

## **Title 2. Agriculture**

### **Chapter II. State Plant Board, Department of Agriculture**

#### **Subchapter A. Generally**

#### **Part 29. Rules on Public Grain Warehouses in Arkansas**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

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

#### **Subpart 1. Generally**

##### **2 CAR § 29-101. General purpose and intent.**

(a) The Arkansas Public Grain Warehouse Law, Acts 1979, No. 83, charges the State Plant 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.

(b) 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.

**Authority.** Arkansas Code § 2-17-205.

**Codification Notes.** United States Warehouse Act referred to in this section is codified as 7 U.S.C. § 241 et seq.

##### **2 CAR § 29-102. Organization and designation of duties.**

(a) The Arkansas Public Grain Warehouse Program will be administered as a section within the Division of Marketing of the State Plant Board.

(b)(1) 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 Public Grain Warehouse Commissioner in Acts 1979, No. 83, but these will be carried out under the general supervision of the commissioner.

(2) All proceedings and hearings will be conducted in accordance with Acts 1979, No. 83, and Acts 1967, No. 434, as amended, the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

**Authority.** Arkansas Code §§ 2-17-205, 2-17-215.

### **2 CAR § 29-103. Licensing and bonding.**

(a) Included in these rules as Attachment I is the application form to be used in securing a license under Acts 1979, No. 83, whether for a new license or the renewal of a license.

(b) The licensing period shall be from July 1 through June 30 of each year.

(c) 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:

- (1) An examined audit report;
- (2) A review report; or
- (3) A compilation report.

(d) 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.

**Authority.** Arkansas Code § 2-17-205.

**Codification Notes.** "CPA" means certified public accountant.

### **2 CAR § 29-104. Fees.**

(a) As required by law, the fee for a new application is one hundred fifty dollars (\$150).

(b) Subsequent to the issuance of an initial license under this act, every applicant shall pay an annual license fee based upon the capacity of the warehouse, such fee to be determined by the Public Grain Warehouse Commissioner, but not:

- (1) Less than two hundred fifty dollars (\$250); or
- (2) More than eight hundred dollars (\$800).

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

CAPACITY IN BUSHEL Range		LICENSE RENEWAL FEES (based on capacity)
1	250,000	\$250
250,001	500,000	\$300
500,001	750,000	\$400
750,001	1,000,000	\$500
1,000,001	1,200,000	\$600
1,200,001	1,500,000	\$700
1,500,001	<b>and over</b>	\$800

(d)(1) One (1) examination is to be made each year on each licensed grain warehouse the cost of which is included in the application fee.

(2)(A) Additional examinations may be made at any time and at the discretion of the commissioner.

(B) 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 ten dollars (\$10.00) per hour for the time required to make additional examinations.

**Authority.** Arkansas Code §§ 2-17-205, 2-17-213.

**2 CAR § 29-105. Warehouse receipts.**

(a)(1) All warehouse receipts whether negotiable or nonnegotiable issued by a state-licensed public grain warehouse shall be purchased from the Public Grain Warehouse Section of the State Plant Board.

(2)(A) When issued the distribution of the copies shall be as follows:

- (i) Original copy to depositor of grain (white);
- (ii) Second copy to warehouseman (blue);
- (iii) Third copy to the board (green); and
- (iv) Fourth copy to depositor of grain (yellow).

(B) Each state-licensed public grain warehouse shall mail to the board by the fifth of each month, the third copy (green) of all negotiable and nonnegotiable 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)(1) Warehouse receipts must be issued on all stored grain and nonstored grain if the grain has not been purchased through actual payment or contract within one hundred eighty (180) days from date of delivery.

(2) This shall include grain that is transferred to other public grain warehouses for storage.

**Authority.** Arkansas Code § 2-17-205.

**2 CAR § 29-106. Stored grain — Definitions.**

As used in this part:

(1) "Stored grain" means 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;

(2) "Nonstored grain" means 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;

(3) "Depositor" means a person making, or who has made, delivery of grain to a public grain warehouse licensed under Acts 1979, No. 83, for storage, marketing, handling, shipping, or who holds a warehouse receipt, contract, or other document of such delivery; and

(4) "Bona fide sale" means grain that has been purchased through actual payment or grain purchase contracts which were executed in accordance with 2 CAR § 29-107.

**Authority.** Arkansas Code § 2-17-205.

### **2 CAR § 29-107. Grain contracts.**

(a)(1) 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.

(2) The Public Grain Warehouse 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.

(b) All contracts shall be prenumbered with no duplication of numbers.

(c) The commissioner or his or her representative shall prescribe or approve the kind of form that will be used by those public grain warehouses offering deferred pricing or payment contracts.

**Authority.** Arkansas Code § 2-17-205.

### **2 CAR § 29-108. Officially approved scale ticket transactions.**

(a)(1) Each public grain warehouseman shall issue to all persons delivering grain to a public grain warehouse a prenumbered, officially approved scale ticket which shall be issued in numerical order.

(2) All officially approved scale tickets must contain an original and no less than two (2) copies.

(b) A sample copy of the officially approved scale tickets used by the warehouseman shall be kept on file with the Public Grain Warehouse Commissioner.

(c) 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; and

(3) The kind, quantity, grade, or grade factors necessary to determine the bushels, pounds, or CWT of grain received.

(d) All officially approved scale tickets must be marked to denote one (1) of the following transactions when received into a public grain warehouse:

(1) For sale;

(2) For storage;

(3) For conditioning; or

(4)(A) On purchase contracts.

(B) Purchase contracts must be signed by seller of grain upon completion of harvest or prior to harvest.

(e)(1) An officially approved scale ticket must be issued on all grain moved out of a public grain warehouse that crosses the scales.

(2) 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.

(f) A copy of the officially approved scale tickets used for the purpose of custom grain weighing and other purposes must be kept on file.

(g) All officially approved scale tickets that have been voided must be kept on file at the public grain warehouse.

(h) A copy of all officially approved scale tickets issued must be kept on file in numerical order.

**Authority.** Arkansas Code § 2-17-205.

**Codification Notes.** "CWT" means hundredweight.

**2 CAR § 29-109. Daily position record.**

(a) Each warehouseman shall maintain a daily position record which will indicate all grain transaction on a daily basis.

(b) This form shall be approved by the Public Grain Warehouse Commissioner or his or her designated representative.

**Authority.** Arkansas Code § 2-17-205.