

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Department of Agriculture

Department Plant Board

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Statutory Authority for Promulgating Rules 2-16-207

Rule Title: Grain Warehouse Rules

Intended Effective Date
(Check One)

Date

☐ Emergency (ACA 25-15-204) Legal Notice Published _____

☐ 10 Days After Filing (ACA 25-15-204) Final Date for Public Comment _____

☒ Other 09/07/1979 Reviewed by Legislative Council _____
(Must be more than 10 days after filing date.)

Adopted by State Agency 08/17/1979

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Wade Hodge wade.hodge@agriculture.arkansas.gov 12/23/2019

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

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12/23/1019

Date

RULES ON PUBLIC GRAIN WAREHOUSES IN ARKANSAS

(Promulgated and adopted under authority of
Act 83 of 1979 - The Arkansas Public Grain Warehouse Law)

Section I. General Purpose and Intent

The Arkansas Public Grain Warehouse Law charges the State and Board with the responsibility of licensing, auditing and bonding those grain warehouses storing grain for a consideration belonging to others and which are not licensed with the federal government under the United States Warehouse Act. The principal objective and intent of this program is to provide any grain owner who wants to store his grain commercially some measure of protection from unlawful or fraudulent Warehousing practices.

Section II. Organization and Designation of Duties

The Arkansas Public Grain Warehouse Program will be administered as a Section within the Division of Marketing of the State Plant Board. The Director of the Division of Marketing and the Head of the Grain Warehouse Section are hereby designated as having the authority and duties as assigned the Commissioner in Act 83 of 1979, but these will be carried out under the general supervision of the Commissioner. All proceedings and hearings will be conducted in accordance with Act 83 of 1979 and Act 434 of 1967 as amended (The Administrative Procedures Act.)

Section III. Licensing, and Bonding

Included in these Rules as Attachment I is the Application Form to be used in securing a license under this Act, whether for a new license or the renewal of a license. The licensing period shall be from July 1. through June 30 of each year.

Each application for a license or license renewal shall be accompanied with a financial statement and signed report of a CPA or registered public accountant which must be a representation of an examined audit report, a review report or a compilation report.

Included in these Rules as Attachment II is the Bond Form that is to be used as part of the requirements of becoming a licensed grain warehouse.

Section IV. Fees

As required by law the fee for a new application is \$150.00. Subsequent to the issuance of an initial license under this Act, every applicant shall pay annual license fee based upon the capacity of the warehouse, such fee to be determined by the Commissioner, but not less than two hundred fifty dollars (\$250.00) or not more than eight hundred dollars (\$800.00).

The fee for the renewal of a license is based on the following schedule:

CAPACITY IN BUSHELS Range		LICENSE RENEWAL FEES (based on capacity)
1	250,000	\$250.00
250,001	500,000	\$300.00
500,001	750,000	\$400.00
750,001	1,000,000	\$500.00
1,000,001	1,200,000	\$600.00
1,200,001	1,500,000	\$700.00
1,500,001	and over	\$800.00

One examination is to be made each year on each licensed grain warehouse the cost of which is included in the application fee. Additional examinations may be made at any time and at the discretion of the Commissioner. If during the additional examinations a material discrepancy is found the licensed warehouseman will be required to reimburse the State Plant Board's Public Grain Warehouse Section at the rate of \$10.00 per man hour for the time required to make additional examination.

Section V. Warehouse Receipts

A. All warehouse receipts whether negotiable or non-negotiable issued by a state licensed public grain warehouse shall be purchased from the Public Grain Warehouse Section of the State Plant Board. When issued the distribution of the copies shall be as follows:

1. Original copy to depositor of grain (white).
2. Second copy to warehouseman (blue).
3. Third copy to the State Plant Board (green).
4. Fourth copy to depositor of grain (yellow).

Each state licensed public grain warehouse shall mail to the Plant Board by the 5th of each month, the third copy (green) of all negotiable and non-negotiable warehouse receipts issued the previous month.

B. Warehouse receipts must be issued on all stored grain delivered to a public grain warehouse when requested by the person that holds title to the grain.

C. Warehouse receipts must be issued on all stored grain and non-stored - grain if the grain has not been purchased through actual payment or contract within 180 days from date of delivery. This shall include grain that is transferred to other public grain warehouses for storage.

Section VI. Stored Grain

- A. Stored grain - shall mean any grain received into a public grain warehouse which has not been purchased or on which the term for a bona fide sale has not been fixed.
- B. Non-stored grain - shall mean grain received into a public grain warehouse for transferring, conditioning, assembling for shipment, or lots of grain moving through a public grain warehouse for current merchandising or milling use against which no receipts are issued and no consideration for storage is assessed.
- C. Depositor - is a person making or who has made delivery, of grain to a public grain warehouse licensed under this Act for storage, marketing, handling, shipping, or who holds a warehouse receipt, contract or other document of such delivery.
- D. Bona fide sale - shall mean grain that has been purchased through actual payment or grain purchase contracts which were executed in accordance with Section VII of these rules.

Section VII. Grain Contracts

It shall be the responsibility of those public grain warehouses dealing in deferred pricing or deferred payment contracts to draw up an agreement in writing which shall contain a statement informing the seller, that the seller is relinquishing all rights to the grain. The Commissioner may require any additional information from a warehouseman that is deemed necessary to protect the interest of the seller of grain in these transactions. All contracts shall be pre-numbered with no duplication of numbers. The Commissioner or his representative shall prescribe or approve the kind of form that will be used by those public grain warehouses offering deferred pricing or payment contracts.

Section VIII. Officially Approved Scale Ticket Transactions

Each public grain warehouseman shall, issue to all persons delivering grain to a public grain warehouse a pre-numbered officially approved scale ticket which shall be issued in numerical order. All officially approved scale tickets must contain an original and no less than two copies.

- A. A sample copy of the officially approved scale tickets used by the warehouseman shall be kept on file with the Commissioner.
- B. Each officially approved scale ticket shall contain the following information:
 - 1. The name and address of the public grain warehouse where grain is received.
 - 2. Date grain received.

3. The kind, quantity, grade or grade factors necessary to determine the bushels, pounds or CWT of grain received.
4. All officially approved scale tickets must be marked to denote one of the following transactions when received into a public grain warehouse:
 - a. For sale,
 - b. For storage.
 - c. For conditioning.
 - d. On purchase contracts, (Purchase contracts must be signed by seller of grain upon completion of harvest or prior to harvest)
- C. An officially approved scale ticket must be issued on all grain moved-out of a public grain warehouse that crosses the scales. If grain is moved by rail or barge then officially approved scale tickets must be drawn-up estimating the amount of grain shipped, also a record must be maintained verifying official destination weight.
- D. A copy of the officially approved scale tickets used for the purpose of custom grain weighing and other purposes must be kept on file.
- E. All officially approved scale tickets that have been voided must be kept on file at the public grain warehouse.
- F. A copy of all officially approved scale tickets issued must be kept on file in numerical order.

Section IX. Daily Position Record

Each warehouseman shall maintain a daily position record which will indicate all grain transaction on a daily basis. This form shall be approved by the Commissioner or his designated representative.