

**2018 Supporting Statement
Warehouse Regulations 7 CFR 735
Under the United States Warehouse Act**

OMB 0581-0305

NOTE TO REVIEWER: The following actions have been taken regarding these forms. The realignment of offices within the U.S. Department of Agriculture was authorized by the Secretary's Memorandum dated November 14, 2017. The warehousing duties formerly a part of the Warehouse Licensing and Examination Division, Farm Service Agency are now organized under the Warehouse and Commodity Management Division, Agricultural Marketing Service. This collection received OMB approval as a transfer from the former FSA 0560-0120 to AMS 0581-0305 on November 20, 2017.

JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The purpose of this package is to request an extension with a revision of a currently approved information collection requirement package which expires on September 30, 2018. Regulations covering the United States Warehouse Act (USWA) are currently codified at 7 CFR Part 735.

On November 9, 2000, Public Law 106-472 was approved and covers the reenactment of the United States Warehouse Act and is called the United States Warehouse Act of 2000 (USWA 2000). This streamlined and updated the USWA, making it more relevant to the current marketing system for agricultural products which among other things, included language authorizing the issuance and maintenance of electronic receipts and electronic documents

Public Law 106-472 (United States Warehouse Act of 2000)
7 U.S.C. 241-256
CCC Charter Act (15 U.S.C. 714)

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The USWA and Commodity Credit Corporation (CCC) functions are administered by the Agricultural Marketing Service (AMS). Although there are several warehouse types covered under the USWA and CCC's function, the reporting requirements within a particular warehouse type are essentially the same for all warehouse types. With some exceptions the forms are used bilaterally; that is, they are used for both USWA licensing and CCC purposes.

The general purposes of the forms are used as a basis to:

- (1) Determine whether the warehouse and the warehouse operator making application for licensing and/or approval meets applicable standards,
- (2) Issue such license or approvals, and
- (3) Determine, once licensed or approved, that the licensee or warehouse operator continues to meet such standards and is conforming to regulatory or contractual obligations.

Warehouses not meeting financial, bonding, operational or general approval standards may be denied an agreement (contract) unless a waiver is granted by the President or Executive Vice President of CCC. Those warehouses not meeting such requirements and contracted with, but who on subsequent examination are found to have failed to maintain such requirements, are removed from the List of Approved Warehouses generally with opportunity to correct deficiencies. These warehouses may be reinstated to the approved list or terminated.

As indicated above, the basis for contract approval, removal, reinstatement, or termination is the information secured from interested warehouse operators or as secured and recorded by AMS warehouse examiners.

The following changes were made to the forms from the previous Information Collection Package:

- 1) In the previous package, we submitted the instructions separate from the form(s); with this submission we have merged the appropriate instructions to the back of each form.
- 2) OMB approved the transfer of this collection from OMB 0560-0120 (FSA) to 0581-0305 (AMS) on 11/20/2017. Consequently, all forms have been modified to reflect 0581-0305.
- 3) All reference to ownership of FSA, DACO, KCCO have been changed to reflect the new ownership to AMS, WCMD.

FORMS

WA-50, APPLICATION FOR LICENSE OR MODIFICATION OF LICENSE FOR THE CONDUCT OF A PUBLIC WAREHOUSE.

Section 3 of the USWA (7 U.S.C. 242) states "The Secretary may issue to any warehouse operator a license for the operation of a warehouse in accordance with this Act if ..."

Form WA-50 is used by public warehouse operators who voluntarily apply for a license under the USWA and its regulations and for modification or extension of an existing license. The form is filed with the Warehouse and Commodity Management Division (WCMD) and is included with other material furnished to the examiner assigned to make an original and/or amendment examination.

WA-51-2, FINANCIAL STATEMENT SUPPLEMENT (FOR AGRICULTURAL PRODUCTS).

Regulations under the USWA require that applicants for licenses and warehouse operators licensed under the Act have and maintain net worth, in a specified amount based on the capacity of the warehouse, liable for the payment of any indebtedness arising from the conduct of the warehouse. Minimum net worth requirements must be met at all times. Commodity Credit Corporation Approved Warehouses (7 CFR 1423) and similar sections of other standards for approval require that applications for approval under storage agreements (contracts) with CCC must furnish a current financial statement. Standards for Approval further provide that minimum net asset requirements be met at all times.

The financial statement filed by the warehouse operator forms the basis for the Department's determination as to whether the applicants and/or licensees meet and continue to meet financial requirements under the USWA regulations and CCC storage agreements. Other types of financial assurance may be accepted by AMS when warranted.

Maintaining sound, accurate financial records enables warehouse operators to perceive their financing condition and to meet net assets requirements for licensing or continuation of license.

Financial statements are normally required on an annual basis. WA-51-2-Financial Statement Supplement (For Agricultural Products) is used for cotton, grain, and rice warehouse operators and as the need arises will be used for all other agricultural products.

WA-53, APPLICATION FOR A LICENSE TO INSPECT, CLASSIFY, SAMPLE, AND OR WEIGH AGRICULTURAL PRODUCTS UNDER THE UNITED STATES WAREHOUSE ACT.

Section 3 of the USWA (7 U.S.C. 242) states "On presentation of satisfactory proof of competency to carry out the activities described...may issue to any person a Federal license ... to inspect any agricultural product stored or handled in a warehouse...; to sample such an agricultural product; to classify such an agricultural product according to condition, grade, or other class and certify the condition, grade, or other class of the agricultural product...to weigh such an agricultural product and certify the weight of the agricultural product."

WA-53 is used only when persons apply for a license or for amendment of an existing license under the USWA to inspect, classify, sample, or weigh specified agricultural products.

WA-62, BOND TO COVER LOST PAPER WAREHOUSE RECEIPTS UNDER THE UNITED STATES WAREHOUSE ACT.

This form is used by holders of Federal warehouse receipts when filing bonds to support delivery of products covered by lost or destroyed receipts, or to support the issuance of a

duplicate receipt in lieu of the lost or destroyed paper warehouse receipt.

WA-70, RECEIPT SIGNATURE AUTHORITY.

Section 3 of the USWA (7 U.S.C. 242) states..."The Secretary may examine and audit...all books, records, papers, and accounts...any other person issuing receipts"

The WA-70, Receipt Signature Authority, must be used by USWA licensed warehouse operators to designate persons authorized to sign warehouse receipts.

WA-80, WA-81, WA-82, WA-83, WA-84, WA-85, WA-87, WA-88, WA-89, WA-90, WA-91, WAREHOUSE OPERATOR'S BOND FORMS AND RELATED FORMS.

The USWA (7 U.S.C. 245) states "As a condition of receiving a license or approval under this Act (including regulations promulgated under this Act), the person applying for the license or approval shall execute and file with the Secretary a bond or provide such other financial assurance as the Secretary determines appropriate, to secure the person's performance of the activities so licensed or approved...."

The warehouse operator may offer as financial assurance in the form of a warehouse operator's bond, in the form of a deposit with AMS, United States bonds, United States Treasury notes, or other public debt obligations of the United States or obligations that are unconditionally guaranteed as to both interest and principal by the United States, or in the form of a letter of credit issued to the Agency for a period of not less than two years to coincide with the period of any deposit of obligations, and other forms of financial assurance as may be deemed acceptable by AMS.

The following forms are used for bonding purposes and other related activities connected with bonding.

WA-80, WAREHOUSE OPERATOR'S BOND.

Used for grain, cotton, and miscellaneous agricultural product warehouse operators who are or have applied for a warehouse license as an individual, partnership, or corporation. It is continuous in nature and does not have to be reissued each year.

WA-81, RIDER TO WAREHOUSE OPERATOR'S BOND.

Used to accommodate all necessary changes to WA-80.

WA-82, WAREHOUSE OPERATOR'S IRREVOCABLE LETTER OF CREDIT.

Used if the warehouse operator elects to provide a letter of credit instead of a surety bond to make up for a deficiency in net assets. Warehouse operators must have the minimum required net assets and may provide a letter of credit for a deficiency exceeding the normal bond. If letters of credit are used to cover the amount of a deficiency, it must be issued for a period of not less than two years to coincide with the period of any deposit of obligations. Any letter of credit is irrevocable, issued by a commercial bank, payable to AMS, by sight draft and insured by the Federal Deposit Insurance Corporation or an institution in good standing regulated by the Farm Credit Administration.

WA-83, WAREHOUSE OPERATOR’S BOND (FOR ELIGIBLE SECURITIES).

Used if the warehouse operator deposits eligible securities instead of a surety bond.

WA-84, POWER OF ATTORNEY (TO SELL SECURITIES).

Used for each individual or partnership depositing eligible securities instead of a bond.

WA-85, CORPORATE POWER OF ATTORNEY (TO SELL SECURITIES).

Used for each corporation wanting to deposit eligible securities instead of a bond. Additionally, the corporation must provide a certified copy of the resolution passed by the Board of Directors authorizing such a security deposit with this form.

WA-87, RECEIPT FOR OBLIGOR ON RETURN OF SECURITIES.

This form is completed and returned to the warehouse operator for signature, along with the securities and the original copy of the Power of Attorney.

WA-88, RECEIPT FOR ELIGIBLE SECURITIES ACCEPTED AS SECURITY.

This form is executed upon receipt from the warehouse operator of securities to be deposited as security. After execution in duplicate the original is returned to the warehouse operator. The warehouse operator is requested to return the original to the Warehouse and Commodity Management Division when the securities are returned.

WA-89, CONSENT OF SURETY TO CHANGES.

Used when a warehouse operator has a change in its Articles of Incorporation. The form is furnished to the applicable surety company for acceptance and continuation of bond coverage.

WA-90, CORPORATE SIGNATURE RESOLUTION OR LIMITED LIABILITY COMPANY SIGNATURE RESOLUTION.

Used by a warehouse operator to designate that any officer or the manager is empowered to execute all bonds, supplemental bond agreements and other papers or documents required under the USWA.

WA-91, AGREEMENT TO INDEMNIFY.

Used when a warehouse operator is a wholly-owned subsidiary of another entity that is referred to as a guarantor and that guarantor has an interest in the warehouse operator being licensed or continuing their license and can furnish a financial statement which will meet all requirements of the USWA.

AMS is always willing to work with its customers in the use of the above forms or a like document that the warehouse operator may submit to cover the above instances.

The below forms are used by warehouse examiners when making onsite inspections of warehouse operators applying for a license or to maintain a license when it has been issued.

WA-105, RETURNED AND DESTROYED RECEIPT RECORD.

Section 3 of the USWA (7 U.S.C. 242) states that “The Secretary may issue to any warehouse operator a license for the operation of a warehouse in accordance with this Act...”

In making application for a Federal license on Form WA-50, “Application for License or Modification of License for the Conduct of a Public Warehouse,” a warehouse operator, as a condition to granting a license agrees “upon suspension, revocation, or expiration of the license to deliver all unissued, licensed warehouse receipts to the Department.”

Those receipts will be destroyed by the Department without liability to the warehouse operator one year from the date of suspension or revocation of the license, if the applicant does not authorize destruction prior thereto.

The WA-105 is used by the warehouse examiner to make a record of unused warehouse receipts surrendered by the warehouse operator for any reason.

WA-125, MEMORANDUM OF ADJUSTMENTS.

This form serves as a record of deficiencies found during a warehouse examination, a written request to the warehouse operator for correction of the deficiencies, and a record of corrective actions taken and reported by the warehouse operator.

Form WA-125 is issued for all major deficiencies and for other deficiencies not corrected during the examination.

WA-125ER, MEMORANDUM OF ADJUSTMENTS -- ELECTRONIC RESPONSE.

An electronic version of the above form and is available on the eGov website. No extra burden is added to the warehouse operator when using this form.

WA-139, CERTIFICATE OF LOSS OF CANCELED R UNCANCELED WAREHOUSE RECEIPTS.

Section 11 of the USWA (7 U.S.C. 250) states ... " While an original receipt issued under this Act is outstanding and uncanceled by the warehouse operator, an additional receipt may not be issued for the same agricultural product (or any portion of the same agricultural product) represented by the outstanding receipt, except as authorized by the Secretary.

A warehouse receipt is not considered issued until it is delivered to the depositor. Occasionally, federally licensed warehouse operators lose warehouse receipts before delivery to depositors or after they have been returned or canceled.

Used to identify warehouse receipts issued by the warehouse operator that may have been lost or misplaced.

WA-140, AGREEMENT TO ASSUME AGRICULTURAL PRODUCT STORAGE OBLIGATIONS.

Section 3 of the USWA (7 U.S.C. 242) states "The Secretary may issue to any warehouse operator a license for the operation of a warehouse in accordance with this Act...."

Used for warehouse operators who have assumed the interest of other warehouse operators operating under the USWA.

WA-141, AGREEMENT WITH RESPECT TO AGRICULTURAL PRODUCT STORAGE OBLIGATIONS.

This form is used by warehouse operators desiring to merge a location with its license at a different location and guaranteeing the storage and delivery of all agricultural product(s) obligations as required under the USWA.

WA-220, WA-221, and WA-222, EXAMINATION REPORTS.

(detailed below)

WA-220, EXAMINATION REPORT.

Used by warehouse examiners when personally inspecting the warehouse property specifically used for cotton warehouses.

WA-221, EXAMINATION REPORT (SUPPLEMENT 1).

Used by warehouse examiners when personally inspecting the warehouse property specifically used for cotton warehouses.

WA-222, EXAMINATION REPORT OF INDIVIDUAL BUILDINGS (SUPPLEMENT 2).

Used by warehouse examiners when personally inspecting the warehouse property specifically used for cotton warehouses.

WA-225, WAREHOUSE OPERATOR'S STATEMENT AND EXAMINER'S COMPARISON OF OBLIGATED STOCKS.

Used as part of the cotton examination to determine that the warehouse operator has sufficient stocks on hand to cover receipted and nonreceipted storage obligations. This is done by making a physical inventory of stocks on hand and comparing it with the storage obligations.

WA-237, ORDER FOR PRINTING U.S. WAREHOUSE RECEIPT FORMS.

Section 3 (7 U.S.C. 242) states "The Secretary may issue to any warehouse operator a license...the warehouse operator agrees, as a condition of the license, to comply with this Act (including regulations promulgated under this Act)."

Used by the warehouse operator to order warehouse receipts to be printed for use by the warehouse in issuing USWA warehouse receipts. These forms are ordered from printers who have an authorized printing agreement with AMS.

WA-302, EXAMINATION REPORT.

The warehouse examiner completes examination form WA-302 during personal inspection of the warehouse property for grain warehouses.

WA-303, ORIGINAL AND/OR AMENDMENT EXAMINATION REPORT.

The warehouse examiner completes examination form WA-303 during personal inspection of the warehouse property for grain warehouses.

WA-308, WAREHOUSE OPERATOR'S STATEMENT AND EXAMINER'S COMPARISON OF OBLIGATIONS AND STOCKS.

This form is part of the grain examination to determine that the warehouse operator has sufficient stocks on hand to cover receipted and nonreceipted storage obligations. This is done by making a physical inventory of stocks on hand and comparing it with the storage obligations.

WA-372, SCHEDULE OF CHARGES – TARIFF FOR STORING AND HANDLING AGRICULTURAL PRODUCTS.

Section 3 of the USWA (7 U.S.C. 242) states " The Secretary may issue to any warehouse operator a license for the operation of a warehouse in accordance with this Act if... and the rules and regulations prescribed thereunder." Section 13 of the USWA (7 U.S.C. 252) states "The Secretary may suspend or revoke any license issued on the ground that unreasonable or exorbitant charges have been imposed for services rendered..."

This form must be completed by all warehouse operators applying for a license under the USWA and forwarded to the Warehouse and Commodity Management Division (WCMD) for acceptance. The warehouse operator must have a complete schedule of charges and rules that will apply at the warehouse to be licensed. After licensing, any warehouse operator wanting to change any of the charges or rules must file an amended tariff with WCMD before putting the new charges or rules into effect. The current accepted tariff must be posted in a conspicuous place.

AMS works with the warehouse operator by accepting tariffs in other formats such as in a memorandum displaying the schedule of charges and rules that apply at the warehouse. AMS will accept these by various methods of transmission, such as mail, fax, and e-mail.

WA-561, ORIGINAL WAREHOUSE EXAMINATION REPORT (PROCESSED COMMODITIES).

Commodity Credit Corporation Approved Warehouses (7 CFR 1423.9) specifies that a warehouse must be examined by a person designated by CCC and periodically to determine compliance.

The original examination occurs after an application has been received for a storage agreement or license agreement. The examiner completes Form WA-561 for this purpose by onsite examination of the warehouse to obtain information to the type of storage facility, management, handling equipment, and other information necessary to reach a

decision with respect to the eligibility of the facility for approval under a storage agreement. The examiners obtain the information from warehouse management, by personal observation, and general knowledge.

WA-562, SUBSEQUENT EXAMINATION REPORT (PROCESSED COMMODITIES).

As part of a subsequent examination, the examiner completes the WA-562, "Subsequent Examination Report (Processed Commodities)" to report on the warehouse, warehouse operator, housekeeping practices, and agricultural product(s) in store, to determine if the warehouse and the warehouse operator continues to meet the standards for approval.

WA-570, INVENTORY ADJUSTMENT NOTICE.

As part of each examination, the examiners may find it necessary to complete Form WA-570, "Inventory Adjustment Notice," which is used to adjust inventories, reject damaged product, and provide the warehouse operator an opportunity to acknowledge liability so that presentation of claims may be facilitated. The form is completed by the examiner from information obtained from the management and by personal examination of the agricultural product(s) in storage, when necessary.

WA-580, PORT FACILITY EXAMINATION CHECKLIST.

This form is prepared at all port terminal examinations to record the conditions found during such examination and may be used at export food aid commodities examinations.

WA-580-1, TRANSLOADING EXAMINATION CHECKLIST.

This form is prepared at all transloading examinations and is used to record the conditions found during such examination and may be used at export food aid commodities examinations.

Listed below are form numbers and titles of the applicable "Licensing Agreements and/or Addendum."

Section 3 of the USWA (7 U.S.C. 242) states... "The Secretary shall have exclusive power, jurisdiction, and authority, to the extent that this Act applies with respect to—(1) each warehouse operator licensed under this Act; (2) each person that has obtained an approval to engage in an activity under this Act ... may issue to any warehouse operator a license for the operation of a warehouse..."

The USWA provides a licensing framework for Federal warehouses, warehouse operators, inspectors, samplers, classifiers, and weighers that establishes a set of broad general regulations that are not commodity specific and secondly places the more specific terms and conditions of each license into specific licensing agreements and applicable addenda. "Licensing Agreements" have been developed for those agricultural product(s) currently licensed under the Act.

The "Licensing Agreements" might contain an "Addendum to the Terms and Conditions of Licensing/Provider Agreement" which would contain amended and modified terms and conditions of the applicable licensing or provider agreement.

WA-400, ADDENDUM TO THE TERMS AND CONDITIONS OF THE LICENSING/PROVIDER AGREEMENT.

This is a generic agreement that will be used for changes that may be necessary to the Licensing or Provider Agreements.

WA-401, LICENSING AGREEMENT FOR COTTON WAREHOUSE OPERATORS.

As a condition of initial and continued licensing under the United States Warehouse Act (USWA), administered by the Administrator, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), the Warehouse Operator agrees to the terms and conditions set forth in this Agreement, the regulations found at 7 CFR Part 735 and the Statute found at 7 U.S.C. 241 *et seq.*

WA-402, LICENSING AGREEMENT FOR GRAIN AND RICE WAREHOUSE OPERATORS.

As a condition of initial licensing and continued licensing under the United States Warehouse Act (USWA), administered by the Administrator of the United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS), the Warehouse Operator agrees to the terms and conditions set forth in this WA-402 Licensing Agreement for Grain and Rice Warehouse Operators (Agreement) and the regulations found at 7 CFR Part 735 and the statute found at 7 U.S.C. 241 *et seq.*

WA-405, LICENSING AGREEMENT FOR NUT WAREHOUSE OPERATOR.

As a condition of initial and continued licensing under the United States Warehouse Act (USWA), administered by the Administrator, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), the Warehouse Operator agrees to the terms and conditions set forth in this Agreement, the regulations found at 7 CFR Part 735 and the Statute found at 7 U.S.C. 241 *et seq.*

WA-406, LICENSING AGREEMENT FOR DRY BEAN WAREHOUSE OPERATORS.

As a condition of initial licensing and continued licensing under the United States Warehouse Act (USWA), administered by the Administrator of the United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS), the Warehouse Operator agrees to the terms and conditions set forth in this WA-406 Licensing Agreement for Dry Bean Warehouse Operators (Agreement), the regulations found at 7 CFR Part 735, and the statute found at 7 U.S.C. 241 *et seq.*

WA-502, LICENSING AGREEMENT FOR EXPORT FOOD AID COMMODITY WAREHOUSE OPERATORS.

This Agreement applies exclusively to United States Government Export Food Aid Commodities (EFAC) stored or handled at a licensed port warehouse or transloading facility in the United States.

WA-460, PROVIDER AGREEMENT TO ELECTRONICALLY FILE AND MAINTAIN WAREHOUSE RECEIPTS AND UNITED STATES WAREHOUSE

ACT DOCUMENTS.

Section 11 of the USWA (7 U.S.C. 250) states "...The Secretary may promulgate regulations that authorize the issuance, recording, and transfer of electronic receipts, and the transfer of other electronic documents in accordance with this subsection.

The USWA 2000 allows for the use of electronic warehouse receipts for all agricultural products and the use of other electronic documents. As necessary, other "Provider Agreements" to cover those instances when an agreement is needed will be done.

The following will be used to accommodate instances when these documents are needed:

WA-460-1, ADDENDUM TO THE PROVIDER AGREEMENT TO ELECTRONICALLY FILE AND MAINTAIN COTTON WAREHOUSE RECEIPTS.

This addendum authorizes the Provider to establish and maintain a database and system, referred to as a central filing system (CFS) for the purpose of electronically filing cotton electronic warehouse receipts issued under the United States Warehouse Act (USWA) and permits the Provider to accept the filing of electronic warehouse receipts from other than USWA licensed warehouse operators in such electronic data filing system. Such electronically filed warehouse receipts for cotton are hereafter referred to as "Electronic Warehouse Receipts (EWRs)."

This Addendum sets forth the Provider's minimum requirements for EWR record formatting, reporting requirements and the protocols to be used in the transmission of such information.

WA-460-2, ADDENDUM TO THE PROVIDER AGREEMENT TO ELECTRONICALLY FILE AND MAINTAIN GRAIN WAREHOUSE RECEIPTS AND U.S. WAREHOUSE ACT DOCUMENTS.

This addendum authorizes the Provider to establish and maintain a database and system, referred to as a central filing system (CFS) for the purpose of electronically filing grain warehouse receipts and U.S. Warehouse Act (USWA) grain documents issued under the authority of the USWA. This Addendum permits the Provider to electronically accept and file grain warehouse receipts from warehouse operators other than USWA-licensed warehouse operators in their CFS.

WA-460-9, ADDENDUM TO THE PROVIDER AGREEMENT TO ELECTRONICALLY FILE AND MAINTAIN RICE WAREHOUSE RECEIPTS.

This addendum authorizes the Provider to establish and maintain a database and system, referred to as a central filing system (CFS) for the purpose of electronically filing rice electronic warehouse receipts issued under the United States Warehouse Act (USWA) and permits the Provider to accept the filing of electronic warehouse receipts from other than USWA licensed warehouse operators in such electronic data filing system. Such electronically filed warehouse receipts for rice are hereafter referred to as "Electronic Warehouse Receipts (EWRs)."

WA-460-11, ADDENDUM TO THE PROVIDER AGREEMENT TO ELECTRONICALLY FILE AND MAINTAIN COFFEE WAREHOUSE RECEIPTS.

This addendum authorizes the Provider to establish and maintain a database and system, referred to as a central filing system (CFS) for the purpose of electronically filing coffee warehouse receipts issued under the United States Warehouse Act (USWA) and permits the Provider to accept the filing of warehouse receipts from other than USWA licensed warehouse operators in such electronic data filing system. Such electronically filed warehouse receipts for coffee are hereafter referred to as “Electronic Warehouse Receipts (EWRs).”

WA-460-12, ADDENDUM TO THE PROVIDER AGREEMENT TO ELECTRONICALLY FILE AND MAINTAIN COCOA WAREHOUSE RECEIPTS.

This addendum authorizes the Provider to establish and maintain a database and system, referred to as a central filing system (CFS) for the purpose of electronically filing cocoa electronic warehouse receipts issued under the United States Warehouse Act (USWA) and permits the Provider to accept the filing of electronic warehouse receipts from other than USWA licensed warehouse operators in such electronic data filing system. Such electronically filed warehouse receipts for cocoa are hereafter referred to as “Electronic Warehouse Receipts (EWRs).”

WA-460-13, ADDENDUM TO THE PROVIDER AGREEMENT TO ELECTRONICALLY FILE AND MAINTAIN ORANGE JUICE WAREHOUSE RECEIPTS.

This addendum authorizes the Provider to establish and maintain a database and system, referred to as a central filing system (CFS), for the purpose of electronically filing orange juice electronic warehouse receipts issued under the United States Warehouse Act (USWA) and permits the Provider to accept the filing of electronic warehouse receipts from other than USWA licensed warehouse operators in such electronic data filing system. Such electronically filed warehouse receipts for orange juice are hereafter referred to as “Electronic Warehouse Receipts (EWRs).”

WA-490, PROVIDER AGREEMENT TO ELECTRONICALLY FILE AND MAINTAIN OTHER ELECTRONIC DOCUMENTS.

This provider agreement authorizes the Provider to establish and maintain a database and system, referred to as a central filing system (CFS) for the purpose of electronically filing documents related to the shipment, payment, and financing of the sale of agricultural products as authorized by the U. S. Warehouse Act (USWA).

WA-490-1, ADDENDUM TO THE PROVIDER AGREEMENT TO ELECTRONICALLY FILE AND MAINTAIN OTHER ELECTRONIC DOCUMENTS.

This provider agreement authorizes the Provider to establish and maintain a database and system, referred to as a central filing system (CFS) for the purpose of electronically filing

documents related to the shipment, payment, and financing of the sale of agricultural products as authorized by the U. S. Warehouse Act (USWA).

Provider Agreements will be adapted on a case-by-case basis to those individual instances for other electronic documents.

Use of Electronic Warehouse Receipts (EWR's) and Electronic Documents.

Congress originally amended the USWA of 1916 statute first in 1990 to provide the Secretary authority to allow cotton warehouse operators the ability to issue electronic warehouse receipts and secondly in 1992 to allow EWRs for any State and non-licensed warehouses.

The USWA of 2000 allows for the use of electronic warehouse receipts for all agricultural products.

A EWR is a negotiable electronic document considered equal to and possesses identical attributes as a negotiable paper warehouse receipt. Because it is electronic, it offers instantaneous transfer and negotiability from one party to another with the security provided all fully legal warehouse receipts.

Section 11(e)(4) of the USWA provides that “(an) electronic receipt issued or other electronic document transferred, in accordance with this Act shall not be denied legal effect, validity, or enforceability on the grounds that the information is generated, sent, received, or stored by electronic or similar means.”

Under the provider agreement for these functions, in addition to other activities, a party will be able to take a paper document relating to the shipment, payment, and financing of the sale of an agricultural product to an approved provider and the provider may generate an identical electronic document for electronic transmission.

Section 11(e) also provides that in establishing this electronic document system, the Secretary may act “notwithstanding any other provision of Federal or State law...”

The USWA also permits State and non-licensed warehouse operators to issue EWR's and other electronic documents under the Federal system.

Examples of other documents could be weight and grade certificates, phytosanitary certificates, bills of lading, shipping orders, export evidence certificates, etc.

Approved providers must have an Agreement with AMS and comply with the terms of that Agreement.

The below are forms used for agricultural product(s) for which there are no regulations under USWA but which are stored under CCC Programs.

Explanation of reporting requirements for which there are no specific form.

The Act is what is termed a permissive regulatory act. It is permissive in that it applies only to those warehouse operators who voluntarily elect to operate under its provisions and are accepted to do so. The CCC and its uniform storage agreements are similar in application.

All together both programs deal with approximately 3,000 warehouses who handle numerous agricultural product(s) with capacity from very small to very large, at country locations to processors and exporters, individual proprietors to multi-national corporations, some who do their own accounting and recordkeeping to CPA contracted accounting procedures and computer systems, etc.

Each such warehouse operator and warehouse must be examined to determine if they meet licensing and/or approval standards and, after licensing and/or approval, to continue to meet such standards. Consequently, regulations and operating requirements, examining procedures and forms must be geared to all such persons and to all such operations.

A uniform system of reporting as to time, form, and information needed is not practical or feasible without undue burden on those regulated. Where no particular form or type of report is specified, some discretion can be used in requesting or requiring such information.

Section 7 (7 U.S.C. 246) provides the Secretary with such authority. Failure of a warehouse operator to comply is grounds for suspension and possible revocation of license. Section 13 (7 U.S.C. 252)...” states that the Secretary may suspend or revoke any license issued, or approved for an activity provided under this Act”...”for a material violation of, or failure to comply, with any provision of this Act...including regulations promulgated.....”

Recordkeeping Requirements

Records are maintained by licensed warehouse operators as a matter of general business practices and are not maintained expressly for USDA. However, recordkeeping requirements under the USWA require retention of certain records for 6 years. This burden is accounted for on the following AMS-71 line items that pertain to the 6 year retention requirements:

- 1) WA-401, Licensing Agreement for Cotton Warehouse Operators;
- 2) WA-402, Licensing Agreement for Grain and Rice Warehouse Operators;
- 3) WA-405, Licensing Agreement for Nut Warehouse Operators;
- 4) WA-406, Licensing Agreement for Dry Bean Warehouse Operators;
- 5) WA-460, Provider Agreement to Electronically File & Maintain Warehouse Receipts & USWA Documents; and
- 6) WA-502, Licensing Agreement for Export Food Aid Commodity Warehouse Operators.

The information collected and reported comes from many sources and is collected in part by Federal employees during onsite visits.

The warehouse operator needs to maintain an approved system of accounts because an examination is not possible if a proper system of accounts is not available. The warehouse operator must maintain adequate inventory and operating records. To cover each and every product would require a multiplicity of forms and instructions. As information is needed, it can be requested under authority of the Act, and the regulations, so long as it is pertinent to the warehouse operator's lawful responsibilities. Prescribed forms required on a regular basis would result in receiving more information than needed and would place an unnecessary burden on warehouse operators and the Department. If the warehouse operator's system of accounts meets requirements of the regulations, there is no reason to prescribe a standard set of books and accounts.

The warehouse receipt is the evidence of storage between the depositor and the warehouse operator--it is the contract of storage--it is symbolic of the product it represents and there should be no uncertainty as to what that product is, and finally, it must be an enforceable legal bailment.

Section 11 (7 U.S.C. 250) of the statute states that ...“Each receipt issued for an agricultural product stored or handled in a warehouse licensed under this Act shall contain such information for each agricultural product covered by the receipt, as the Secretary may require by regulation.”.... Section 735.302 of the general regulations states the form and content required and other general requirements. These requirements are also listed in more detail in the applicable licensing agreement for a particular agricultural product.

The statute allows for Electronic Receipts and Electronic Documents (Section 11 (7 U.S.C. 250)) “to be issued, recorded, and transferred, and electronic documents may be transferred, under this subsection with respect to an agricultural product under, a system or systems maintained in one or more locations....”

Section 735.303 (Electronic Warehouse Receipts (EWRs)) contains the requirements for the issuance of these EWRs and states that data may be stored and transferred in and from a Central Filing System maintained by an approved provider. This information and requirements are also contained in the approved provider’s agreement.

Section 7 (7 U.S.C. 246) of the statute states “To facilitate the administration of this Act, the following persons shall maintain such records and make such reports,” “A warehouse operator that is licensed under this Act. A person operating a system for the electronic recording and transfer of receipts and other documents...any other person engaged in the issuance of electronic receipts or the transfer of documents.”

Inspection and weight certificates are the basis for receiving agricultural product(s) into a warehouse, issuance of the warehouse receipt and delivering agricultural product(s) from the warehouse. They are the depositor's assurance of what he has deposited and what he is entitled to receive on delivery. Copies must be maintained for auditing purposes to determine the correctness of warehouse receipts issued. These requirements give force

and effect to Section 3 (7 U.S.C. 242) of the Act which requires that agricultural products ". . .shall be inspected, ...sampled,... classified... and weighed by a person duly licensed to grade the same under this Act ..."

These requirements are also found in Section 735.300 of the general regulations and more specific information can be found in the applicable licensing agreement.

The condition of agricultural product(s) in storage is important to depositors who expect to redeem their deposit, to the warehouse operator who is required to exercise the care of a prudent operator and to the administration of the program as it affects the warehouse operator's financial strength. These requirements fix the warehouse operator's reporting and recordkeeping needs to satisfy the warehouse operator's obligations in this respect.

The below forms are in a deactivated state; however, they will remain on the AMS-71 in case of future need.

WA-403–Licensing Agreement for Wool Warehouses.

WA-404 – Licensing Agreement for Tobacco Warehouses.

WA-407–Licensing Agreement for Sweeteners Warehouses.

WA-408–Licensing Agreement for Cottonseed Warehouses.

WA-460-3--Addendum to the Provider Agreement to Electronically File and Maintain Wool Warehouse Receipts.

WA-460-4--Addendum to the Provider Agreement to Electronically File and Maintain Tobacco Warehouse Receipts.

WA-460-5--Addendum to the Provider Agreement to Electronically File and Maintain Nut Warehouse Receipts.

WA-460-6--Addendum to the Provider Agreement to Electronically File and Maintain Dry Beans Warehouse Receipts.

WA-460-7--Addendum to the Provider Agreement to Electronically File and Maintain Sweetener Warehouse Receipts.

WA-460-8--Addendum to the Provider Agreement to Electronically File and Maintain Cottonseed Warehouse Receipt.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Information technology is used whenever it is feasible to do so. The AMS, Warehouse and Commodity Management Division, maintains a web page which allows interested parties to access information on the Act. The OMB approved forms and regulations listed in and attached to this clearance package, that are applicable to the general public, are available online. These forms are available through AMS's e-Forms website (<https://www.ams.usda.gov/resources/forms>) and are also accepted by mail, e-mail, and facsimile in the Warehouse and Commodity Management Division. These methods of communication allow our customers to make their request to us in the most feasible manner for their particular operation.

It is our intent to continue enhancing our website to accommodate as much of the general information regarding our program as possible. This will, therefore, make it accessible to those wishing to obtain information regarding what is required to become licensed.

A larger portion of our warehouse operators maintain their records on a computer and periodically review new and improved technology to enhance their systems. The Department accepts such records when they meet the requirements of the statutes and regulations. The Department likewise considers every possibility for the use of new technology.

AMS warehouse examiners are equipped with laptop computers purchased by AMS for use in conducting warehouse examinations in electronic format. Programmers are continually working on the laptop computer program to enhance its capabilities and utilizing it to its full advantage when conducting warehouse examinations of agricultural products.

Many of the forms included in this clearance package are internal operating forms for use by warehouse examiners in conducting compliance checks of warehouse operators licensed and approved under the USWA or a storage agreement. These forms, therefore, will not be posted for general use by the public.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose described in item 2 above.

There is no duplication of collection - all information is used solely in connection with licensing/contracting responsibilities of the Agency. No other method is available to provide those charged with issuing licenses under the Act or executing agreements (contracts) for CCC to meet their obligations.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

Only common business records necessary to an ongoing warehouse business and already maintained by licensed-approved entities are required. Warehouse operators with lesser volume of business have less reporting. There are 1,500 small businesses and entities in

this collection.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Less frequent examinations and review of records contributes to more serious deficiencies and affects the integrity of the system. This information is also required for a warehouse operator to be considered for continued licensing/approval.

7. Explain any special circumstances that require the collect to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 12320.5.

- **Requiring respondents to report information to the agency more often than quarterly;** (Please see the answer below for a response to this bullet).
- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

In some instances, respondents are required to report information to the agency more often than quarterly. Normally warehouses are examined once each year for compliance purposes. However, in instances where the warehouse operator is found to be in noncompliance, a WA-125, Memorandum of Adjustments, noting those items of noncompliance is issued and a response to those items noted is required in 15 days.

- **Requiring respondents to submit more than an original and two copies of any document;**

There are no special circumstances requiring respondents to submit more than an original and two copies of any document.

- **Requiring respondents to retain records, other than health, medical, government contract, grain-in-aid, or tax records for more than three years;**

Each warehouse operator is to have and maintain a system of accounts approved for the purpose by the Agency, i.e., stock record, a separate record for each depositor of grain including a detailed record of all money received and disbursed and of all insurance policies taken out and canceled.

Licensing Agreements issued under the USWA require that records be kept for a period of 6 years after December 31 of the year in which created

and for such longer period as may be necessary for the purposes of any litigation which the warehouse operator knows to be pending or as may be required by the Administrator in particular cases to carry out the purposes of the Act.

- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**

There are no special circumstances that would be used in connection with a statistical survey.

- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

There are no special circumstances that would require the use of a statistical data classification that has not been reviewed and approved by OMB.

- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use;**

There are no special circumstances that include a pledge of confidentiality that is not supported by authority established in statute or regulation.

- **Requiring respondents to submit proprietary trade secret or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law;**

Warehouse operators are required to furnish certain information which could be classified as confidential as part of their licensing requirements and continued licensing. This agency protects the confidentiality to the extent permitted by law.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the Agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

A Federal Register Notice and request for comments was published on May 8, 2018, Vol.

83, No. 89, page 20787. Interested parties were given until July 9, 2018, to submit comments regarding the collection of information contained in the package. No comments were received regarding the clearance package.

An Emergency Extension was filed with OMB regarding this collection and granted through September 30, 2018.

- **Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

In addition to the persons outside the agency listed below, AMS maintains open dialogue with individual industry partners as well as stakeholders from trade associations. These contacts are made and maintained through email, telephone, and attendance at industry conferences. Additionally, respondents are in contact with Agricultural Warehouse Examiners during the annual examination process and throughout the rest of the year. AMS/Warehouse and Commodity Management Division staff are available to provide instruction and receive feedback on any aspect of the forms identified in this Information Collection packet.

The agency maintains close contact and discussion with:

1. Reece Langley, National Cotton Council of America (202) 745-7805;
2. Andrew G. Jordan, PhD, Cotton Growers Warehouse Assoc. (901) 246-5338;
3. Shane Stevens, Cotton Growers Warehouse Assoc. (662) 453-8941;
4. Jill Whitely, Cotton Warehouse Assoc. of America (806) 577-7193;
5. Max Fisher, National Grain and Feed Assoc. (202) 289-0873;
6. Ben Mosely, USA Rice Federation (703) 236-2600;
7. Tim McGreevy, U.S. Dry Pea and Lentil Assoc. (208) 882-3023;
8. John Powell, American Peanut Sheller's Assoc. (229) 888-2508, and
9. Tyrone Spearman, National Peanut Buying Point Assoc. (229) 386-1716.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There have been no decisions made to provide any payment or gift to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis

for the assurance in statute, regulation, or agency policy.

All information collected is treated as confidential as indicated on the form and in conformance with the Privacy Act and Freedom of Information Act.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature in our documents that individuals are required to answer. However, to be considered for licensing or approval, warehouse operators may be required to furnish data that could be considered as sensitive in nature such as financial information.

12. Provide estimates of the hour burden of the collection of information. The statement should:

Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of difference in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.

See the Supplementary AMS-71 for an estimated burden break down for each required form. Each of the forms has a different estimated usage or annual response and different average time to respond

Provide estimates of annualized cost to respondents for the hour burdens for collections of information identifying and using appropriate wage rate categories

Estimated annual cost to the public is \$1,164,030.80 which is based on the estimated annual burden of 40,987 hours times an average wage and salary of \$19.28 and \$9.12 for total benefits. These averages are based upon the

Bureau of Labor Statistics.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in items 12 and 14).

The cost estimate should be split into two components: (a) A total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking; containing the information collection, as appropriate.

Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keeping records for the Government, or (4) as part of customary and usual business or private practices.

There are no requirements under our regulations for capital and startup costs.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operation expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from items 12, 13, and 14 in a single table.

The estimated total annual cost to the Federal Government is \$693,000. Of this total,

\$250,000 covers costs for development, printing, distribution, storage, maintaining, retrieving, and disseminating data. Employee wages of specialists (General Schedule Grades 12-15; not all of each employee's time is obligated to USWA) responsible for administering the USWA are estimated at \$443,000.

15. Explain the reason for any program changes or adjustments reported in items 13 or 14 of the OMB form 83-I.

The decrease in recordkeeping burden hours from 93,600 to 32,474 is a result of an analysis of data that paints a clearer picture of the actual recordkeeping burden concurrent with changes in business practices and methods. On its face, this appears as an increase in the burden hours listed on the AMS-71 compared to the FSA-85 used in the previous OMB approval, however, this submission is more accurate because we now include the recordkeeping burden in the total overall burden. Previously, the 93,600 recordkeeping hours were identified but not included in the total burden hours. With this submission the burden hours on the AMS-71 grid shows an increase of 32,424 burden hours as a result of including the recordkeeping hours as a line item entry.

Ten forms were deactivated from this Information Collection request. This minor adjustment is reflected in the reporting burden hours. The previous number of reporting burden hours requested was 8,163 as compared to the current reporting burden hours requested in this package of 8,113 hours for a difference of -50 hours. The following forms were deactivated:

WA-403–Licensing Agreement for Wool Warehouse Operators.

WA-404–Licensing Agreement for Tobacco Warehouse Operators.

WA-407–Licensing Agreement for Sweeteners Warehouse Operators.

WA-408–Licensing Agreement for Cottonseed Warehouse Operators.

WA-460-3–Addendum to the Provider Agreement to Electronically File and Maintain Wool Warehouse Receipts.

WA-460-4–Addendum to the Provider Agreement to Electronically File and Maintain Tobacco Warehouse Receipts.

WA-460-5–Addendum to the Provider Agreement to Electronically File and Maintain Nut Warehouse Receipts.

WA-460-6–Addendum to the Provider Agreement to Electronically File and Maintain Dry Beans Warehouse Receipts.

WA-460-7–Addendum to the Provider Agreement to Electronically File and Maintain Sweetener Warehouse Receipts.

WA-460-8–Addendum to the Provider Agreement to Electronically File and Maintain Cottonseed Warehouse Receipts.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The information collected is not planned for publication. It is used solely to administer the program.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

Forms management practices issued by the General Services Administration and followed by the Agricultural Marketing Service/Warehouse and Commodity Management Division require form stocks or electronic files to be controlled by the version or edition date on the forms and regulations. This date determines whether the form and regulations are current or obsolete for the purposes of the program requirements it is fulfilling. Offices are notified on the status of program forms and regulations and are instructed to destroy or continue to use the stocks of forms/regulations based on the dates.

18. Explain each exception to the certification statement identified in item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-1.

There are no exceptions to the certification statement identified in item 19, "Certification for Paperwork Reduction Act Submission" of OMB Form 83-1.

19. How is this information collection related to the Customer Service Center? Will this information be part of their one stop shopping?

Our customers (warehouse operators) under this information collection package do not use USDA Customer Service Centers. These USDA customers (warehouse operators) deal directly with our Warehouse and Commodity Management Division.