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Proposed

**Department of Agriculture, Grain Warehouse Program  
Notice of Hearing on Proposed  
Administrative Regulations, Statewide**

A public hearing will be conducted at 1:00 p.m. on July 22, 2022, in the 1<sup>st</sup> floor meeting room 124 of the Kansas Department of Agriculture ("Department"), 1320 Research Park Dr., Manhattan, Kansas, to consider the adoption of proposed regulations. The public hearing will be conducted in person and via video conferencing system. Members of the public who wish to attend the public hearing virtually must pre-register at:  
[https://kansasag.zoom.us/meeting/register/tZ0lf-CpqjgqEtKU0ltB\\_Y16\\_RssiXGqdi03](https://kansasag.zoom.us/meeting/register/tZ0lf-CpqjgqEtKU0ltB_Y16_RssiXGqdi03).

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments regarding the proposed regulations. All interested parties may submit written comments prior to the hearing by mail or email to Kansas Department of Agriculture, Attn: Ronda Hutton, 1320 Research Park Dr., Manhattan, Kansas 66502, or [ronda.hutton@ks.gov](mailto:ronda.hutton@ks.gov). Comments may also be made via the Department's website at: <https://www.agriculture.ks.gov/document-services/public-comment>.

All interested parties will also be given a reasonable opportunity to orally present their views regarding the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes. These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and their economic impact follows:

The Department is proposing new regulations, amendments to existing regulations, and the revocation of some existing regulations for the administration of the Kansas Grain Warehouse Law, K.S.A. 34-101, *et seq.* and amendments thereto. These changes are proposed in order to implement the recent changes to the schedule of public warehouse license fees set out in K.S.A. 34-228, as well as to implement current industry policies and practices and to provide more detailed guidance as to requirements already set out in the Kansas Grain Warehouse Law. The proposed regulations are set out in detail below.

The proposed changes to the schedule of grain warehouse license fees will present increased costs to public warehousemen in Kansas. Those costs are set out in more detail below. Other than the costs presented by the proposed license fee regulation, the proposed regulations will not pose significant implementation and compliance costs because they either implement requirements that reflect existing industry practice or provide more detailed parameters for existing statutory requirements.

K.A.R. 4-25-1a – This regulation provides definitions relevant to and used throughout the regulations.

K.A.R. 4-25-2 – This regulation sets forth the records that public warehousemen are required to maintain. The proposed amendment to this regulation clarifies that such records may be maintained electronically.

K.A.R. 4-25-4 – This regulation states that a public warehouse is required to include all of its bulk grain capacity in its total licensed capacity, but that any portion of a warehouse's licensed capacity may be dedicated "not for public use" with the approval of the Department. This regulation is proposed to be revoked because all of the language in the regulation is

proposed to be moved to new proposed regulation K.A.R. 4-25-19, which sets forth additional requirements for the licensed, conditional, and emergency storage spaces of a public warehouse.

K.A.R. 4-25-5 – This regulation requires public warehousemen to submit all executed warehouse receipts to the Department on a monthly basis and sets forth the requirements for the daily summarized position report that each public warehouse is required to maintain. The proposed amendment to this regulation states that all records required to be maintained pursuant to the regulation may be maintained electronically.

K.A.R. 4-25-7 – This regulation governs requirements for public warehouse receipt forms. The proposed amendment to this regulation states that warehouse receipts 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.

K.A.R. 4-25-8 – This regulation governs requirements for inbound scale tickets. The proposed amendment to this regulation requires public warehousemen to maintain copies of all inbound scale tickets and furnish copies of any inbound scale ticket to the Department upon request. The regulation states that copies of inbound scale tickets may be maintained in electronic form.

K.A.R. 4-25-9 – This regulation governs requirements for outbound scale tickets. The proposed amendment to this regulation requires public warehousemen to maintain copies of all outbound scale tickets and furnish copies of any outbound scale ticket to the Department upon request. The regulation states that copies of outbound scale tickets may be maintained in electronic form.

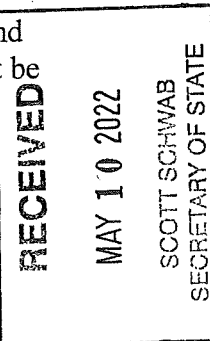
K.A.R. 4-25-10 – This regulation governs requirements for grain bank grain. The proposed amendment to this regulation would remove the phrase “and shall not be shown as a part of the total grain bank grain obligation” from subsection (b) of the regulation.

K.A.R. 4-25-11 – This regulation sets forth a definition for the word “grain.” This regulation is proposed to be revoked because the definition it contains is proposed to be moved to new regulation K.A.R. 4-25-1a pertaining to definitions.

K.A.R. 4-25-15 – This regulation provides that 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. This regulation is proposed to be revoked because the most recent amendments to the Kansas Grain Warehouse Law require inspection every 18 months.

K.A.R. 4-25-16 – This regulation sets forth the schedule of fees for public warehouse licenses, as authorized by the increase in maximum license fee amounts implemented by the 2021 amendments to K.S.A. 34-228.

K.A.R. 4-25-19 – This regulation establishes requirements for licensed, conditional, and emergency storage spaces of a public warehouse. It provides that a public warehouse shall not be used for grain storage until the Department has measured the empty storage volume of the licensed public warehouse and determined it is adequate for storing grain in acceptable condition. The regulation also provides that a warehouseman who takes possession of a previously-licensed warehouse may begin using the facility for grain storage upon assuming



ownership and obtaining required licensure, provided that the secretary has previously measured the storage volume of the facility and determined that the facility is adequate for maintaining stored grain in acceptable condition. The regulation also sets out criteria that the Department will use for determining whether a facility is adequate to maintain grain in acceptable condition and establishes requirements for warehousemen who wish to utilize conditional or emergency storage. This regulation also incorporates the language that is currently contained in K.A.R. 4-25-4 discussed above.

K.A.R. 4-25-20 – This regulation establishes requirements for unpaid grain contracts. It requires all unpaid grain contracts to be signed by both the public warehouse and the seller of the grain, or evidenced by a written confirmation signed by both parties, within 30 days of the contract being entered into. The regulation provides that the required signatures may be in electronic or other similar form sufficient to verify that both parties have approved the contract. This regulation also requires public warehousemen to maintain unpaid grain contracts in a manner that allows the Department to easily access and verify such contracts during an examination and requires fulfilled unpaid grain contracts to either be stored separately from unfulfilled contracts or to be clearly marked to indicate that they are fulfilled.

K.A.R. 4-25-21 – This regulation governs safety requirements for licensed public warehouses. It requires that public warehouses be maintained in a manner that ensures they can be safely examined and inspected and requires each warehouse to be equipped with adequate and properly functioning ladders, catwalks, lifts, elevators, and any other equipment the secretary deems necessary for safe examination or inspection. This regulation also provides that the Department may refuse to perform any examination or inspection if a 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. The regulation further provides that a functional unit that is not examined due to a determination that the facility cannot be adequately examined or is unsafe for examination personnel shall not be included on a daily position report, shall not be included in an exam, and shall not be used to cover a warehouse receipt or any other liability.

K.A.R. 4-25-22 – This regulation governs disciplinary actions for public warehousemen who violate the Kansas Grain Warehouse Law. It provides that public warehousemen who are in violation of the law shall be issued a report of conditions detailing the items or conditions that are out of compliance and shall have 15 days to provide a report to the Department detailing how the public warehouseman has remedied or plans to remedy each violation that was cited in the report of conditions. The regulation further provides that a public warehouseman who fails to respond to a report of conditions within 15 days of its issuance shall be subject to further disciplinary action, which may include suspension or revocation of the public warehouseman's license.

K.A.R. 4-25-23 – This regulation governs corrective action required to be taken by a public warehouseman who has undermeasured the volume of grain stored in a public warehouse. The regulation provides that a public warehouseman who undermeasures the volume of grain stored in a public warehouse 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 public warehouse's daily position report so that it reflects the volume of grain actually stored in the warehouse by commodity. The regulation provides that a public warehouseman who over measures the volume of grain stored in a public warehouse is not required to adjust the public warehouse's daily position report. The regulation further states that the volume of grain to

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be considered stored in each licensed public warehouse for purposes of the regulation shall be the volume of grain stored in the licensed public warehouse as of the date and time that the licensed public warehouse's daily position report is provided to the secretary at the beginning of an examination.

The proposed regulations are not mandated by federal law. Contiguous states have regulatory schemes for public warehouses similar to the approach taken by these regulations. The Department does not anticipate that the proposed regulations will enhance or restrict business activity or growth in Kansas. Other than K.A.R. 4-25-16, which pertains to license fees, the proposed regulations will simply implement current industry practice or provide clearer guidance as to existing statutory requirements. The costs posed by the proposed increased licensed fees will be borne by licensed Kansas public warehousemen. The Department conducted extensive outreach to that stakeholder group, including organizations and individual stakeholders, both when the statutory increase in maximum license fees that authorizes K.A.R. 4-25-16 was being considered and throughout the development of these regulations. Stakeholders did not express concern that the proposed fee increases will restrict their business activities or growth.

Implementation and compliance costs of approximately \$58,228 will be passed along to licensed Kansas public warehousemen. Public warehouses may pass that cost increase on to their customers, but otherwise the Department does not anticipate that the proposed regulations will impose any additional costs on other businesses, sectors, public utility ratepayers, or individuals and does not anticipate the proposed regulations will impose any costs on local governments. The proposed regulations will not have a significant effect on the state economy as a whole. Licensed Kansas public warehouses and potentially agricultural producers who utilize public warehouses will be directly affected by the proposed rules and regulations.

The benefits of these proposed regulations outweigh the costs. If the Department does not raise its public warehousemen licensing fees, it will soon lack funding for a state-administered grain warehouse program, which is fee-funded. If the Department is no longer able to offer a state-administered grain warehouse program, Kansas public warehousemen will have to obtain licensure through the United States Department of Agriculture. The Department conducted extensive stakeholder outreach when contemplating the statutory amendment that authorizes the license fee increases proposed by these regulations, and stakeholders cited many reasons that they preferred to maintain state licensure. First, the requirements for federal licensure are stricter than those for state licensure, and not all qualified applicants are guaranteed licensure under the federal licensing scheme. Conversely, the Department issues a public warehouseman's license to all qualified applicants. Stakeholders also expressed a desire to maintain state licensure due to the professionalism and customer service they have experienced from the Department's grain warehouse program representatives. Finally, many of the proposed amendments that are not fee-related are aimed at ensuring safety in public warehouses, providing a mechanism for the Department to ensure the solvency of public warehouses, and promoting efficient use of resources, such as electronic storage of records.

The Department originally contemplated an additional license fee increase that would take effect in Fiscal Year 2024 and be in place in all subsequent license years, but it has elected to increase license fees only to the extent reflected in proposed K.A.R. 4-25-16. Additionally, the proposed license fee increase contained in K.A.R. 4-25-16 will ensure that Kansas public warehousemen are able to continue conducting business pursuant to state licensure and do not have to obtain federal licensure, which is more burdensome and offers less certainty and consistency than state licensure. The other proposed regulations will not impose significant costs

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on licensed public warehousemen. The implementation and compliance costs of the proposed regulations will not exceed \$3.0 million in any two-year period. The estimate of the costs posed by the proposed license fee increase was calculated by multiplying the proposed license fees set forth in K.A.R. 4-25-16 by the number of currently-licensed public warehouses of each capacity set forth in the fee schedule contained in K.A.R. 4-25-16.

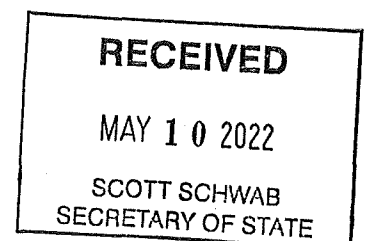
The Department does not anticipate the proposed regulations will significantly increase or decrease revenues of cities, counties or school districts, or impose functions or responsibilities on cities, counties or school districts that will increase their expenditures or fiscal liability. The Department sent letters to the League of Kansas Municipalities, the Kansas Association of School Boards, and the Kansas Association of Counties regarding the expected cost that these proposed regulations would impose on those entities. These letters requested a statement of quantified costs associated with implementation and compliance, an estimate of the total annual implementation and compliance costs, a statement of whether implementation and compliance costs will exceed \$3,000,000 over any two-year period, a statement of whether the draft regulations will increase or decrease the organizations' revenue, and a statement of whether the draft regulations will impose functions or responsibilities on the organizations that will increase their fiscal expenditures or fiscal liability. The Kansas Association of Counties and the League of Kansas Municipalities responded, with both organizations stating that they do not believe the proposed regulations present any increased costs to their members. No response was received from the Kansas Association of School Boards.

In developing these proposed rules and regulations, the Department sought input from the Kansas Grain and Feed Association and the Kansas Cooperative Council, as well as from individual stakeholder members of those organizations. These are not environmental regulations.

Any individual with a disability may request accommodations to participate in the public hearing and may request the proposed regulations and their economic impact statement in an accessible format. Requests for accommodations should be made at least five working days in advance of the hearing by contacting Ronda Hutton, via telephone at (785) 564-6715 or via fax at (785) 564-6777. Handicapped parking is located on the west side of the building at 1320 Research Park Drive, Manhattan, and the west entrance to the building is accessible to individuals with disabilities.

Copies of the regulations and their economic impact statement may be obtained by contacting the Department via mail at Kansas Department of Agriculture, Attn: Ronda Hutton, 1320 Research Park Drive, Manhattan, KS 66502, via telephone at (785) 564-6715, or via the Department's website at: [agriculture.ks.gov](http://agriculture.ks.gov).

Michael M. Beam  
Secretary  
Kansas Department of Agriculture



**K.A.R. 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

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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 P-\_\_\_\_\_.)

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**K.A.R. 4-25-2. Record retention.** (a) Each public person who, as a result of licensure as a 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 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 stored in the warehouse for which the person is or was liable.

(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~~ 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 P-\_\_\_\_\_.)

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**K.A.R. 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 P-\_\_\_\_\_.)

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**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~~ No later than the fifth day of each month and mailed to the secretary, 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 ~~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 at the public warehouseman's licensed public warehouse. These records shall include a daily summarized position ~~record showing report, which shall include 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~~ by the licensed public warehouse; and

(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) ~~The~~ Each public warehouseman shall ~~forward~~ provide to the secretary, ~~not no~~ later than the fifth day of each month, a ~~monthly~~ statement of stocks of grain ~~in each elevator that were stored in the licensed public warehouse through the last day of the preceding month, for each licensed warehouse location reflected as a company total that includes all functional units.~~

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(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 P-\_\_\_\_\_.)

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**K.A.R. 4-25-7. Public warehouse receipts; form.** (a) ~~The form used for~~ Each public warehouse receipts receipt form shall conform to the provisions of comply with K.S.A. 34-239, and amendments thereto, and all other applicable sections of ~~chapter 34~~ provisions of the act, ~~Kansas statutes annotated, and amendments thereto, and shall include, as a part of the form,~~ Each public warehouse receipt form issued to a licensed public warehouse on or after the effective date of this regulation shall include the following statement:

"The undersigned public warehouseman is not the owner of the grain covered by this receipt, ~~either~~ solely, jointly, or in common with others, unless otherwise stated ~~hereon~~ herein. It is hereby agreed that the grain herein described has been graded as ~~provided~~ required by law and may be stored with other grain of the same grade; and that this grain is stored ~~under~~ pursuant to the Kansas grain warehouse law and is subject to all of the rights, powers, privileges, and duties provided therein 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~~ incurred in conjunction with the storage of this 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~~ 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;

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implementing K.S.A. 34-102, 34-238, and 34-239; effective March 8, 2002; amended P-

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**K.A.R. 4-25-8. Scale tickets; inbound form.** (a) ~~When a depositor leaves grain in All~~  
grain delivered by a depositor to any licensed public warehouse licensed under pursuant to the  
provisions of chapter 34 of the Kansas statutes annotated, and amendments thereto, the grain act  
 shall be weighed and graded as provided ~~by the laws and regulations of the state of Kansas~~ 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 ~~at some convenient, in a~~  
 conspicuous ~~point~~ 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 is  
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 ~~licensee~~ public warehouseman or a duly authorized agent of the  
public warehouseman.

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~~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~~ Any public warehouseman ~~shall keep a copy of the~~ may include additional information on a scale tickets ticket, including voided tickets, in numerical order. However, inbound scale tickets shall be used only for grain received by the public warehouseman and shall furnish a copy of these tickets to an authorized examiner of the Kansas department of agriculture upon demand 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 P-\_\_\_\_\_.)

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**K.A.R. 4-25-9. Scale tickets; outbound form.** (a) All grain shipped or transferred by a licensed public warehouseman ~~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 required by the laws and regulations of the state of Kansas 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 ~~at some convenient,~~ in a conspicuous point 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 is 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 licensee public warehouseman or a duly authorized agent of the public warehouseman.

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

(c) ~~The approved~~ 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 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 expressly permitted by the act.

(d) Each public warehouseman shall ~~keep a copy of the~~ maintain copies of all outbound scale tickets, including voided tickets, in numerical order. The public warehouseman and shall furnish a copy of these any outbound scale tickets ticket to an authorized examiner of the Kansas department of agriculture secretary upon demand 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 P-\_\_\_\_\_.)

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**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~~ requirements as those for storage grain.

(b) ~~For grain that is processed by each~~ Any public warehouseman in whose may waive the public warehouse the grain was originally deposited for processing, the warehouse's minimum ~~load-out~~ load-out and receiving ~~charges may be zero~~ fees for grain that is processed in the same public warehouse where the grain was originally deposited for processing.

(b) (c) Each public warehouseman shall enter all of the public warehouseman's grain bank grain ~~shall be entered into the records of the public warehouseman~~ 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 ~~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; amended P-\_\_\_\_\_.)

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Proposed

**K.A.R. 4-25-11.** (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-223; effective March 8, 2002; revoked P-\_\_\_\_\_.)

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**K.A.R. 4-25-15.** (Authorized by K.S.A. 34-102; implementing K.S.A. 34-102 and 34-228; effective March 8, 2002; revoked P-\_\_\_\_\_.)

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**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: 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.....	<del>\$400.00</del> <u>\$570.00</u>
100,001 to 150,000.....	<del>430.00</del> <u>615.00</u>
150,001 to 250,000.....	<del>460.00</del> <u>655.00</u>
250,001 to 300,000.....	<del>490.00</del> <u>700.00</u>
300,001 to 350,000.....	<del>520.00</del> <u>740.00</u>
350,001 to 400,000.....	<del>550.00</del> <u>785.00</u>
400,001 to 450,000.....	<del>575.00</del> <u>818.00</u>
450,001 to 500,000.....	<del>605.00</del> <u>863.00</u>
500,001 to 600,000.....	<del>630.00</del> <u>895.00</u>
600,001 to 700,000.....	<del>660.00</del> <u>940.00</u>
700,001 to 800,000.....	<del>850.00</del> <u>1,210.00</u>
800,001 to 900,000.....	<del>875.00</del> <u>1,248.00</u>
900,001 to 1,000,000.....	<del>900.00</del> <u>1,280.00</u>
1,000,001 to 1,750,000.....	<del>1,225.00</del> <u>1,743.00</u>
1,750,001 to 2,500,000.....	<del>1,400.00</del> <u>1,995.00</u>
2,500,001 to 5,000,000.....	<del>1,750.00</del> <u>2,490.00</u>

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5,000,001 to 7,500,000.....	<del>2,100.00</del>	<u>2,990.00</u>
7,500,001 to 10,000,000.....	<del>2,375.00</del>	<u>3,383.00</u>
10,000,001 to 12,500,000.....	<del>2,600.00</del>	<u>3,705.00</u>
12,500,001 to 15,000,000.....	<del>2,800.00</del>	<u>3,990.00</u>
15,000,001 to 17,500,000.....	<del>3,000.00</del>	<u>4,275.00</u>
17,500,001 to 20,000,000.....	<del>3,225.00</del>	<u>4,953.00</u>
Over 20,000,000 bushels.....	add <del>350.00</del>	<u>500.00</u>

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

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

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

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

(1) \$50.00 per hour for each examiner who is on site for the examination, with a required minimum charge ~~of~~ 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 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 (e) of this regulation for examinations necessitated by changes in storage capacity, including conditional

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~~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~~ 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) ~~of this regulation~~ for examinations necessitated by changes in the storage capacity of a licensed public warehouse, 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~~ All conditional or empty storage space of a 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 P-\_\_\_\_\_.)

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**K.A.R. 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

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(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

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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

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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.

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(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 P-\_\_\_\_\_.)

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**K.A.R. 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 P-\_\_\_\_\_.)

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**K.A.R. 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 P-

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**K.A.R. 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 P-\_\_\_\_\_.)

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**K.A.R. 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.

(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 P-\_\_\_\_\_.)

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## Kansas Administrative Regulations Economic Impact Statement (EIS)

Kansas Department of Agriculture  
Agency

Ronda Hutton  
Agency Contact

785-564-6715  
Contact Phone Number

K.A.R. 4-25-1a, K.A.R. 4-25-2, K.A.R. 4-25-4, K.A.R. 4-25-5, K.A.R. 4-25-7 through K.A.R. 4-25-11,  
K.A.R. 4-25-15, K.A.R. 4-25-16, K.A.R. 4-25-19 through K.A.R. 4-25-23.

☒ Permanent ☐

Temporary  
K.A.R. Number(s)

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

- ☐ Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.
- ☒ No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024 (as calculated in Section III, F)?
- ☐ Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration, the Attorney General, AND the Division of the Budget. The regulation(s) and the EIS will require Budget approval.
- ☒ No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

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## Section I

Brief description of the proposed rule(s) and regulation(s).

The Kansas Department of Agriculture (“Department”) is proposing new regulations, amendments to existing regulations, and the revocation of some existing regulations for the administration of the Kansas Grain Warehouse Law, K.S.A. 34-101, *et seq.* and amendments thereto. These changes are proposed in order to implement the recent changes to the schedule of public warehouse license fees set out in K.S.A. 34-228, as well as to implement current industry policies and practices and to provide more detailed guidance as to requirements already set out in the Kansas Grain Warehouse Law. The proposed regulations are set out in detail below.

The proposed changes to the schedule of grain warehouse license fees will present increased costs to public warehousemen in Kansas. Those costs are set out in more detail below. Other than the costs presented by the proposed license fee regulation, the proposed regulations will not pose significant implementation and compliance costs because they either implement requirements that reflect existing industry practice or provide more detailed parameters for existing statutory requirements.

K.A.R. 4-25-1a – This regulation provides definitions relevant to and used throughout the regulations.

K.A.R. 4-25-2 – This regulation sets forth the records that public warehousemen are required to maintain. The proposed amendment to this regulation clarifies that such records may be maintained electronically.

K.A.R. 4-25-4 – This regulation states that a public warehouse is required to include all of its bulk grain capacity in its total licensed capacity but that any portion of a warehouse’s licensed capacity may be dedicated “not for public use” with the approval of the Department. This regulation is proposed to be revoked because all of the language in the regulation is proposed to be moved to new proposed regulation K.A.R. 4-25-19, which sets forth additional requirements for the licensed, conditional, and emergency storage spaces of a public warehouse.

K.A.R. 4-25-5 – This regulation requires public warehousemen to submit all executed warehouse receipts to the Department on a monthly basis and sets forth the requirements for the daily summarized position report that each public warehouse is required to maintain. The proposed amendment to this regulation states that all records required to be maintained pursuant to the regulation may be maintained electronically.

K.A.R. 4-25-7 – This regulation governs requirements for public warehouse receipt forms. The proposed amendment to this regulation states that warehouse receipts 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.

K.A.R. 4-25-8 – This regulation governs requirements for inbound scale tickets. The proposed amendment to this regulation requires public warehousemen to maintain copies of all inbound scale tickets and furnish copies of any inbound scale ticket to the Department upon request. The regulation states that copies of inbound scale tickets may be maintained in electronic form.

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K.A.R. 4-25-9 – This regulation governs requirements for outbound scale tickets. The proposed amendment to this regulation requires public warehousemen to maintain copies of all outbound scale tickets and furnish copies of any outbound scale ticket to the Department upon request. The regulation states that copies of outbound scale tickets may be maintained in electronic form.

K.A.R. 4-25-10 – This regulation governs requirements for grain bank grain. The proposed amendment to this regulation would remove the phrase “and shall not be shown as a part of the total grain bank grain obligation” from subsection (b) of the regulation.

K.A.R. 4-25-11 – This regulation sets forth a definition for the word “grain.” This regulation is proposed to be revoked because the definition it contains is proposed to be moved to new regulation K.A.R. 4-25-1a pertaining to definitions.

K.A.R. 4-25-15 – This regulation provides that 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. This regulation is proposed to be revoked because the most recent amendments to the Kansas Grain Warehouse Law require inspection every 18 months.

K.A.R. 4-25-16 – This regulation sets forth the schedule of fees for public warehouse licenses, as authorized by the increase in maximum license fee amounts implemented by the 2021 amendments to K.S.A. 34-228.

K.A.R. 4-25-19 – This regulation establishes requirements for licensed, conditional, and emergency storage spaces of a public warehouse. It provides that a public warehouse shall not be used for grain storage until the Department has measured the empty storage volume of the licensed public warehouse and determined it is adequate for storing grain in acceptable condition. The regulation also provides that a warehouseman who takes possession of a previously-licensed warehouse may begin using the facility for grain storage upon assuming ownership and obtaining required licensure, provided that the secretary has previously measured the storage volume of the facility and determined that the facility is adequate for maintaining stored grain in acceptable condition. The regulation also sets out criteria that the Department will use for determining whether a facility is adequate to maintain grain in acceptable condition and establishes requirements for warehousemen who wish to utilize conditional or emergency storage. This regulation also incorporates the language that is currently contained in K.A.R. 4-25-4, discussed above.

K.A.R. 4-25-20 – This regulation establishes requirements for unpaid grain contracts. It requires all unpaid grain contracts to be signed by both the public warehouse and the seller of the grain, or evidenced by a written confirmation signed by both parties, within 30 days of the contract being entered in to. The regulation provides that the required signatures may be in electronic or other similar form sufficient to verify that both parties have approved the contract. This regulation also requires public warehousemen to maintain unpaid grain contracts in a manner that allows the Department to easily access and verify such contracts during an examination and requires fulfilled unpaid grain contracts to either be stored separately from unfulfilled contracts or to be clearly marked to indicate that they are fulfilled.

K.A.R. 4-25-21 – This regulation governs safety requirements for licensed public warehouses. It requires that public warehouses be maintained in a manner that ensures they can be safely examined and inspected and requires each warehouse to be equipped with adequate and properly functioning ladders, catwalks, lifts,

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elevators, and any other equipment the secretary deems necessary for safe examination or inspection. This regulation also provides that the Department may refuse to perform any examination or inspection if a 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. The regulation further provides that a functional unit that is not examined due to a determination that the facility cannot be adequately examined or is unsafe for examination personnel shall not be included on a daily position report, shall not be included in an exam, and shall not be used to cover a warehouse receipt or any other liability.

K.A.R. 4-25-22 – This regulation governs disciplinary actions for public warehousemen who violate the Kansas Grain Warehouse Law. It provides that public warehousemen who are in violation of the law shall be issued a report of conditions detailing the items or conditions that are out of compliance and shall have 15 days to provide a report to the Department detailing how the public warehouseman has remedied or plans to remedy each violation that was cited in the report of conditions. The regulation further provides that a public warehouseman who fails to respond to a report of conditions within 15 days of its issuance shall be subject to further disciplinary action, which may include suspension or revocation of the public warehouseman's license.

K.A.R. 4-25-23 – This regulation governs corrective action required to be taken by a public warehouseman who has undermeasured the volume of grain stored in a public warehouse. The regulation provides that a public warehouseman who undermeasures the volume of grain stored in a public warehouse 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 public warehouse's daily position report so that it reflects the volume of grain actually stored in the warehouse by commodity. The regulation provides that a public warehouseman who over measures the volume of grain stored in a public warehouse is not required to adjust the public warehouse's daily position report. The regulation further states that the volume of grain to be considered stored in each licensed public warehouse for purposes of the regulation shall be the volume of grain stored in the licensed public warehouse as of the date and time that the licensed public warehouse's daily position report is provided to the secretary at the beginning of an examination

## Section II

Statement by the agency if the rule(s) and regulation(s) exceed the requirements of applicable federal law, and a statement if the approach chosen to address the policy issue(s) is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different or exceeds federal law, then include a statement of why the proposed Kansas rule and regulation is different.)*

The proposed regulations are not mandated by federal law. Contiguous states have regulatory schemes for public warehouses similar to the approach taken by these regulations.

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### Section III

Agency analysis specifically addressing the following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The Department does not anticipate that the proposed regulations will enhance or restrict business activity or growth in Kansas. Other than K.A.R. 4-25-16, which pertains to license fees, the proposed regulations will simply implement current industry practice or provide clearer guidance as to existing statutory requirements. The costs posed by the proposed increased licensed fees will be borne by licensed Kansas public warehousemen. The Department conducted extensive outreach to that stakeholder group, including organizations and individual stakeholders, both when the statutory increase in maximum license fees that authorizes K.A.R. 4-25-16 was being considered and throughout the development of these regulations. Stakeholders did not express concern that the proposed fee increases will restrict their business activities or growth.

- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

Implementation and compliance costs of approximately \$58,228 will be passed along to licensed Kansas public warehousemen. Public warehouses may pass that cost increase on to their customers, but otherwise the Department does not anticipate that the proposed regulations will impose any additional costs on other businesses, sectors, public utility ratepayers, or individuals and does not anticipate the proposed regulations will impose any costs on local governments. The proposed regulations will not have a significant effect on the state economy as a whole.

- C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);

Licensed Kansas public warehouses and potentially agricultural producers who utilize public warehouses will be directly affected by the proposed rules and regulations.

- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The benefits of these proposed regulations outweigh the costs. If the Department does not raise its public warehousemen licensing fees, it will soon lack funding for a state-administered grain warehouse program, which is fee-funded. If the Department is no longer able to offer a state-administered grain warehouse program, Kansas public warehousemen will have to obtain licensure through the United States Department of Agriculture. The Department conducted extensive stakeholder outreach when contemplating the statutory amendment that authorizes the license fee increases proposed by these regulations, and stakeholders cited many reasons that they preferred to maintain state licensure. First, the requirements for federal licensure are stricter than those for state licensure, and not all qualified applicants are guaranteed licensure under the federal licensing scheme. Conversely, the Department issues a public warehouseman's license to all qualified applicants. Stakeholders also expressed a desire to maintain state licensure due to the professionalism and customer service they have experienced from the Department's grain warehouse program representatives. Finally, many of the proposed amendments that are not fee-

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related are aimed at ensuring safety in public warehouses, providing a mechanism for the Department to ensure the solvency of public warehouses, and promoting efficient use of resources, such as electronic storage of records.

- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

The Department originally contemplated an additional license fee increase that would take effect in Fiscal Year 2024 and be in place in all subsequent license years, but it has elected to increase license fees only to the extent reflected in proposed K.A.R. 4-25-16. Additionally, the proposed license fee increase contained in K.A.R. 4-25-16 will ensure that Kansas public warehousemen are able to continue conducting business pursuant to state licensure and do not have to obtain federal licensure, which is more burdensome and offers less certainty and consistency than state licensure. The other proposed regulations will not impose significant costs on licensed public warehousemen.

- F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or members of the public.

*Note: Do not account for any actual or estimated cost savings that may be realized.*

Costs to Affected Businesses – \$58,228

Costs to Local Governmental Units – \$0

Costs to Members of the Public – \$0

**Total Annual Costs – \$58,228**

(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The estimate of the costs posed by the proposed license fee increase was calculated by multiplying the proposed licensed fees set forth in K.A.R. 4-25-16 by the number of currently-licensed public warehouses of each capacity set forth in the fee schedule contained in K.A.R. 4-25-16.

- ☐ Yes      If the total implementation and compliance costs exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024, and prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.
- ☐ No
- ☒ Not Applicable

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Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

As the \$58,228 imposed on affected businesses annually will be in the form of license fees paid to the Department, the Department will see an annual revenue increase of \$58,228. As set out above, this revenue increase will be used to continue to fund a state-administered grain warehouse program.

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

These regulations will have no direct economic impact beyond the \$58,228 per year total imposed on state-licensed grain warehouses discussed above. Any long-term economic impact to other businesses or individuals beyond that cost will be in the form of increased costs that affected grain warehouses may pass on to their customers and is not likely to be significant. It is not possible to estimate that cost specifically because it is dependent on the business decisions and practices of individual licensed grain warehouses.

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

The proposed regulations will not increase or decrease revenues of cities, counties, or school districts or impose functions or responsibilities on cities, counties, or school districts that will increase expenditures or fiscal liability.

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

In developing these proposed rules and regulations, the Department sought input from the Kansas Grain and Feed Association and the Kansas Cooperative Council, as well as from individual stakeholder members of those organizations. The Department also sent letters to the League of Kansas Municipalities, the Kansas Association of School Boards, and the Kansas Association of Counties inquiring regarding the expected cost that these proposed regulations would impose on those entities. These letters requested a statement of quantified costs associated with implementation and compliance, an estimate of the total annual implementation and compliance costs, a statement of whether implementation and compliance costs will exceed \$3,000,000 over any two-year period, a statement of whether the draft regulations will increase or decrease the organizations' revenue, and a statement of whether the draft regulations will impose functions or responsibilities on the organizations that will increase their fiscal expenditures or fiscal liability. The Kansas Association of Counties and the League of Kansas Municipalities responded, with both organizations stating that they do not believe the proposed regulations present any increased costs to their members. No response was received from the Kansas Association of School Boards.

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**Section IV**

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

- ☐ Yes If yes, complete the remainder of Section IV.  
☒ No If no, skip the remainder of Section IV.

- A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the persons who would bear the costs.
- B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other persons who would bear the costs.
- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).
- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

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