of the warehouse capacity for which it is licensed, such warehouse operator must immediately notify DACO of such excess storage and the reason for the storage.

(b) A warehouse operator who desires to transfer stored agricultural products to another warehouse may do so either by physical movement, by other methods as may be provided in the applicable licensing agreement, or as authorized by DACO.

**§ 735.107 Warehouse charges and tariffs.**

(a) A warehouse operator must not make any unreasonable or exorbitant charge for services rendered.

(b) A warehouse operator must follow the terms and conditions for each new or revised warehouse tariff or schedule of charges and rates as prescribed in the applicable licensing agreement.

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**§ 735.108 Inspections and examinations of warehouses.**

(a) Warehouse operators must permit any agent of the Department to enter and inspect or examine, on any business day during the usual hours of business, any licensed warehouse, the offices of the warehouse operator, the books, records, papers, and accounts.

(b) Routine and special inspections and examinations will be unannounced.

(c) Warehouse operators must provide safe access to all storage facilities.

(d) Warehouse operators must inform any agent of the Department, upon arrival, of any hazard.

(e) Agents of the Department must accomplish inspections and examinations of warehouses in a manner that is efficient and cost-effective without jeopardizing any inspection and examination integrity.

**§ 735.109 Disaster loss to be reported.**

If at any time a disaster or loss occurs at or within any licensed warehouse, the warehouse operator must report immediately the occurrence of the disaster or loss and the extent of damage, to DACO.

**§ 735.110 Conditions for delivery of agricultural products.**

(a) In the absence of a lawful excuse, a warehouse operator will, without unnecessary delay, deliver the agricultural product stored or handled in the warehouse on a demand made by:

(1) The holder of the warehouse receipt for the agricultural product; or

(2) The person that deposited the agricultural product, if no warehouse receipt has been issued.

(b) Prior to delivery of the agricultural product, payment of the accrued charges associated with the storage or handling of the agricultural product, including satisfaction of the warehouse operator's lien, must be made if requested by the warehouse operator.

(c) When the holder of a warehouse receipt requests delivery of an agricultural product covered by the warehouse receipt, the holder must surrender the warehouse receipt to the warehouse operator before obtaining the agricultural product.

(d) A warehouse operator must cancel each warehouse receipt surrendered to