

State of Washington

Department of Agriculture

(agency name)

Administrative Order No. 1799

(1) I, Michael Schwisow, deputy, director of the Department of Agriculture

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

- Chapter 16-212 WAC Grain Warehousing
Chapter 16-224 WAC Grain Storage

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. filed with the code reviser on. These rules shall take effect:

- thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).
at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, Michael Schwisow, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

A change in chapter 22.09 RCW in SHB 793 necessitates the filing of this emergency order, to place in the rules the necessary procedures to implement the new law, which has made major revisions in the Washington Warehouse Act, and which is now in effect. A public hearing is scheduled for July 8, on adoption of permanent rules

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

- (a) This rule is promulgated pursuant to RCW 22.09 and is intended to administratively implement that statute.
(b) This rule is promulgated pursuant to RCW which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

- (c) This rule is promulgated under the general rule-making authority of the

(agency)

as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

STATE OF WASHINGTON APPROVED AND ADOPTED June 2, 1983 FILED

JUN 2 1983

By Michael Schwisow

Deputy Director Title

CODE REVISER'S OFFICE

WSR 83-13-010

AMENDATORY SECTION (Amending Order 1432, filed 9/24/75)

WAC 16-212-110 ((WAREHOUSE-BONDING-REQUIREMENTS)) BONDS.

(1) A bond of not less than (((\$25,000)) fifty thousand dollars nor more than (((\$750,000-is)) eleven hundred fifty thousand dollars shall be required for each warehouseman and dealer licensed pursuant to chapter 22.09 RCW, ((Laws-of-1963)) the Washington Warehouse Act. The bond amount ((of-such-bond)) shall be computed at the rate of (((\$0.18)) eighteen cents per bushel of licensed storage capacity or ((6%)) six percent of gross sales of agricultural commodities, whichever is higher.

(2) For ((the)) purposes of this ((Act)) section, gross sales ((are-limited-to-these)) includes only sales of agricultural commodities ((stored, handled, and/or merchandised through a Washington State-licensed-warehouse,--Sales-will-be-determined-from-the-last available-statement-and-the-director-may-consult-with-the-warehouse committee-and-may-apply-a-factor-to-the-gross-sales-to-reflect-the current-market-trends)) purchased from producers covered under the act during the preceding fiscal year of that dealer.

AMENDATORY SECTION (Amending Order 1432, filed 9/24/75)

WAC 16-212-130 ((WAREHOUSEMAN)) NET WORTH REQUIREMENTS. ((An

A warehouseman must maintain an allowable net worth of (((\$0.15)) twenty cents per bushel of licensed space, with a minimum of (((\$10,000)) \$25,000. A dealer must maintain an allowable net worth of four percent of sales of commodities purchased from producers with a minimum of \$25,000. A warehouseman who is also a dealer must maintain the higher of these two requirements. ((is required-for-each-warehouseman-licensed-pursuant-to-chapter 22.09-RCW-Laws-of-1963--the-Washington-Warehouse-Act.)) Any deficiency above the (((\$10,000)) \$25,000 minimum must be compensated for by increasing the amount of ((the-warehouse)) a warehouseman's bond by the amount of the deficiency, up to the \$750,000 maximum. Any deficiency above the \$25,000 minimum must be compensated for by increasing the amount of a dealer's bond by the amount of the deficiency regardless of the (((\$500,000)) \$750,000 maximum ((as-set-forth-in-WAC-16-212-110)). Warehousemen/dealers must also maintain a current asset to current liability of at least point nine to one. Deficiencies must be made up by providing additional bonding in the amount of the deficiency.

AMENDATORY SECTION (Amending Order 1624, filed 4/30/79)

WAC 16-212-160 FINANCIAL STATEMENTS. ((The-department-shall

receive-annually-as-close-to-the-end-of-the-warehouseman's-fiscal year-as-practical-but-in-no-case-later-than-six-months,--financial statements)) Each warehouseman and dealer shall submit to the department an annual financial statement which shall have been audited or reviewed by a certified or licensed public accountant. The statement must be submitted to the department within four months after the conclusion of the warehouseman or dealer's fiscal year. The statement shall ((which)) include:

(1) A balance sheet.

(2) An income statement which includes annual gross sales of commodities from producers covered under the ((Washington-Warehouse)) act ((7-chapter-22.09-RCW)).

(3) A statement of changes in financial position.

(4) Footnotes or schedule disclosure of:

(a) The total bushels ((/pounds)) received annually by commodity.

(b) The amount of each commodity in storage at end of year.

(c) The amount of each commodity held for depositors.

- (d) The amount of each commodity in storage contracted to purchase.
- ~~((+d+))~~ (e) The amount of farm storage contracted but not delivered.
- ~~((+e+))~~ (f) The amount of each commodity sold but not shipped.
- ~~((+f+))~~ (g) The amount of new purchases and sales by commodity.

AMENDATORY SECTION (Amending Order 1532, filed 6/1/77)

WAC 16-212-170 ~~((CONTRACT--MINIMUM-REQUIREMENTS))~~ DEALER RECORDS. ~~((Contracts-between-depositors-and-warehouseman-must contain-as-a-minimum-the-following-))~~ Each dealer shall maintain the following records at a location as required by RCW 22.09.340:

- (1) Contracts. Contracts issued to producers must:
 - ~~((+1+))~~ (a) Be serially numbered.
 - ~~((+2+))~~ (b) Clearly indicate the date title passes.
 - ~~((+3+))~~ (c) Show the net price due ~~((seller))~~ the producer or charges to be deducted from the selling price.
 - ~~((+4+))~~ (d) ~~((Time-of))~~ Show the date payment is due.
 - ~~((+5+))~~ (e) Indicate the method of adjustment for over and under ~~((delivery))~~ deliveries.
 - ~~((+6+))~~ (f) ~~((Minimum-acceptable-grade-without-mutual-consent as-stipulated-in-contract-))~~ Show date paid.
 - ~~((+7+))~~ (g) Be maintained in numerical sequence by month payment is due for outstanding contracts and completed contracts must be filed numerically.
- (2) Delayed price contracts. Delayed price contracts must contain the following information and be approved for use in advance by the department:
 - (a) Indicate in large type the date title will pass.
 - (b) Show the method for setting price.
 - (c) Show the date by which the commodity must be priced.
 - (d) State the method of setting the price if it is not priced by that date.
 - (e) Charges to be assessed.
 - (f) Commodity and quantity contracted.
- (3) Purchase reports. Each dealer who purchases commodity from a producer must issue a purchase report to the producer at the time of payment which shall:
 - (a) Be prenumbered.
 - (b) Show commodity and quantity purchased.
 - (c) Show price and basis.
 - (d) Show discounts.
 - (e) Show itemized charges assessed the producer.
 - (f) Show the check number and date paid with one copy filed numerically.
- (4) Producer ledger. Each dealer must maintain a producer ledger showing:
 - (a) The name of each producer from whom the dealer has purchased an agricultural commodity.
 - (b) The amount contracted with corresponding contract number.
 - (c) Scale ticket numbers, lot numbers and/or bills of lading to apply against the contract.
 - (d) The purchase voucher number.
- (5) Monthly position--Country warehousemen dealers. Each country warehouseman who is also a dealer shall maintain a monthly position record by commodity in regard to producer purchases showing:
 - (a) The net buy/sell position.
 - (b) The amount of delayed price grain sold which the producer has not priced.
 - (c) The amount shipped which has not been paid for.
- (6) Monthly position--Other dealers. All dealers not covered under the previous subsection shall maintain a monthly position record by commodity in regard to producer purchases showing:
 - (a) The amount purchased year to date:
 - (b) The amount outstanding on delayed price contracts.
 - (c) The amount contracted and delivered but not yet paid for.

AMENDATORY SECTION (Amending Order 1532, filed 6/1/77)

WAC 16-212-180 ((SCALE-TICKETS--MINIMUM-REQUIREMENTS))
WAREHOUSEMAN RECORDS. Each warehouseman shall maintain the following records at a location required by RCW 22.09.340:

- (1) A printed daily position record showing by commodity:
 - (a) The amount received.
 - (b) The amount shipped.
 - (c) Adjustments.
 - (d) The amount forwarded to other locations.
 - (e) The amount in storage.
 - (f) The amount belonging to depositors.
- (2) A depositor ledger for each depositor showing:
 - (a) The amount deposited each day by scale ticket number.
 - (b) The amount transferred to warehouse receipts with the corresponding warehouse receipt number.
 - (c) The amount transferred to other locations.
 - (d) The amount purchased and purchase report number.
 - (e) The amount contracted to purchase and contract number.
 - (f) The amount delivered back to depositors.
 - (g) The lot numbers and grade.
 - (h) Any crop divisions.
- (3) Scale tickets. ~~((given-a-depositor-upon-initial-delivery of-a-commodity-shall-contain))~~ in addition to the requirements in ~~((RCW-22-09-010-12))~~ RCW 22.09.010(16), scale tickets must ~~((the following))~~:
 - ~~((1))~~ (a) Show location where the ~~((commodities))~~ commodity is deposited.
 - ~~((2))~~ (b) Show that the commodity is insured for current market value.
 - ~~((3))~~ (c) Plainly ~~((show))~~ indicate that it is NONNEGOTIABLE and NONTRANSFERABLE.
 - ~~((4))~~ (d) ~~((File-one-copy))~~ Be filed numerically ~~((by-location))~~ in the main office.
- (4) Shipments. Record of shipments out of a warehouse must be filed by warehouse location. Intra-company transfers must be on a prenumbered form and filed numerically by location.

AMENDATORY SECTION (Amending Order 1532, filed 6/1/77)

WAC 16-212-195 INVENTORY REQUIREMENTS ((--NEW-CONSTRUCTION)). A warehouse not licensed prior to July 1, 1983 must meet the following requirements:

- (1) Tanks and stices over ~~((200))~~ two hundred bushels per foot must have inventory holes situated in such a manner ~~((that))~~ as to allow the measurement of the high and low points of the commodity ~~((can-be-measured)).~~
- (2) Conventional flat storage must have an overhead catwalk with a minimum of five feet of headroom.

NEW SECTION

WAC 16-212-215 SCALES. All scales used by warehousemen and dealers must be checked and certified for accuracy annually by the department of agriculture. The department shall place a seal on the scales which shall be dated and indicate approval or rejection.

NEW SECTION

WAC 16-212-220 SIGNS. A warehouseman shall post at each warehouse licensed under this act a conspicuous sign bearing the words "WASHINGTON BONDED WAREHOUSE" and of sufficient size to be easily read from thirty feet.

NEW SECTION

WAC 16-212-225 CHARGES. Warehousemen and dealers who receive commodities for storage, handling, or conditioning shall post conspicuously a schedule of all charges, moisture adjustment factors and disposition of all by-products. A copy of all charges assessed and billed to each depositor shall be itemized and retained in a numerical file.

NEW SECTION

WAC 16-212-230 CERTIFICATES OF DEPOSIT. A certificate of deposit issued to the department in lieu of a bond shall not be released, cancelled or discharged until three years after cancellation of the license unless the department determines that no outstanding claims exist for the subject period.

NEW SECTION

WAC 16-212-235 SEED WAREHOUSEMAN RECORDS. Each seed warehouseman handling or treating seed shall:

- (1) Daily post to the daily position record all seed delivered out of or returned to a licensed facility. Such seed may be deducted from company-owned, open storage or by the cancelling of negotiable receipts.
- (2) A subsidiary ledger may be maintained for open storage seed accounts with a total figure posted in the grower ledger at the end of seeding.
- (3) A warehouseman may not reduce receipted obligations for seed withdrawal without cancelling the receipt.
- (4) A warehouseman may deduct seed from the company position on the daily position record on a daily basis even though this may show a negative position: PROVIDED, That there is sufficient depositor withdrawals to cover the negative position.
- (5) The grower ledger shall be adjusted as soon as practical after seeding or within thirty days.

NEW SECTION

WAC 16-224-025 EMERGENCY STORAGE. If the director determines that an emergency storage situation exists, a warehouseman may forward grain to other licensed warehouses for storage without cancelling the depositor's negotiable receipt under the following conditions:

- (1) The warehouseman must obtain department approval prior to shipment.
- (2) The warehouseman must demonstrate to the department how he will be back in position within thirty days.
- (3) The warehouseman must obtain a negotiable receipt in his name from the receiving warehouse.

AMENDATORY SECTION (Amending Order 1745, filed 7/17/81)

WAC 16-224-030 ((OUTSIDE)) CONTEMPORARY STORAGE. ((The-department-of-agriculture-will-allow-the-storing-of)) (1) Grain may be stored outside the warehouseman's permanent enclosed storage space only under the following conditions:

- ((1)) (a) When the warehouseman has no permanent enclosed storage space available.
- ((2)) (b) The outside storage space is on ground properly landscaped to provide adequate drainage and must be approved by the department prior to use;
- ((3)) (c) Stockpiles created by a licensed warehouseman at a location not filled through his permanent enclosed storage facility must have a separate letter designation and license fee.
- ((4)) (d) For outside storage up to thirty-three and one-third per-cent of the warehouseman's permanent enclosed storage

capacity, a ~~((new))~~ net worth of ~~((twenty))~~ twenty-five cents per bushel must be maintained in addition to the net worth requirements of WAC 16-212-130.

~~((5))~~ (e) A warehouseman may request the department of agriculture to approve ~~((his))~~ the outside storage in excess of thirty-three and one-third percent of ~~((his))~~ permanent enclosed storage capacity. ~~((and))~~ The warehouseman ~~((must))~~ shall maintain a net worth of ~~((thirty))~~ thirty-five cents per bushel on this excess unless it contains adequate aeration and is covered with a covering approved by the department of agriculture, ~~((---PROVIDED---That-if-the-excess-contains-aeration-and-is-covered-with-a-covering-approved-by-the-department-of-agriculture))~~ in which case the net worth requirement will be ~~((twenty))~~ twenty-five cents per bushel.

~~((6))~~ (f) All outside storage must be properly crowned and ~~((removed-from))~~ not be in contact with the side ~~((s))~~ of any building ~~((no-later-than))~~ or elevator after October 15 of the crop year.

~~((7))~~ (2) Violation of this regulation constitutes a violation of ~~((Title-22))~~ chapter 22.09 RCW and may result in a suspension of the warehouseman's license.

AMENDATORY SECTION (Amending Order 1750, filed 10/13/81))

WAC 16-224-040 HISTORICAL DEPOSITOR. Prior to allocating warehouse space on the basis of historical deposits, each warehouseman shall, for the purposes of the definition of "historical depositor" as set forth in ~~((REW-22-09-010-15))~~ RCW 22.09.010(12), file with the department of agriculture a policy statement setting forth the criteria that identifies a person who in the normal course of business operations has consistently made deposits, in the same warehouse, of commodities produced on the same land. Any subsequent changes in this policy shall be filed with the department.