

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
GINS AND WAREHOUSES
ADMINISTRATIVE CODE

CHAPTER 80-6-5
OPERATION OF PUBLIC WAREHOUSES

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80-6-5-.01 Purpose.

The purpose of this Chapter is to provide rules and standards for the operation of public warehouses in the areas of fire prevention, storage of goods, receipts, records, reports, bonds and insurance.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §8-15-2.

History: Filed April 19, 1992.

80-6-5-.02 Previous Regulations Repealed And Withdrawn.

Those regulations entitled Regulations of Public Warehouses in the State of Alabama by the State Board of Agriculture and Industries incorporating six regulations effective August 1, 1961, covering the subjects of fire prevention, receipts, storage, records and receipts, reports, insured and amount of bonds, and that regulation entitled Regulations Authorizing the Use of Tabulating Machine Card Receipts by Public Warehouses Storing Cotton under the Alabama Warehouse Law, effective July 1, 1957 and dated May 28, 1957, and that regulation entitled Public Warehouse Regulation, effective November 1, 1969, dated October 21, 1969, are hereby repealed and withdrawn. The following rules are hereby substituted in their place.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §8-15-2.

History: Filed April 19, 1992.

80-6-5-.03 Fire Prevention Requirements For Public Warehouses.

(1) All loose cotton from sampling or from picking damaged cotton must be removed from the warehouse or placed in bags or closed bins as soon as picked or removed from the bale.

(2) All trash and rubbish must be removed from warehouse and not allowed to remain closer than 100 feet from any open area. Cotton stored in the open should be tiered or stacked in an orderly manner and so located as to reduce fire hazards to a minimum.

(3) No Smoking signs must be kept conspicuously posted in the warehouse at all times.

(4) Cotton that has been in a fire, or in which fire originated during the process of ginning, must not be stored in any warehouse for at least five days after such fire.

(5) No warehouseman shall store any article of value, other than for which a public warehouseman's permit has been issued, when the warehouse space is needed for the storage and proper protection of the goods authorized in the warehouseman's permit. When the warehouse space will permit other articles to be stored than that for which a public warehouseman's permit has been issued but storage for such additional article or articles would cause the insurance rate on the goods in the warehouse to increase, then the additional article shall not be stored until after the warehouseman has absorbed the increased insurance on all the goods stored. No nitrate material such as ammonium nitrate shall be stored in warehouses where cotton is stored. The Commissioner of Agriculture and Industries is authorized to refuse to approve, or to withdraw his approval of the application of a public warehouseman's permit to store more than one article when it appears that all the storage space is, or will be, needed for the proper protection and accommodation in handling of the principal article represented in the application for a warehouseman's permit.

(6) In addition to the above requirements set out in paragraph no. (1) through (5) above, all public warehouses must comply with those fire prevention standards as promulgated by regulation of the State Fire Marshal and those standards imposed by the various municipalities where the public warehouse may be located. Failure to comply with the above standards, after warning, will be considered grounds for revocation, suspension or failure to renew the permit for the operation of a public warehouse.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §8-15-2.

History: Filed April 19, 1992.

80-6-5-.04 Only Authorized Receipts May be Used.

(1) No warehouseman is authorized to issue any character or form of a receipt except that authorized by law and the rules and regulations of the State Board of Agriculture and Industries. Receipts now in use and approved by the State Board of Agriculture and Industries are approved receipts for use of public warehousemen.

(2) All endorsements on the warehouse receipt of the words stored in the open, shall be with a rubber stamp across the face of the receipts with letters of the words to be not less than 1/4 inch in height.

No receipts shall be used for representing cotton or other articles of value, stored in the open other than those which are in use for the storage of cotton or other articles of value within the warehouse.

(3) The Commissioner of Agriculture and Industries is authorized to negotiate and make arrangements by contract with a manufacturer of safety paper to have the seal of the Department of Agriculture and Industries watermarked in said paper for printing receipts approved for use by public warehousemen, and to cause the watermarked safety paper to be placed at the disposal of a contract printer. He is also authorized to negotiate and make arrangements by contract for printing of public warehouse receipts on the watermarked safety paper secured by contract from the manufacturer thereof. The printer shall make such bond or bonds for the faithful performance of his contract and the proper handling of the watermarked paper and orders of public warehousemen as the Commissioner may require.

All orders for receipts shall be made to the contract printer by the warehouseman and the printer will submit a copy of the order, in duplicate, to the Department of Agriculture and Industries for approval before the order is filled.

(4) Any warehouseman who for some extraordinary reason desires to print his receipts in approved form and/or as an approved Block receipt, on a safety paper other than that herein described, may do so after first obtaining a special permit from the Commissioner of Agriculture and Industries, provided the printer making such receipts posts the necessary bond that may be required by the Commissioner and meets all other terms required of the contract printer. Should the warehouseman contract for and use receipts, contrary to the provisions of this section, the Commissioner may himself, or through his agents, at his discretion, confiscate such

illegal receipts wherever found. Also the Commissioner himself, or through his agents, may confiscate all unused receipts of warehousemen whose permits have been withdrawn or who have ceased to do a warehouse business.

(5) Warehousemen are also authorized to use and issue receipts printed upon tabulating machine cards provided such receipts otherwise comply with all requirements of the law and rules and regulations now in effect which govern the issuance of uniform warehouse receipts and such receipts must be issued in accordance with all of the requirements for receipts set out in this rule and the law.

(6) The Commissioner of Agriculture and Industries is authorized to enter into a contract with a manufacturer of tabulating business machine cards whereby such manufacturer will supply and furnish public warehouses storing cotton with tabulating machine cards pre-punched which comply with requirements of the Commodity Credit Corporation on which there shall be imprinted the uniform cotton warehouse receipts now required of such warehousemen. The manufacturer furnishing the tabulating machine card receipts shall be required to make and execute any bond that may be required by the Commissioner for the faithful performance of his contract and for the proper handling of receipts prepared for sale and distribution to public warehousemen together with other requirements which will enable the Commissioner of Agriculture and Industries to enforce the provisions of the Uniform Commercial Code and this rule.

(7) In addition to the above forms of warehouse receipts authorized for use, the form of electronically recording warehouse receipts known as an electronic warehouse receipt (EWR) record is authorized for use provided:

1. that electronic warehouse receipts recorded, issued and filed meet the requirements of the regulations promulgated by the Consolidated Farm Services Agency (CFSA), formerly Agricultural Stabilization Conservation Services (ASCS), and published in the Federal Register and annually codified as 7C.F.R. part 735, relating to the issuance of cotton warehouse receipts, which regulations are incorporated herein and made a part hereof by reference for use of the Commissioner of the Alabama Department of Agriculture and Industries (Commissioner) as he may deem necessary;

2. that the individual or entity which operates the central filing system (CFS) which stores the (EWR) records, called "provider", shall meet the requirements of 7 C.F.R. part 735, as determined by the Commissioner. Only provider applicants approved by the CFSA shall be considered eligible for approval as a provider in Alabama. Eligible provider applicants shall first apply and secure approval from the Commissioner prior to providing service. The Commissioner shall not approve

applicants with an interest which may reasonable be deemed to be in conflict with provider status as determined by Commissioner. Commissioner is authorized to formulate provider agreement for use as he may prescribe. He may suspend or terminate a provider's agreement for cause at any time.

3. Approved providers shall furnish to Commissioner annual audit level financial statements and submit to electronic data processing audits in like form submitted to CFSA; provide the Commissioner, for Department purposes, with unrestricted access to the physical site where the CFS and off-site records are retained, unrestricted access of provider's CFS and all related and backup files at no charge; and provide in a timely manner requested information in either electronic or printed format or both at Commissioner's discretion.

4. Each provider shall maintain an "errors and omissions", and a "fraud and dishonesty" insurance policy showing users, holders, and warehousemen as payees, each having a minimum coverage of \$2 million dollars with a deductible for each policy not to exceed \$10,000. Provider shall provide Department with proof of such insurance upon request. Each policy shall contain a clause requiring written notification to Department thirty days prior to cancellation.

5. In addition to all other authority and power granted the Commissioner in the execution of the duties of the Department, as the same shall pertain to the regulation of EWR's for non-federally licensed warehousemen in the State of Alabama, the Commissioner's authority and power herein shall in all respects correspond to that of the CFSA under the provisions of 7 C.F.R. part 735.

(8) The Commissioner may enter into a contract with providers as may be necessary in order to perform his regulatory duties hereunder. The provider shall be required to make and execute any bond that may be required by Commissioner for the faithful performance of the contract and for the proper handling of EWR records together with other requirements which will enable the Commissioner to enforce the provisions of the Uniform Commercial Code, referenced federal regulations, Alabama law and this rule.

Author: Robert J. Russell

Statutory Authority: Code of Ala. 1975, §8-15-2.

History: Filed April 19, 1992. **Amended:** Filed August 11, 1995; effective September 15, 1995.

80-6-5-.05 Warehouse Receipt Requirements.

(1) All negotiable receipts issued for cotton must state, in addition to the requirements set out in the Uniform Commercial Code Documents of Title, Act, the weight, grade if known, private

mark, and condition, if subject to comment, of the cotton when stored, except, that upon request in writing, the weight of the bale may be omitted from receipts issued for shippers cotton, provided such receipts are marked: NOT WEIGHED BY WAREHOUSE ISSUING THIS RECEIPT. In the absence of such written request not to weigh each bale of cotton received for storage each such bale must be accurately weighed by the warehouseman at the time it is received for storage, and the weight so determined shall be the weight inserted in the warehouse receipt. Provided, however, that any bale tendered for storage which bears external evidence of mud, excessive moisture, or weather damage, shall not be weighed for storage and a negotiable warehouse receipt shall not be issued thereon, until such bale is properly dried and cleaned, and any damage thereto plainly noted on the face of such receipt.

(2) Every receipt issued must state on its face whether it is negotiable or nonnegotiable.

(3) All warehouse receipts, whether negotiable or nonnegotiable must state plainly on their face whether the commodities represented by them are insured or not.

(4) Warehouse receipts shall be numbered consecutively and shall not be construed to prevent the issuance of receipts in regular sequence with respect to numbers assigned to cotton or other articles of value being stored from time to time in large quantities by one person or concern.

(5) There shall be printed on the face of every receipt, at lower left portion thereof, a statement of the nature of all charges to be made by the warehouseman which shall includethe rate of monthly storage and the nature (though not the amount of the charge) of other services for which a lien is claimed.

(6) When a tariff charge covering receiving services or the first month's storage, or both, is collected at the time a warehouse receipt is issued, a notation of the collection of such charge or charges shall be made on the face of the warehouse receipt.

(7) A statement of ownership and all encumbrances on the articles of value on which a negotiable receipt has been issued which are not evidenced on the face of the receipt and the date of said statement shall be written or printed immediately before the space for endorsement on the back of every receipt.

(8) Receipts issued for the storage of cotton linters, motes and other waste cotton shall not be issued on receipt forms prescribed for lint cotton, and such receipts shall be printed on distinctive paper stock of a different color from receipts used for storage of lint cotton. Receipt forms used for the storage of cotton linters, motes and other waste cotton must be approved by the Commissioner of Agriculture and Industries.

(9) In case of a lost or destroyed receipt, 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 issued in lieu of a lost or destroyed receipt, may be issued upon compliance with the conditions set out below.

(10) Before issuing such duplicate receipt the warehouseman shall require the depositor or other person applying therefor to make and file with the warehouse

1. an affidavit showing that he 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 value, at the time the bond was given, of the cotton, or other articles of value on which a negotiable receipt has been issued, represented by the lost or destroyed receipt. Such bond shall be in a form approved for the purpose by the Commissioner of Agriculture and Industries, shall be conditioned to indemnify the warehouseman against any loss sustained by reason of the issuance of such duplicate receipt, and shall have as surety thereon a surety company which is authorized to do business and is subject to service of process in a suit on the bond, in the State of Alabama or two individuals each of whom owns real property having a value, in excess of all exemptions and encumbrances, to the extent of double the amount of the bond.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §8-15-2.

History: Filed April 19, 1992.

80-6-5-.06 Storage And Recording Of Receipts, Records And Goods.

(1) There shall be a warehouse record of every receipt issued for cotton or other articles of value which shall be a duplicate of the receipt issued as to the following:

1. tag letter, if used;
2. receipt number;
3. place and date of issuance of the receipt;
4. person to whom issued;
5. description of the article; and

6. the signature of the person authorized to sign receipts.

(2) A numerical record book or Electronic Warehouse Receipt (EWR) record shall be kept by all warehousemen, which shall furnish the following information:

1. date of issuance of receipt;

2. from whom article received;

3. number of receipt (which shall correspond to tag number of bale or other article);

4. weight of bale, or in case of other articles, the weight, measure or other approved description;

5. date of delivery and

6. to whom delivered. All books and records of all warehouses must be kept posted to date, so as to show a true condition of the warehouse at all times.

(3) All books, records except EWR records, receipts and cancelled receipts must be kept in a fireproof safe or vault so that in case of fire they will not be damaged or destroyed. In case of fire, and the destruction or damage therefrom of articles on which receipts are outstanding, the warehouseman shall notify the Commissioner of Agriculture and Industries immediately by wire or telephone. The Commissioner shall, on receipt of such notice, proceed immediately to make an audit of the article, receipts and records of the warehouse.

(4) No property shall be delivered to anyone except upon the surrender and cancellation of the receipt issued for the storage of such property, and such receipt, except for EWR record shall be cancelled by tearing or cutting out that portion of the receipt which contains the signature of the warehouseman; provided, however, the warehouseman may cancel such receipts by perforation which shall stamp the word "Cancelled" on each such receipt, but before a warehouseman shall use this method of cancellation, permission therefor shall be obtained from the Commissioner of Agriculture and Industries. An EWR record shall be cancelled by warehouse through Provider database.

(5) All cancelled warehouse receipts shall be kept by the warehouseman and set up or filed in numerical order in sequence according to serial numbers of the receipts.

(6) In the event a warehouse receipt becomes lost or destroyed after such receipt is surrendered to the warehouseman and the property covered by the receipt is delivered to the receipt holder, the warehouseman shall execute and furnish to the Commissioner of Agriculture and Industries an affidavit stating

the reason why the receipt or receipts cannot be produced, list receipt numbers together with such other information as the Commissioner may require. The foregoing requirement must be complied with by the warehouseman before the Commissioner is authorized to delete the numbers of any cancelled receipts involved from the warehouseman's outstanding receipts where such receipts have been lost or destroyed.

(7) Any warehouseman who receives cotton or other articles of value and issues a receipt for same, places the said cotton or other article of value outside of warehouse for a longer period of time than seventy-two hours, and who fails to stamp across the face of the receipt at the time of issuance, the words "stored in the open", shall be held to have violated Code of Ala. 1975, §8-15-16. Cotton or other articles of value having been stored inside the warehouse, and later moved outside of the warehouse, must be insured by the warehouseman at the time it is "stored in the open", provided that the receipt is outstanding and uncanceled by the warehouseman.

Cotton or other articles of value "stored in the open" may be moved inside the warehouse, and a new receipt issued, provided the original receipt on which the words "stored in the open" are endorsed is taken up and cancelled at the time, and that the insurer of the article so transferred be given notice at the time of such transfer.

(8) Every warehouseman shall, upon acceptance of any bale of cotton or other article in package or separate unit form (not fungible) for storage, immediately attach thereto a tag of good quality which shall be numbered to correspond to the number of warehouse receipts issued for same.

(9) Every warehouseman shall so store and arrange every bale of cotton or any other goods so that a tag check may be made as needed. The warehouse owner shall, upon reasonable request by Department examiner, promptly present cotton receipts and storage records and move or rearrange cotton bales to allow accurate count and/or tag check.

(10) All warehouses must be constructed so as to exclude dampness and moisture from beneath and the roof must be kept in good repair so as to prevent leaks.

(11) When baled cotton suffers damage while stored in a public warehouse, the warehouseman shall as promptly as feasible reweigh the damaged bales, effect the necessary repairs and again reweigh the bales after repairs are completed. Notice that such repairs have been made, including bale tag numbers, reweights before repairs and reweights after repairs shall be promptly mailed or delivered to the holder of the warehouse receipts covering such cotton as soon as such holder or owner can be identified.

(12) Scales used in weighing cotton in public warehouses shall be tested for accuracy at least once daily and when such scales have been moved from one location to another.

(13) Every warehouse storing commodities for the public shall be open or the warehouseman shall be available by a posted notice five days each week (Monday through Friday with holidays excepted) a minimum of eight hours per day for the delivery of commodities. Every such warehouse shall post a notice on the outside front door of the warehouse, or other conspicuous place thereon, which notice shall give the name, address and telephone number of the warehouseman or one or more of his employees who can be contacted for the delivery of stored commodities in order that such information may be available to storers of commodities when the warehouse is closed. Each warehouse shall show in its published tariff the hours of the day that it will be open and also the name, address and telephone number of the person who can be contacted for delivery of commodities when the warehouse is closed.

Author: Robert J. Russell

Statutory Authority: Code of Ala. 1975, §8-15-2.

History: Filed April 19, 1992. **Amended:** Filed August 11, 1995; effective September 15, 1995. **Amended:** Filed June 24, 1997; effective July 29, 1997.

80-6-5-.07

Report And Tariff Requirements.

(1) At the close of business on the last day of every calendar month, all public warehouseman shall make a report to the Commissioner of Agriculture and Industries showing such information as he may require; blanks for submitting theses monthly reports will by provided by the Commissioner of Agriculture and Industries. An exact copy of this report shall be kept on file by the warehouseman for a period of six months after the date on which the report is made.

(2) At the close of business of every day all public warehousemen shall make and keep for inspection by the Commissioner of Agriculture and Industries a report of all cotton or other articles of value placed outside the warehouse, the number of bales of cotton or the number or amount of other articles of value stored outside, naming the amount of insurance and the companies with whom the insurance is carried; provided, that all cotton or other articles of value stored in the open shall be insured for the full value of same at the time it is stored in the open.

(3) At the beginning of each cotton season, each public warehouse authorized to store cotton shall file with the Commissioner of Agriculture and Industries a tariff or schedule of rates and charges to apply during the season. When any rate or charge is changed during the cotton season, previous notice in writing of

such change shall be filed with the Commissioner of Agriculture and Industries. Such tariffs and amendments shall be filed in duplicate and made available to the interested public.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §8-15-2.

History: Filed April 19, 1992.

80-6-5-.08 Insurance Requirements.

(1) All public warehouses shall fully insure against loss by fire, peril or damage all goods accepted for storage to include each and every bale of cotton, unless instructed by the owners of such goods not to insure them. The above property insurance shall be issued by insurers authorized to do the business of insurance in the State of Alabama and shall be without limit of liability.

(2) Any purchaser of an insured warehouse receipt who desires cancellation of the insurance on same must surrender to the warehouseman said receipts to be stamped with the words Not Insured By Warehouseman showing date with a rubber stamp across the face of the receipts with letters of the words Not Insured By Warehouseman to be not less than 1/4 inch in height.

(3) Those warehouses falling under the provisions of Code of Ala. 1975, §8-15-7, requiring proof of warehouseman's legal liability insurance shall, prior to the issuance of a permit, present evidence of this insurance in an amount equal to the total value of goods stored at any one time during the past 12 months. If the warehouseman, by written contract with a storer of goods, limits his liability, then only the value of the goods for which the warehouseman is liable need be covered by the above liability insurance. Written certification reflecting the amount of contractual liability shall accompany the required evidence of insurance. Exclusionary causes in the insurance policy excluding coverage of liability insurance on stored goods in the care, custody or control of the warehouseman shall not be accepted and if the insurance policy contains such a clause, the warehouseman shall be deemed not to have complied with the provisions of §8-15-7 above regarding liability insurance coverage.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §8-15-2.

History: Filed April 19, 1992.

80-6-5-.09 Bond Requirements.

(1) The bond required under Code of Ala. 1975, §8-15-7 above for warehouses storing the following agricultural commodities shall be computed, based upon the total storage capacity of the warehouse or group of warehouses, all under one permit. The total bond shall

be subject to the liabilities of each warehouse, under one permit, such warehouses being considered as one for bond requirements.

(a) Cotton - \$5.00 per bale.

(b) All agricultural commodities other than cotton 20 cents per bushel. If the warehouse stores on tonnage other than bushel basis, minimum weights of the various commodities per bushel as set out in Chapter 80-13-3 shall be used for conversion to bushels.

(2) The Commissioner of Agriculture and Industries may, in his discretion, use the regulations of the Federal Warehouse System for the determination of the total storage capacity of a warehouse.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §8-15-2.

History: Filed April 19, 1992.

80-6-5-.10 Permit Fees.

Any applicant for a permit to operate a public warehouse as outlined in Code of Ala. 1975, §8-15-3 shall remit to the Department of Agriculture and Industries a fee of \$150.00 with said application.

Author: John P. Hagood

Statutory Authority: Code of Ala. 1975, §8-15-3.

History: New Rule: Filed August 16, 2004; effective September 20, 2004.