

The Warehousing Development and Regulatory Authority (Warehouse Accreditation) Regulations, 2011.

UNION OF INDIA

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Rule

THE-WAREHOUSING-DEVELOPMENT-AND-REGULATORY-AUTHORITY of 2011

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The Warehousing Development and Regulatory Authority (Warehouse Accreditation) Regulations, 2011. Published vide Notification New Delhi, the 28th December, 2011 G.S.R.19(E). - In exercise of the powers conferred by clause (a) of sub section (2) of section 35 read with section 51 of the Warehousing (Development and Regulation) Act, 2007 (37 of 2007), the Warehousing Development and Regulatory Authority, in consultation with the Warehousing Advisory Committee and with the previous approval of the Central Government, hereby makes the following regulations, namely-

Chapter I Preliminary

1. Short title, extent and commencement.

(1) These regulations may be called the Warehousing Development and Regulatory Authority (Warehouse Accreditation) Regulations, 2011. (2) They shall come into force on the date of their publication in the official Gazette.

2. Definitions.

(1) In these regulations, unless the context otherwise requires - (i) "Act" means the Warehousing (Development and Regulation) Act, 2007 (37 of 2007); (ii) "accreditation agency" means an agency,

whatever be its constitution, registered as an accreditation agency with the Authority under the Act, the rules and the Warehousing Development and Regulatory Authority (Registration of Accreditation Agency) Regulations 2011;(iii)"Authority" means The Warehousing Development Regulatory Authority constituted under sub-section (1) of section 24 of the Act;(iv)"applicant" means a person making an application to the accreditation agency for seeking a certificate of accreditation under the Act, rules and these regulations;(v)"Appellate Authority" means the appellate Authority appointed by the Central Government under the Act read With the Appellate Rule;(vi)"inspection" means the process of inspection undertaken by an inspection agency and includes an audit, inspection, site visit by an inspection agency or any person Authorised by the accreditation agency for this purpose. This will also include any inspection conducted by an accreditation agency pursuant to directions from the Authority;(vii)"inspection report" means the report made by the accreditation agency recording its inspection of the warehouse that it had inspected for the purpose of awarding it a certificate of accreditation;(viii)"certificate of accreditation" means the certificate of accreditation in the form specified In Schedule 'A' to these regulations that will be issued by an accreditation agency in relation to a warehouse in accordance with the Act. Rules and these Regulations;(x)"examiner" means the, person appointed by the Accreditation Agency to conduct inspection and examination under the Act, rules and these regulations;(ix)"regulations" means the Warehousing Development and Regulatory Authority (Warehouse Accreditation) Regulations, 2011 and such other regulations made by the Authority.(x)"rules" means the Warehousing (Development and Regulation) Appellate Authority Procedure Rules, 2010;(xi)"Warehouse Manual" means the manual in accordance with which the accreditation agencies will undertake the Inspection of warehouses which may be modified by the Authority from time to time,(2)The words and expressions used in these regulations but not defined, and defined in the Act and the rules shall have the same meaning respectively assigned to them in the Act or the rules, as the case may be.

Chapter II

Grant of Certificate of Accreditation

3. Process of grant of certificate of accreditation.

(1)No warehouse shall be granted registration under the Act unless it has obtained a certificate of accreditation from an accreditation agency in addition to fulfilling other eligibility criteria under section 3 of the Act, the rules and regulations made thereunder.(2)An applicant, seeking grant of certificate of accreditation shall obtain the same from any accreditation agency registered with the Authority and the applicant shall provide to the accreditation agency the following-(i)documents to ascertain adequate positive net worth of the warehouse, a certificate from a Chartered Accountant or creditworthiness from a scheduled bank of the individual warehouse or its organisation will suffice;(ii)[proof of ownership or lease deed or rent agreement, showing possession of the warehouse; [Substituted by Notification No. G.S.R. 191(E), dated 13.3.2015(w.e.f. 8.11.2010)](iii)an undertaking that all the local laws have been complied with for carrying out the business of warehousing;](iv)the goods for which the registration is being sought;(v)List of the trained graders, weighers and samplers used in the warehouse;(vi)statement including all documents, records and

information about the storage worthiness of the warehouse for the specified goods including the insect or pest management, handling, sampling, grading, security, fire fighting systems etc; (vii) list of equipments which are necessary for the scientific storage of goods to be stored in the warehouse; (viii) insurance policies for fire or floods or theft or burglary or riots etc. and for the goods stored; (ix) insurance policies used for the goods stored; (x) audited statement, if any, in relation to warehouse; (xi) list of personnel together with their qualification and experience who are in charge of managing the concerned warehouse; (xii) statement on methodology adopted for valuation of goods which may be as per Agricultural Produce Marketing Committee, spot or future exchanges or news papers; (xiii) statement to support tie-ups, if any, With grading, testing laboratories; and (xiv) any other document and information that is required under the Act and the rules made thereunder or is notified by the Authority or as specified in the Warehouse Manual. (3) A certificate of accreditation shall be granted by an accreditation agency only when a warehouse complies with- (i) the construction standards of warehouses as per Bureau of Indian Standards/Central Warehousing Corporation/Food Corporation of India specifications; (ii) adequately positive net worth with documentary evidence; (iii) storage and handling requirements as specified in the Warehouse Manual; (iv) the availability of trained manpower; (v) insurance policies of the warehouse and the goods stored or to be stored in the warehouses; (vi) proper maintenance of record in the warehouses and timely reporting thereof; and (vii) any other requirement for conduct of the warehousing business under the Act and the rules. (4) an accreditation agency shall make and provide the applicant a certificate of accreditation, if found fit, In the event, the accreditation agency does not find it suitable for grant of an accreditation certificate for the warehouse, it shall clearly state the reasons for the same in its inspection report.

Chapter III

Inspection By Accreditation Agency

4. Formulation of Accreditation Standards.

(1) The Authority may prescribe warehouse accreditation standards and procedures for accreditation's. The prescribed accreditation standards and procedures shall be made part of the Warehouse Manual that shall be published by the Authority. (2) All accreditation agencies shall be bound to follow the warehouse specific accreditation standards and warehouse specific accreditation procedures as may be prescribed by the Authority and to undergo training, if required by it.

5. Inspection of Warehouses by Accreditation Agency.

(1) Before the grant of certificate of accreditation, an accreditation agency shall appoint one or more persons as examiners to undertake an inspection of the warehouse to ensure that all the, conditions prescribed under sub-regulation (3) of regulation 3 are fulfilled. (2) The fee for accreditation of a warehouse shall be borne by the relevant warehouseman.

6. Procedure for Inspection

(1)The accreditation agency shall give one week notice before conducting an initial inspection of the warehouse.(2)Notwithstanding anything contained in sub-regulation (1), where the accreditation agency is satisfied that in the interest of the depositors, or in public interest, no such notice should be given, it may conduct an inspection of the warehouse without such notice.(3)In case any of the conditions are not fulfilled, the accreditation agency shall give a notice to the warehouseman to rectify the same within a period of thirty days from the date of the receipt of such notice to the warehouseman.(4)On the expiry of the period provided in sub-regulation (3), there shall be another inspection conducted by the examiner on the direction of the accreditation agency to verify the compliance of the conditions of sub-regulation (3).(5)On the complete satisfaction of all the conditions prescribed under these regulations and any other condition notified by the Authority, the accreditation agency shall grant a certificate of accreditation in the form and manner as prescribed in Schedule 'A' to the warehouseman for the goods, specified in such certificate.

7. Inspection of Warehouse after Accreditation

(1)Each accreditation agency may appoint one or more persons as examiners to undertake an inspection of the condition of the registered warehouse, books of accounts, other records and documents of the warehouseman once every year after the grant of accreditation certificate.(2)The purpose of inspection referred to In sub-regulation (1) shall be as follows, namely:-(a)to ensure that the records and documents are being maintained in the manner required under the Act and the rules made there under;(b)that the provisions of the Act, rules and regulations are being complied with.

8. Obligations of Warehouseman towards the Accreditation Agency

(1)It shall be the duty of the warehouseman and his employees to produce to the accreditation agency (or any examiners appointed by it) such books, accounts, records, reports and other documents in his custody, control or possession and furnish the statements and information relating to a warehouse within such time as the examiner may require.(2)The warehouseman shall allow accreditation agency (or any examiners appointed by it) to have access, at least during the day, to the premises occupied by such warehouseman or by any other person, on his behalf and also extend reasonable facility for examining any books, records, report documents in the custody, control or possession of the warehouseman or any such other person on his behalf and also provide copies of documents or other material which in the opinion of the accreditation agency (or any examiners appointed by it) are relevant for the purposes of the inspection(3)It shall be the duty of every warehouseman and his employees to give to the accreditation agency, its personnel or any examiners appointed by it, all assistance in connection with the inspection which the warehouseman may reasonably be expected to give.

9. Submission of Monthly Report by the Accreditation Agency to the Authority

- The accreditation agency shall submit a monthly report about details of warehouses accredited and inspections made by it to the Authority.

Chapter V

Suspension Or Cancellation of Certificate of Accreditation

10. Process of Suspension or Cancellation of a Certificate of Accreditation.

(1) In the event the accreditation agency upon undertaking a periodic inspection determines that the warehouse or the warehouseman is defaulting in complying with requirements for grant of a certificate of accreditation or is not complying with any of the provisions) of the Act, the rules and regulations made thereunder, it shall record the same in its periodic inspection report and may determine that the nature of defaults by the warehouse or warehouse, as the case may be, the certificate of accreditation that it had earlier granted in respect of the relevant warehouse may be suspended or cancelled. The same shall be communicated to the relevant warehouseman in writing together with the copy of the periodic inspection report as soon as possible but not later than ten working days from the date of such decision. (2) The accreditation agency shall submit a copy of its inspection report as well as its decision to suspend or cancel the certificate of accreditation in respect of a warehouse to the Authority, as soon as possible but not later than five working days from the date of such decision. (3) In the event the Authority suspends or cancels the registration of a warehouse in accordance with the procedure specified in the Act read with the rules and regulations made thereunder; the certificate of accreditation issued by an accreditation agency in respect of such warehouse shall stand automatically suspended or cancelled, as the case may be, with effect from the date of such order of the Authority. (4) In the event the Authority withdraws its order of suspension of registration of a warehouse in accordance with the Warehousing (Development and Regulation) Registration of Warehouses Rules, 2010, the certificate of accreditation issued by an accreditation agency in respect of such warehouse for revoking the suspension of registration will stand reinstated, unless the Authority specifically directs that a new certificate of accreditation be issued by an accreditation agency in respect of such warehouse.

11. Effect of the suspension or cancellation of a Certificate of Accreditation

- Once the certificate of accreditation is suspended or cancelled, the Authority shall determine either to: (i) suspend or cancel the registration of the relevant warehouse; or (ii) order another accreditation agency to undertake an inspection of the warehouse and based on the findings of inspection report determine whether to suspend or cancel the registration of the relevant warehouse under the Act: Provided that this shall not prevent the warehouseman from being bound to satisfy its obligations to holders of negotiable warehouse receipts that had been issued in relation to such warehouse.

Chapter V

Renewal of Certificate of Accreditation

12. Process of Renewal of Certificate of Accreditation

- A warehouseman shall require a fresh certificate of accreditation, in accordance with the procedure specified above in these regulations, once the initial period of three years of the certificate of accreditation has expired.

Chapter VI

Fees

13. Payment of Fees

- Every warehouseman eligible for grant or renewal of a certificate of accreditation shall pay fees to the accreditation agency in such manner and within the period as specified by the Authority.

Chapter VII

Duties of Accreditation Agency

14. Duties of Accreditation Agency.

- Each accreditation agency shall ensure that-(i)the examiners are competent to undertake inspection or accreditation of warehouses;(ii)the examiners have conducted the inspection in a fair and transparent manner;(iii)records of inspection undertaken for warehouses are properly maintained;(iv)there is no conflict of interest whatsoever in the grant of certificate of accreditation or any inspection conducted under these regulations;(v)no examiner shall conduct the inspection of the same warehouse consecutively; and.(vi)comply with the reporting requirements to the Authority under the Act, rules and regulations made thereunder,

Chapter VIII

Dispute Resolution

15. Dispute

- Any person aggrieved by a decision in relation to-(i)the refusal of grant of certificate of accreditation by the accreditation agency; or(ii)the suspension or cancellation of the certificate of accreditation by the accreditation agency-may file a representation with the Authority for resolution of the dispute in accordance with the Warehousing Development and Regulatory Authority (Disputes) Regulations,2011.

16. Appeal

- Any person aggrieved by a decision of the Authority under regulation 15 above may submit an appeal to the Appellate Authority in accordance with the Warehousing (Development and Regulation) Appellate Authority Procedure Rules, 2010.

Chapter IX

Power of The Authority To conduct Inspection

17. Inspection

- Notwithstanding anything contained in provisions above, the Authority shall have the power to conduct any number of inspection of the warehouses and any matter connected with the warehousing business.

A

Certificate of Accreditation for carrying on the business of warehousing [See regulation 6(5)] Accreditation No. Date: Certificate of Accreditation is hereby granted to Warehouse located at District State owned/operated by which has been inspected as complying with requirements of the Warehousing (Development and Regulation) Act, 2007 (37 of 2007) on the following conditions. namely: -

1. This accreditation shall be valid from to for the warehouse mentioned above.-

2. The Accreditation Certificate has been granted to the Warehouse for the storage of following commodities/goods:

(i).....(ii).....(iii).....

3. The accreditation shall be liable to be cancelled or suspended in accordance with provisions of the regulation 11(1) of the Warehousing Development & Regulatory Authority (Warehouse Accreditation) Regulations, 2011.

4. Upon the receipt of the Certificate of the Accreditation, the warehouse shall display such certificate, in a conspicuous place in the principal place of its business.

5. The warehouse shall allow and assist the accreditation agency (or any examiners appointed by it), to inspect its office, books, records, papers, accounts etc. at any time.

6. The warehouse shall not transfer the certificate of accreditation granted to it to any other warehouse.

.....Signature and seal of the competent Authority of the accreditation agency