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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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Grain Warehouse

KANSAS ADMINISTRATIVE REGULATIONS

Article 25. - Grain

K.A.R. 4-25-2. Record retention. (a) Each public warehouseman shall retain the following documents for at least six years after the public warehouseman is no longer liable for the grain specified in the document:

- (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, grain stored in the warehouse.

(b) Upon request of the secretary or the secretary's designee, a public warehouseman shall produce for inspection or review any of the documents required to be maintained in subsection (a) of this regulation. (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.)

K.A.R. 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.)

K.A.R. 4-25-4. Storage space; exception. No portion of the total bulk grain capacity shall be deleted from the licensed capacity of a public warehouse if this portion is an integral part of any one unit under license and is equipped for grain handling and warehousing. However, any part of the licensed capacity may be reserved and designated "not for public use," if the public warehouseman submits an application to the secretary and receives the secretary's approval. A seal, a lock, or other method of segregating an area designated not for public use from the public warehouse may be required by the secretary. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102, 34-228 and 34-237; effective March 8, 2002.)

K.A.R. 4-25-5. Storage liability reports. (a) The "examiner's copy" of all executed warehouse receipts for the previous month shall be postmarked by the fifth of each month and mailed to the secretary.

(b) Each local 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 through the warehouse. These records shall include a daily summarized position record showing the following:

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

(c) The public warehouseman shall forward to the secretary, not later than the fifth day of each month, a monthly statement of stocks of grain in each elevator through the last day of the preceding month, for each licensed warehouse location. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-295a; effective March 8, 2002.)

K.A.R. 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.)

K.A.R. 4-25-7. Public warehouse receipts; form. The form used for warehouse receipts shall conform to the provisions of K.S.A. 34-239 and all other applicable sections of chapter 34 of the Kansas statutes annotated, and amendments thereto, and shall include, as a part of the form, the following statement:

"The undersigned warehouseman is not the owner of the grain covered by this receipt, either solely, jointly, or in common with others, unless otherwise stated hereon. It is hereby agreed that the grain herein described has been graded as provided by law and may be stored with other grain of the same grade; that this grain is stored under all the rights, powers, privileges, and duties provided by chapter 34 of the Kansas Statutes Annotated. This grain is fully covered by fire, lightning, tornado, and internal explosion insurance. The storage, insurance, elevation, and other charges on said grain shall be governed by the published schedule of charges, which includes any legal change, in effect during the period from date of receipt of the grain until sold or delivered to the above named depositor or the depositor's order." (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102, 34-238, and 34-239; effective March 8, 2002.)

K.A.R. 4-25-8. Scale tickets; inbound form. (a) When a depositor leaves grain in any warehouse licensed under the provisions of chapter 34 of the Kansas statutes annotated, and amendments thereto, the grain shall be weighed and graded as provided by the laws and regulations of the state of Kansas.

(b) Each scale ticket shall be plainly marked "inbound," shall be serially numbered, and shall contain at some convenient, conspicuous point 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;
- (2) the date;
- (3) the name of the depositor;
- (4) the gross weight;
- (5) the tare weight;
- (6) the net weight, and a designation of whether the driver is on or off the truck;
- (7) the test weight;
- (8) the price;
- (9) the kind of grain; and
- (10) the signature of the licensee or duly authorized agent.

Each scale ticket may contain additional information if the additional information has received the prior approval of the secretary, but scale tickets shall be used only for grain received by the public warehouseman.

(c) Each public warehouseman shall keep a copy of the scale tickets, including voided tickets, in numerical order. The public warehouseman shall furnish a copy of these tickets to an authorized examiner of the Kansas department of agriculture upon demand. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-233; effective March 8, 2002.)

K.A.R. 4-25-9. Scale tickets; outbound form. (a) When, by any means of transportation except by rail or water, a public warehouseman licensed under the provisions of chapter 34 of the Kansas statutes annotated, and amendments thereto, ships or transfers grain, grain shall be weighed as provided by the laws and regulations of the state of Kansas.

(b) Each scale ticket shall be plainly marked "outbound," shall be serially numbered, and shall contain at some convenient, conspicuous point the phrase "approved by the Kansas Department of Agriculture." Each ticket shall include lines designated for the following:

- (1) The name of the licensee;
- (2) the date;
- (3) the name of the customer;
- (4) the gross weight;
- (5) the tare weight;
- (6) the net weight, and a designation of whether the driver is on or off the truck;
- (7) the test weight;
- (8) the price;
- (9) the kind of grain; and
- (10) the signature of the licensee or duly authorized agent.

Scale tickets may contain additional information if the additional information has received the prior approval of the secretary.

(c) The approved scale tickets shall not be used for custom weighing or for any other purpose or use that is not pursuant to chapter 34 of the Kansas statutes annotated, and amendments thereto, and the regulations of the Kansas department of agriculture, but shall be used only for grain shipped or transferred by the warehouseman.

(d) Each public warehouseman shall keep a copy of the scale tickets, including voided tickets, in numerical order. The public warehouseman shall furnish a copy of these tickets to an authorized examiner of the Kansas department of agriculture upon demand. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-233; effective March 8, 2002.)

K.A.R. 4-25-10. Grain bank grain. (a) Grain bank grain shall be considered to be the same as storage grain and shall be subject to the same regulations as those for storage grain. For grain that is processed by each public warehouseman in whose warehouse the grain was originally deposited for processing, the minimum load out and receiving charges may be zero.

(b) Grain bank grain shall be entered into the records of the public warehouseman as a liability in the same manner as that for other storage grain for which the public warehouseman is liable. Grain bank grain shall be accounted for on an individual depositor basis and shall not be shown as a part of the total grain bank grain obligation. 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.)

K.A.R. 4-25-11. Allowance to licensed warehouses for the purpose of handling and storage of dry edible beans.

For the purpose of allowing public licensed warehouses to handle and store dry edible beans, the definition of the word "grain" in K.S.A. 34-223, and amendments thereto, shall include dry edible beans. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-223; effective March 8, 2002.)

K.A.R. 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.)

K.A.R. 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.)

K.A.R. 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.)

K.A.R. 4-25-15. Definition of 12-month period.

The inspection required by K.S.A. 34-228, and amendments thereto, shall be conducted at least once in the 12-month period commencing July 1 of each year. (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-228; effective March 8, 2002.)

K.A.R. 4-25-16. Fees and charges.

(a) The annual fee for a public warehouse license shall be computed as follows, based on the capacity of the public warehouse:

Capacity in Bushels	Annual Fee
1 to 100,000.....	\$400.00
100,001 to 150,000.....	430.00
150,001 to 250,000.....	460.00
250,001 to 300,000.....	490.00
300,001 to 350,000.....	520.00
350,001 to 400,000.....	550.00
400,001 to 450,000.....	575.00
450,001 to 500,000.....	605.00
500,001 to 600,000.....	630.00
600,001 to 700,000.....	660.00
700,001 to 800,000.....	850.00
800,001 to 900,000.....	875.00
900,001 to 1,000,000.....	900.00
1,000,001 to 1,750,000.....	1,225.00
1,750,001 to 2,500,000.....	1,400.00
2,500,001 to 5,000,000.....	1,750.00
5,000,001 to 7,500,000.....	2,100.00

7,500,001 to 10,000,000.....	2,375.00
10,000,001 to 12,500,000.....	2,600.00
12,500,001 to 15,000,000.....	2,800.00
15,000,001 to 17,500,000.....	3,000.00
17,500,001 to 20,000,000.....	3,225.00
Over 20,000,000 bushels.....	add 350.00

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

(b) The charge for amending a warehouse license shall be \$300.00.

(c) The charges for each special or requested examination of a warehouse shall consist of the following:

(1) \$50.00 per hour for each examiner, with a required minimum charge of four hours;

(2) subsistence expenses for each examiner; and

(3) mileage expenses for each examiner, which shall be charged, per mile driven, at the rate per mile determined by the secretary of administration pursuant to K.S.A. 75-4607, and amendments thereto.

(d) The license fee shall be the applicable amount specified in the fee schedule in subsection (a) plus \$500 for each functional unit. Each public warehouseman shall pay the hourly rate, subsistence, and mileage expenses identified in subsection (c) of this regulation for examinations necessitated by changes in storage capacity, including conditional storage space of a licensed warehouse, or by the need to confirm that a warehouse is empty. Any other charge or requirement identified in statute or regulation shall apply to the conditional or empty storage space of a public warehouse.

(e) Each public warehouseman shall pay the hourly rate, subsistence, and mileage expenses identified in subsection (c) of this regulation for examinations necessitated by changes in storage capacity, including the addition of conditional storage space in a licensed warehouse, or by the need to confirm that a warehouse is empty. Any other charge or requirement identified in statute or regulation shall apply to the conditional or empty storage space of a public warehouse. (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.)

K.A.R. 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.)

K.A.R. 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

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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.)