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Kansas Department of Agriculture
Grain Warehouse Program
1320 Research Park Drive
Manhattan, KS 66502
Tel: (785) 564-6699
FAX: (785) 564-6779



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Kansas Grain Warehouse Law

Article 25. - GRAIN

Kansas Administrative Regulations

4-25-1a. Definitions. Each of the following terms, as used in this article of the department's regulations, shall have the meaning specified in this regulation:

(a) "Act" means the Kansas grain warehouse law, K.S.A. 34-101 et seq. and amendments thereto, and the implementing regulations.

(b) "Conditional storage" means a location where grain is stored that is not part of the licensed storage of a licensed public warehouse but that meets the requirements of K.A.R. 4-25-19(c) or is otherwise deemed an adequate storage location by the secretary. Conditional storage may include adequately constructed steel or concrete bins with aeration; bunkers with adequate bases, sidewalls, tarps, and aeration; or any other structure approved by the secretary.

(c) "Emergency storage" means a location where grain is stored that is not part of the licensed storage of a licensed public warehouse, does not meet the requirements of K.A.R. 4-25-19(c), and has not otherwise been deemed an adequate licensed or conditional storage location by the secretary. This term shall include ground piles with no cover or aeration and other structures that do not have an adequate base, sidewall, cover, or aeration.

(d) "Functional unit" has the meaning specified for that term in K.S.A. 34-223, and amendments thereto.

(e) "Grain" has the meaning specified for that term in K.S.A. 34-223, and amendments thereto, and shall include dry edible beans.

(f) "Unpaid grain contract" means a contract, written or verbal, under which the title of grain has been transferred to a licensed public warehouse and the grain has been delivered to the licensed public warehouse, including a licensed conditional storage or emergency storage facility of the licensed public warehouse, but payment has not been made by the licensed public warehouse for the grain. This term shall include deferred payment contracts, price-later contracts, basis contracts, and other similar contracts. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and K.S.A. 34-223; effective Aug. 26, 2022.)

4-25-2. Record retention. (a) Each person who, as a result of licensure as a public warehouseman pursuant to the act, is liable for grain or has been liable for grain at any time during the preceding six years shall retain the following documents for all grain that the person is or was liable for during the preceding six-year period:

- (1) Scale tickets;
- (2) evidence of cancelled checks;
- (3) customer ledgers;

(4) records of daily grain position;
(5) insurance records;
(6) warehouse receipts; and
(7) any other document, stored electronically or by any other means, that identifies in any way any grain for which the person is or was liable.

(b) Any records required to be maintained pursuant to this regulation may be completed and maintained electronically, but all records shall be made available to the secretary upon request. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102, 34-228, 34-236, 34-246, 34-249a, 34-295a, 34-295b, and 34-2,104; effective March 8, 2002; amended Aug. 26, 2022.)

4-25-3. Return of documents. Each public warehouseman shall return to the secretary all unused warehouse receipts and all Kansas public warehouseman licenses when either of the following occurs:

(a) The public warehouseman is no longer engaged in business as a public warehouseman.

(b) The name of the public warehouseman changes. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-299; effective March 8, 2002.)

4-25-4. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102, 34-228 and 34-237; effective March 8, 2002; revoked Aug. 26, 2022.)

4-25-5. Storage liability reports. (a) No later than the fifth day of each month, each public warehouseman shall provide a copy of all of the public warehouseman's executed warehouse receipts for the previous month to the secretary. Copies of executed warehouse receipts may be provided to the secretary by electronic means. Each copy of executed warehouse receipts provided to the secretary by U.S. mail shall be postmarked no later than the fifth day of each month.

(b) Each public warehouseman shall maintain current and complete records at all times with respect to all grain, including grain owned by the public warehouseman, that is stored in or handled at the public warehouseman's licensed public warehouse. These records shall include a daily summarized position report, which shall include the following:

- (1) The total quantity of each kind of grain received and shipped by the licensed public warehouse;
- (2) the total quantity of each kind of grain remaining in the licensed public warehouse at the close of each business day; and
- (3) the public warehouseman's total storage obligation for each kind of grain at the close of each business day.

(c) Each public warehouseman shall provide to the secretary, no later than the fifth day of each month, a statement of stocks of grain that were stored in the licensed public warehouse through the last day of the preceding month, reflected as a company total that includes all functional units.

(d) All records required to be maintained pursuant to this regulation may be completed and maintained electronically, but the records shall be made available to the secretary upon request. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-295a; effective March 8, 2002; amended Aug. 26, 2022.)

4-25-6. Secretary's right to seal bins and weigh grain. Any grain on hand for which there are outstanding warehouse receipts may be weighed and required to be stored in sealed bins or tanks by the secretary. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-239; effective March 8, 2002.)

4-25-7. Public warehouse receipts; form. (a) Each public warehouse receipt form shall comply with K.S.A. 34-239, and amendments thereto, and all other applicable provisions of the act. Each public warehouse receipt form issued to a licensed public warehouse on or after the effective date of this regulation shall include the following:

"The undersigned public warehouseman is not the owner of the grain covered by this receipt, solely, jointly, or in common with others, unless otherwise stated herein. It is hereby agreed that the grain

herein described has been graded as required by law and may be stored with other grain of the same grade and that this grain is stored pursuant to the Kansas grain warehouse law and is subject to all of the rights, powers, privileges, and duties provided therein. This grain is fully covered by fire, lightning, tornado, and internal explosion insurance. The storage, insurance, elevation, and other charges incurred in conjunction with the storage of this grain shall be governed by the schedule of charges submitted to the secretary by the public warehouseman with whom this grain was deposited pursuant to K.S.A. 34-235, and amendments thereto.”

(b) Each public warehouse receipt issued to a licensed public warehouse for subsequent issuance to a producer shall be issued to the licensed public warehouse by a vendor authorized by the secretary and shall be issued only in electronic form. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102, 34-238, and 34-239; effective March 8, 2002; amended Aug. 26, 2022.)

4-25-8. Scale tickets; inbound form. (a) All grain delivered by a depositor to any licensed public warehouse licensed pursuant to the act shall be weighed and graded as provided for in the act.

(b) Each scale ticket for grain deposited at a licensed public warehouse shall be plainly marked “inbound,” shall be serially numbered, and shall contain, in a conspicuous location, the phrase “approved by the Kansas department of agriculture.” Each ticket shall also include lines designated for the following:

- (1) The name of the licensee receiving the grain;
- (2) the date the grain was deposited;
- (3) the name of the depositor delivering the grain;
- (4) the gross weight of the grain deposited;
- (5) the tare weight of the grain deposited;
- (6) the net weight of the grain deposited and a designation of whether the driver was on or off the truck when the net weight was obtained;
- (7) the test weight of the grain deposited;
- (8) the price of the grain deposited;
- (9) the kind of grain deposited; and
- (10) the signature of the public warehouseman or a duly authorized agent of the public warehouseman.

(c) Any public warehouseman may include additional information on a scale ticket. However, inbound scale tickets shall be used only for grain received by the public warehouseman and shall not be used for custom weighing or for any other purpose that is not expressly permitted by the act.

(d) Each public warehouseman shall maintain a copy of all inbound scale tickets, including voided tickets, in numerical order and shall furnish a copy of any inbound scale ticket to the secretary upon request. Copies of inbound scale tickets may be maintained in electronic form. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-233; effective March 8, 2002; amended Aug. 26, 2022.)

4-25-9. Scale tickets; outbound form. (a) All grain shipped or transferred by a licensed public warehouseman by any means of transportation except rail or water shall be weighed as required by the act.

(b) Each scale ticket for grain shipped or transferred by a licensed public warehouseman by any means of transportation except rail or water shall be plainly marked “outbound,” shall be serially numbered, and shall contain, in a conspicuous location on the ticket, the phrase “approved by the Kansas department of agriculture.” Each ticket shall include lines designated for the following:

- (1) The name of the licensee shipping or transferring the grain;
- (2) the date of the shipment or transfer;
- (3) the name of the customer to whom the grain is being shipped or transferred;
- (4) the gross weight of the grain being shipped or transferred;
- (5) the tare weight of the grain being shipped or transferred;

(6) the net weight of the grain being shipped or transferred and a designation of whether the driver was on or off the truck when the net weight was obtained;

(7) the test weight of the grain being shipped or transferred;

(8) the price of the grain;

(9) the kind of grain being shipped or transferred; and

(10) the signature of the public warehouseman or a duly authorized agent of the public warehouseman.

(c) Any public warehouseman may include additional information on a scale ticket. However, outbound scale tickets shall be used only for grain shipped or transferred by the public warehouseman and shall not be used for custom weighing or for any other purpose that is not expressly permitted by the act.

(d) Each public warehouseman shall maintain copies of all outbound scale tickets, including voided tickets, in numerical order and shall furnish a copy of any outbound scale ticket to the secretary upon request. Copies of outbound scale tickets may be maintained in electronic form. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-233; effective March 8, 2002; amended Aug. 26, 2022.)

4-25-10. Grain bank grain. (a) Grain bank grain shall be considered storage grain and shall be subject to the same requirements as those for storage grain.

(b) Any public warehouseman may waive the public warehouse's minimum load-out and receiving fees for grain that is processed in the same public warehouse where the grain was originally deposited for processing.

(c) Each public warehouseman shall enter all of the public warehouseman's grain bank grain into the public warehouseman's records as a liability in the same manner as that for other storage grain for which the public warehouseman is liable.

(d) Grain bank grain shall be accounted for on an individual depositor basis. The records for grain bank grain shall be kept on a pound, bushel, or hundredweight basis for the grain deposited. (Authorized by K.S.A. 34-102 and 34-227b; implementing K.S.A. 34-227b; effective March 8, 2002; amended Aug. 26, 2022.)

4-25-11. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-223; effective March 8, 2002; revoked Aug. 26, 2022.)

4-25-12. Financial statements. (a) The financial statement of an applicant for a license or the financial statement of an existing grain warehouse shall show that current liquid assets equal or exceed current liabilities. If liabilities exceed liquid assets, the bond required by K.S.A. 34-229, and amendments thereto, may be amended to cover the deficiency, or an unused line of credit available to pay the depositor may offset the deficiency.

(b) If current liabilities exceed current liquid assets, the public warehouseman shall comply with subsection (a) of this regulation within 60 days from the date the secretary receives the financial statement that shows any deficiency.

(c) For the purposes of this regulation, liquid assets shall not include deferred income taxes or residential property. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102, 34-228, and 34-229; effective March 8, 2002.)

4-25-13. Appraisals. (a) If the financial statement of a public warehouseman does not reflect assets sufficient to comply with the net worth requirements of K.S.A. 34-228, and amendments thereto, the public warehouseman may acquire an appraisal. Each appraisal prepared pursuant to this regulation shall be performed by an independent appraiser certified by a generally recognized appraisal society. Each public warehouseman shall submit credentials for the appraiser upon request of the secretary.

(b) Surplus designated under an appraisal shall be discounted by 30 percent to account for estimated unrealized capital gains at the time of the disposition of any grain for which the public warehouseman is liable.

(c) An appraisal prepared according to this regulation may be relied upon by the secretary for up to the fourth anniversary of completion of the appraisal. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-228; effective March 8, 2002.)

4-25-14. Successor agreement. (a) In each successor's agreement, grain in open storage, grain bank grain, or warehouse receipts shall be identified separately. The public warehouseman whose liability is being assumed shall report within five days of closing, or within a reasonable time approved by the secretary, the amount of each commodity stored in the warehouse and shall identify the grain as grain in open storage, grain bank grain, or grain subject to a warehouse receipt. The report shall be submitted in writing on a form prescribed by the secretary.

(b) The report specified in subsection (a) of this regulation shall not be required if the change in the ownership is a change only in the name of the grain warehouse. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-228; effective March 8, 2002.)

4-25-15. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-228; effective March 8, 2002; revoked Aug. 26, 2022.)

4-25-16. Fees and charges. (a) Each public warehouseman shall pay an annual license fee, which shall be due at the time the public warehouseman submits an application for a license or an application for renewal of a license. The annual license fee shall be based on the capacity of the licensed public warehouse and computed as follows:

Capacity in Bushels	Annual Fee
1 to 100,000	\$570.00
100,001 to 150,000	615.00
150,001 to 250,000	655.00
250,001 to 300,000	700.00
300,001 to 350,000	740.00
350,001 to 400,000	785.00
400,001 to 450,000	818.00
450,001 to 500,000	863.00
500,001 to 600,000	895.00
600,001 to 700,000	940.00
700,001 to 800,000	1,210.00
800,001 to 900,000	1,248.00
900,001 to 1,000,000	1,280.00
1,000,001 to 1,750,000	1,743.00
1,750,001 to 2,500,000	1,995.00
2,500,001 to 5,000,000	2,490.00
5,000,001 to 7,500,000	2,990.00
7,500,001 to 10,000,000	3,383.00
10,000,001 to 12,500,000	3,705.00
12,500,001 to 15,000,000	3,990.00
15,000,001 to 17,500,000	4,275.00
17,500,001 to 20,000,000	4,953.00
Over 20,000,000 bushels	add 500.00

for each additional 2,500,000 bushels or any fraction thereof.

(b) Each public warehouseman who obtains an amended warehouse license shall pay a license amendment fee of \$300.00.

(c) Each public warehouseman for whom a special or requested examination of a warehouse is performed shall pay the following fees:

- (1) \$50.00 per hour for each examiner who is on site for the examination, with a required minimum charge for four hours;
 - (2) subsistence expenses for each examiner who is on site for the examination; and
 - (3) mileage expenses for each examiner who is on site for the examination, which shall be charged per mile driven at the rate per mile determined by the secretary of the department of administration pursuant to K.S.A. 75-4607, and amendments thereto.
- (d) In addition to the applicable license fee specified in subsection (a), each public warehouseman shall pay an annual fee of \$500.00 for each functional unit that the public warehouseman's licensed public warehouse has. However, each public warehouseman shall be entitled to a waiver of the functional unit fee for one functional unit.
- (e) Each public warehouseman shall pay the hourly rate, subsistence, and mileage expenses specified in subsection (c) for examinations necessitated by changes in the storage capacity of a licensed public warehouse, including the addition of conditional storage space, or by the need to confirm that a warehouse is empty. All conditional or empty storage space of each licensed public warehouse shall be subject to all other applicable fees and requirements specified in the act. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-228; effective March 8, 2002; amended, T-4-12-16-03, Jan. 1, 2004; amended Feb. 6, 2004; amended Aug. 26, 2022.)

4-25-17. Transfer of grain between public warehouses. (a) A public warehouseman, as defined by K.S.A. 34-223, and amendments thereto, who lacks sufficient space and desires to transfer grain for which valid receipts have been issued may transfer this grain either by physical movement of the grain or by other methods approved by the secretary as standard industry practice, subject to the following requirements:

- (1) The shipping public warehouseman shall immediately notify the secretary before the transfer of receipted grain. This notice to the secretary shall include the location where the grain will be transferred for storage. The shipping public warehouseman shall also provide written notice to all depositors who hold receipts for grain that the shipping public warehouseman may forward grain deposited on a commingled basis.
- (2) For purposes of this regulation, a licensed public warehouse shall mean a warehouse operated by a public warehouseman who holds a valid license under the U.S. warehouse act for grain, or a public warehouse operated by a public warehouseman who holds a valid warehouse license for the public storage of grain or rice, issued by a state that has financial, bonding, and examination requirements for the benefit of all depositors.
- (3) The shipping public warehouseman shall promptly obtain nonnegotiable warehouse receipts from the receiving public warehouseman for all transferred grain. The receipts shall be kept on forms furnished by the secretary pursuant to K.S.A. 34-238 and amendments thereto. Receipts shall not be used in any other manner except as provided by Kansas statute. The receipts shall be retained by the shipping public warehouseman to be presented to and used by department examiners in lieu of an on-site inventory. The grain covered by these receipts shall not be the property of either the receiving or shipping public warehouseman but shall be held in trust by both parties solely for the benefit of the depositors whose bailed grain was transferred individually or collectively, and the depositor or the depositor's transferee shall retain title to it.
- (4) The shipping public warehouseman's bond shall be increased to consider the addition of the transferred grain to the licensed capacity of the public warehouse with the net worth requirements based on the total of the licensed capacity and the forwarded grain. The bond amount shall not be required to be more than \$500,000 unless necessary to cover a deficiency in net worth to meet the requirements of K.S.A. 34-228, and amendments thereto.
- (5) The shipping public warehouseman shall continue to retain that individual's obligations to the owners for all grain deposited in the public warehouse for storage, whether forwarded or retained, and shall redeliver the grain upon demand to the depositor or the depositor's transferee at the public warehouse where the grain was first deposited for storage.
- (6) Nothing in this regulation shall diminish either the right of the owner of the grain to receive on delivery or the obligation of the public warehouseman of a licensed public warehouse from which the

product is transferred to deliver, to the owner, grain in the amount and of the kind, quality, and grade specified by the warehouse receipts or other evidence of storage.

(7) If it is the shipping public warehouseman's obligation by terms of the warehouse receipt or by any other agreement to insure the grain subject to the transfer, that individual shall in accordance with K.S.A. 34-236, and amendments thereto, keep this grain insured in that individual's own name or transfer the grain only to a public warehouse where the grain is fully insured.

(b) A shipping public warehouseman may transfer stored grain, as defined by K.S.A. 34-223, and amendments thereto, by complying with the provisions of paragraphs (a)(2), (a)(5), (a)(6), and (a)(7) of this regulation. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-241; effective March 8, 2002.)

4-25-18. Credit for unexpired portion of license on new or amended license. A successor to a current license holder may prorate the unused portion of the license fee to reduce the amount of a new license fee if the change in the successor is solely a change in the name of the license holder. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-228; effective March 8, 2002.)

4-25-19. Licensed storage, conditional storage, and emergency storage. (a) A public warehouseman shall not utilize any licensed public warehouse for grain storage until the secretary has measured the empty storage volume of the licensed public warehouse and determined that the licensed public warehouse is adequate to store grain in a manner that will maintain the condition of the grain.

(b) Any public warehouseman who takes possession of a grain storage facility, including as the result of an acquisition or merger, may utilize the facility for grain storage upon assuming ownership of the facility and obtaining all required licensure if the secretary has previously measured the empty storage volume of the facility and determined that the facility is adequate to store grain in a manner that will maintain the condition of the grain.

(c) The determination of whether each grain storage facility is adequate to store grain in a manner that will maintain the condition of the grain shall be made by the secretary and shall be based on the following:

- (1) Whether the facility is constructed of base material that is adequate to maintain the condition of stored grain, including concrete, asphalt, rock, or other material approved by the secretary;
- (2) whether the facility uses rigid, self-supporting sidewalls that provide adequate separation of different types of grain;
- (3) whether the facility provides aeration adequate to maintain the condition of stored grain;
- (4) whether the facility provides cover adequate to maintain the condition of stored grain, including a tarp or other material approved by the secretary; and
- (5) whether the licensed grain storage facility is adequate to store grain in a manner that will maintain the condition of the grain, according to any other criteria related to the physical structure of the grain storage facility that the secretary deems relevant.

(d) Before storing grain in conditional storage space or offering emergency storage space for public use, each public warehouseman shall apply to be permitted to do so, on a form provided by the secretary, and shall obtain the secretary's written approval of the application. Each application for the use of conditional storage or emergency storage space shall include, at a minimum, the following:

- (1) The name of the licensee;
- (2) the type of grain that will be stored in conditional storage or emergency storage; and
- (3) the quantity of grain that will be stored in conditional storage or emergency storage.

(e) Each public warehouseman shall keep and maintain all grain stored in conditional storage or emergency storage in good condition and shall maintain a weighed figure reflecting the volume in bushels of all grain stored in conditional storage or emergency storage, which shall be provided to the secretary upon request. All grain stored in conditional storage or emergency storage for which a weighed figure is not available shall be accounted for according to the total bushel amount calculated by the secretary during examination of the public warehouse. Grain that the secretary determines to be in unacceptable condition shall not be accounted for during examination.

(f) Each public warehouseman shall move all corn, soybeans, edible beans, grain sorghum, and other grains for which federal grain standards have been established from conditional storage into licensed storage no later than July 1 of the year following the year in which those grains were placed into conditional storage.

(g) Each public warehouseman shall move all corn, soybeans, edible beans, grain sorghum, and other grains for which federal grain standards have been established from emergency storage into licensed storage no later than March 31 of the year following the year in which those grains were placed into emergency storage.

(h) Each public warehouseman shall move all wheat, barley, oats, and rye from conditional storage into licensed storage no later than December 31 of the year in which those grains were placed into conditional storage.

(i) Each public warehouseman shall move all wheat, barley, oats, and rye from emergency storage into licensed storage no later than August 31 of the year in which those grains were placed into emergency storage.

(j) Grain that is not moved into licensed storage by the applicable deadline specified in this regulation shall not be included in a daily position report, shall not be used to cover a warehouse receipt or any other liability, and shall not be included in any examination, unless the secretary grants a written extension of the deadline. Each application for an extension pursuant to this subsection shall be submitted in writing on a form provided by the secretary. An extension shall not provide more than 30 additional days for a public warehouseman to complete collection and storage of the grain as specified in this subsection.

Each public warehouseman shall be allowed to apply for only two extensions after the expiration of the applicable deadline specified in this subsection. Grain that is not in licensed storage space by the deadline specified in the most recently issued extension shall not be included in a daily position report, shall not be used to cover a warehouse receipt or any other liability, and shall not be included in any examination.

(k) Each public warehouseman who utilizes conditional storage or emergency storage space shall inform the secretary in writing when all of the grain is moved back into licensed storage.

(l) Each public warehouseman shall maintain a copy of the written request for emergency storage or conditional storage, the approval for emergency storage or conditional storage furnished by the secretary, the written request for an extension for emergency storage or conditional storage, the approval of an extension for emergency storage or conditional storage furnished by the secretary, and the written notice that all of the grain has been collected. The public warehouseman shall furnish a copy of these documents to the secretary upon request.

(m) The use of conditional storage or emergency storage shall not be permitted if the additional storage space requested will cause the licensed public warehouse to be noncompliant with any applicable provision of K.S.A. 34-228(c)(1) or K.S.A. 34-229, and amendments thereto.

(n) Conditional storage or emergency storage shall not be added to the licensed storage of a licensed public warehouse unless the request to add conditional storage or emergency storage to the warehouse's existing licensed storage is accompanied by the license amendment fee specified in K.A.R. 4-25-16.

(o) Emergency storage shall not be allowed for soybeans or dry edible beans.

(p) Each public warehouseman shall be permitted to store only one type of grain in each licensed storage, conditional storage, or emergency storage bin.

(q) Each portion of the total bulk grain capacity of a licensed public warehouse that is an integral part of any unit of the licensed public warehouse and is equipped for the handling and warehousing of grain shall be included in the licensed capacity of the licensed public warehouse. However, any part of a licensed public warehouse's licensed capacity may be reserved and designated "not for public use" if the public warehouseman submits an application to the secretary requesting permission to reserve the area and designate it "not for public use" and receives the secretary's approval.

Any public warehouseman may be required by the secretary to utilize a seal, lock, or other method of segregating an area designated "not for public use" from the public use areas of the licensed public

warehouse. (Authorized by K.S.A. 34-102 and K.S.A. 34-228; implementing K.S.A. 34-102, 34-228, and 34-229; effective Aug. 26, 2022.)

4-25-20. Undermeasurements and overmeasurements of stored grain. (a) Each public warehouseman who is determined by the secretary during an examination to be in possession of less grain than is reflected on the licensed public warehouse's daily position report by an amount equal to or greater than either 500 bushels or 1.5 percent of the licensed public warehouse's total grain inventory, separated by commodity, shall adjust the daily position report so that the report reflects the volume of grain actually stored in the licensed public warehouse, by commodity. A public warehouseman who is determined by the secretary during an examination to be in possession of more grain than is reflected on the daily position report shall not be required to adjust the public warehouse's daily position report.

(b) For purposes of this regulation, the volume of grain stored in each licensed public warehouse shall be the volume of grain stored in the licensed public warehouse on the date and at the time that the licensed public warehouse's daily position report is provided to the secretary at the beginning of an examination. (Authorized by and implementing K.S.A. 34-102; effective Aug. 26, 2022.)

4-25-21. Unpaid grain contracts. (a) Each written unpaid grain contract shall be signed by an authorized representative of the licensed public warehouse and by an authorized representative of the seller of the grain within 30 days of entering into the unpaid grain contract. Each verbal unpaid grain contract shall be evidenced by a written confirmation of the unpaid grain contract, which shall be signed by an authorized representative of the licensed public warehouse and by an authorized representative of the seller of the grain within 30 days of entering into the unpaid grain contract.

The signatures required by this subsection may be obtained by electronic or other similar means sufficient to verify that both signing parties have approved the contract or confirmation. Each unpaid grain contract shall comply with K.S.A. 34-2,111, and amendments thereto.

(b) Each public warehouseman shall maintain all unpaid grain contracts in a manner that allows the secretary to easily access and verify the contracts during inspection or examination. Unpaid grain contracts that have been fulfilled shall be stored separately from unfulfilled unpaid grain contracts or shall be clearly marked to indicate that the contracts have been fulfilled. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and K.S.A. 34-2,111; effective Aug. 26, 2022.)

4-25-22. Safety of facilities. (a) Each public warehouseman shall ensure that the public warehouseman's licensed public warehouse can be safely examined and inspected.

(b) The performance of any examination or inspection of a public warehouse may be refused by the secretary if the secretary determines that the public warehouse is in such a condition that it cannot be adequately examined or inspected or that it presents a danger to the health and safety of examination or inspection personnel. A functional unit that is not examined due to a determination by the secretary pursuant to this regulation shall not be included on a daily position report, shall not be included in an examination, and shall not be used to cover a warehouse receipt or any other liability. (Authorized by and implementing K.S.A. 34-102; effective Aug. 26, 2022.)

4-25-23. Disciplinary actions. (a) Each public warehouseman who is determined by the secretary during an examination to have failed to comply with any provision of the act shall be issued a report of conditions detailing each violation.

(b) Each public warehouseman who is issued a report of conditions shall, within 15 days of the issuance of the report of conditions, provide a report to the secretary detailing how the public warehouseman has remedied or plans to remedy each violation that was cited in the report of conditions.

(c) Each public warehouseman who fails to respond to a report of conditions within 15 days of its issuance as specified in subsection (b) shall be subject to further disciplinary action. The further disciplinary action may include the temporary suspension or revocation of the public warehouseman's license or any other action deemed appropriate by the secretary.

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(d) Nothing in this regulation shall limit the power of the secretary to take disciplinary action against any public warehouseman to the fullest extent pursuant to the act if the secretary determines that doing so is necessary or is in the public interest. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and K.S.A. 34-230; effective Aug. 26, 2022.)