

CHAPTER 1560
DEPARTMENT OF AGRICULTURE
MISCELLANEOUS

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CHRISTMAS TREE STANDARDS

1560.0100 DEFINITIONS.

Subpart 1. **Butt trimmed.** "Butt trimmed" means that all barren branches below the first whorl of foliated branches shall have been removed, and the butt of the trunk has been smoothly cut at approximately right angles to the trunk.

Subp. 2. Clean. "Clean" means that the tree is practically free from vines or other undesirable foreign material.

Subp. 3. Damage. "Damage" means any specific noticeable defect described or listed in this section, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which materially detracts from the appearance or marketing quality of the Christmas tree.

The following are noticeable defects which generally affect one or more faces and are usually readily observed by casual observation of a tree: decided gap (abnormal space between whorls of branches); unduly long branches; uneven density; weak branches; broken branches; barren lower whorl (no needles on branches of bottom whorl); curved stems; hole in tree (lack of branches or foliage and appears as an opening of considerable size); excessively long main leader (when the main leader or stem above top whorl of branches is not proportionate to the overall tree height); incomplete whorl of branches; handle not proportionate to height of tree.

The following are defects which individually or in combination with other defects may materially detract from the appearance or marketing quality of a tree to the same degree as the noticeable defects listed: multiple leaders; crow's-nest (cluster of short branches which forms a compact nest type whorl arrangement); multiple main stems; gooseneck (greater than usual distance between two whorls of branches); noticeable presence of galls on the branches; abnormal loss of needles; abnormal curling of needles; noticeable presence of dead twigs; vines; foreign material.

Subp. 4. Density. "Density" means the amount of foliage present. Factors contributing to the degree of density are the number and size of branches within the whorl, distance between whorls, number and arrangement of branchlets on each branch, the extent of internodal branching, needle arrangement, and needle length. Species differ in their habit of growth and some species do not have internodal branches. Density is judged on the basis of species characteristics.

"Medium density" means that the whorls or branches are relatively close together, the branchlets or side branches are fairly numerous and the needle population is adequate to cover the branches. The stem may be visible, but not distinctly visible throughout most of its length. To grade U.S. Premium or U.S. No. 1 or U.S. Choice, trees must possess at least "medium density".

"Light density" means that the whorls or branches may be thinly spaced, the branchlets or side branches may be only reasonably numerous, but the needle population must be adequate to reasonably cover the branches. The stem is usually visible for approximately 70 percent of its length. To grade U.S. No. 2 or U.S. Standard trees must have at least "light density." Trees that are more open or which do not meet the requirements of "light density" are culls.

Subp. 5. Face. "Face" means the visible surface area of a tree as viewed from a distance of eight to ten feet from the tree. A tree shall be considered as having four faces, each consisting of one-quarter of the surface area of the tree.

Subp. 6. Fairly clean. "Fairly clean" means that the tree is moderately free from vines or other undesirable foreign material.

Subp. 7. Fresh. "Fresh" means that the needles are pliable and generally firmly attached with not more than slight shattering.

Subp. 8. Handle. "Handle" means that portion of the trunk between the butt or base of a tree and the lowest complete whorl of foliated branches.

Subp. 9. Healthy. "Healthy" means that the foliage possesses a thrifty, fresh, natural appearance characteristic of the species.

Subp. 10. Height. "Height" means the distance from the base of the trunk to the top of the main leader, excluding that portion of the leader which extends more than four inches above the apex of the cone of the taper applicable to the tree.

Subp. 11. **Taper.** "Taper" means the relationship of the width of the tree to its height. "Flaring," "normal," and "candlestick" taper are the terms used to describe degrees of taper. At least 75 percent of the branch ends must touch or overlap the line of the cone.

"Flaring taper" means that the general shape of the tree, judged from its best side, forms a cone the base of which is more than 90 percent of its height.

"Normal taper" means that the general shape of the tree, judged from its side, forms a cone the base of which is from 40 to 90 percent of its height.

"Candlestick taper" means that the general shape of the tree, judged from its best side, forms a cone the base of which is less than 40 percent of its height.

Subp. 12. **Well shaped.** "Well shaped" means that the tree is not flat on one side and the branches of the tree, whether sheared or unsheared, are of sufficient number and length to form a circular outline tapering from the lowest whorl of branches to the top.

Statutory Authority: *MS s 27.14*

1560.0200 OFFICIAL MINNESOTA STANDARDS.

By authority of Minnesota Statutes 1971, section 27.07, the commissioner of agriculture hereby adopts the United States standards of grades for Christmas trees as the official Minnesota standards.

Statutory Authority: *MS s 27.14*

1560.0300 APPLICABILITY.

The standards and grades contained in parts 1560.0400 to 1560.0800 are applicable to sheared or unsheared trees of the coniferous species which are normally marketed as Christmas trees.

Statutory Authority: *MS s 27.14*

1560.0400 VOLUNTARY GRADING.

Grading of Christmas trees is voluntary. However, if Christmas trees are advertised, offered for sale, or sold as U.S. graded Christmas trees, they shall be graded by the grower in conformance with the standards and grades set forth in these parts. At the request of the seller or buyer, the Minnesota Department of Agriculture, by appropriate certificate, shall certify the grade as per the applicable schedules.

Statutory Authority: *MS s 27.14*

1560.0500 U.S. PREMIUM.

"U.S. Premium" consists of trees possessing the characteristics typical of the species, which are fresh, clean, healthy, well shaped, butt trimmed, of not less than medium density, with normal taper, and the handle length, unless otherwise specified, may not be less than six inches, or more than 1-3/4 inches for each foot of tree height, and with each of the four faces free from damage by any cause.

Statutory Authority: *MS s 27.14*

1560.0600 U.S. NO. 1 OR U.S. CHOICE.

"U.S. No. 1" or "U.S. Choice" consists of trees possessing the characteristics typical of the species, which are fresh, clean, healthy, well shaped, butt trimmed, of not less than medium density, with normal taper, and the handle length unless otherwise specified, may not be less than six inches, or more than 1-3/4 inches, for each foot of tree height and with three, or more faces which are free from damage by any cause.

Statutory Authority: *MS s 27.14*

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1560.0700 U.S. NO. 2 OR U.S. STANDARD.

"U.S. No. 2" or "U.S. Standard" consists of trees possessing the characteristics typical of the species which are fresh, fairly clean, healthy, well shaped, butt trimmed, light or better density, candlestick normal or flaring taper, and the handle length, unless otherwise specified, may be not less than six inches, or more than 1-3/4 inches for each foot of tree height and with two or more adjacent faces which are free from damage by any cause.

Statutory Authority: *MS s 27.14*

1560.0800 CULLS.

Culls consist of individual trees which fail to meet the requirements of the U.S. No. 2 or U.S. Standard Grade.

Statutory Authority: *MS s 27.14*

1560.0900 SIZE.

Size of trees shall be stated in terms of height in foot or half-foot steps. Unless otherwise specified, the following color code may be used to designate the respective sizes:

Purple tag	4 to 5 feet
Blue tag	4 to 5-1/2 feet
Yellow tag	5 to 6 feet
Red tag	5-1/2 to 7 feet
Orange tag	6 to 7 feet
Green tag	7 to 8 feet
White tag	8 to 10 feet

Statutory Authority: *MS s 27.14*

1560.1000 TOLERANCES.

In order to allow for variations incident to proper sizing, grading, and handling in each of the foregoing grades the following tolerances, by count, shall apply when a lot of Christmas trees is required to meet a specified grade:

A. off-size, ten percent for trees which fail to meet the height specified;

B. off length handle, 20 percent for trees which fail to meet the requirement for handle length but which meet all other requirements for the specified grade;

C. defects, ten percent for trees which fail to meet the remaining requirements of the grade; provided, that for the U.S. Premium and U.S. No. 1 or U.S. Choice grades not more than one-half of this amount, or five percent, shall be allowed for trees which fail to meet the requirements of the next grade lower than that specified.

Statutory Authority: *MS s 27.14*

1560.1100 METRIC CONVERSION TABLE.

Centimeters

Feet (cm)

1/2 =	15.24
1 =	30.48
2 =	60.96
3 =	91.44
4 =	121.92
5 =	152.40
6 =	182.88
7 =	213.36
8 =	243.84

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9 = 274.32

10 = 304.80

Statutory Authority: *MS s 27.14*

1560.1200 INSPECTION PROCEDURES.

Inspection procedures specified by the United States Department of Agriculture for inspection of Christmas trees shall be applied for inspection and the certification of Minnesota Christmas tree grades.

Statutory Authority: *MS s 27.14*

1560.1300 FEES FOR INSPECTION AND GRADING.

Fees for inspection and grading shall be as follows: hourly basis; \$10 per hour (by contract); \$6 per hour standby time if product is not available for inspection; \$6 per hour additional for any inspection made on an overtime basis; 12 cents per mile for travel to perform inspection and grading service.

Statutory Authority: *MS s 27.14*

1560.1400 ANNUAL REVIEW OF FEE CHARGES.

The commissioner shall review the fee charges annually and make necessary adjustments to maintain the inspection services on a self-supporting basis as required by Minnesota Statutes, section 27.07.

Statutory Authority: *MS s 27.14*

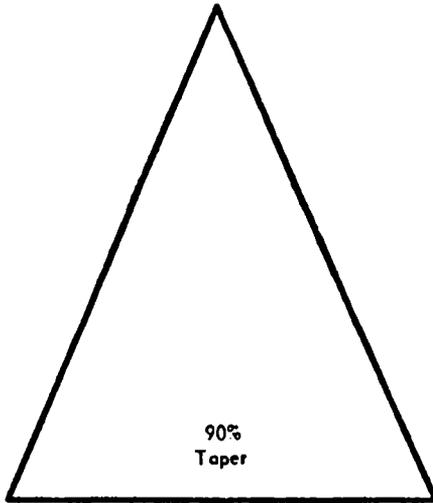
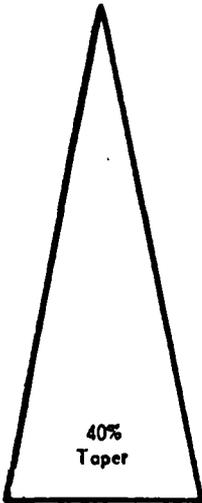
1560.1500 PAYMENT FOR INSPECTION FEES.

Payment for inspection fees shall be made to the state treasurer not later than 30 days from the date of inspection.

Statutory Authority: *MS s 27.14*

1560.1600 ILLUSTRATIONS FOR CHRISTMAS TREE STANDARDS.

Subpart 1. Taper.

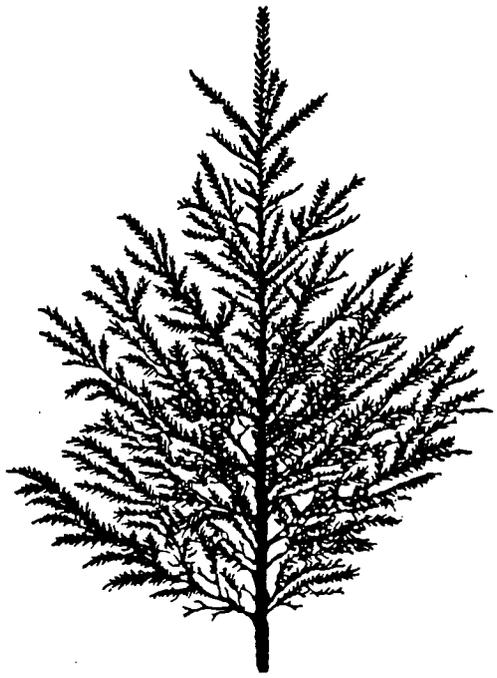


- less than 40% Candiestic
- 40- 90% Normal
- more than 90% Flaring

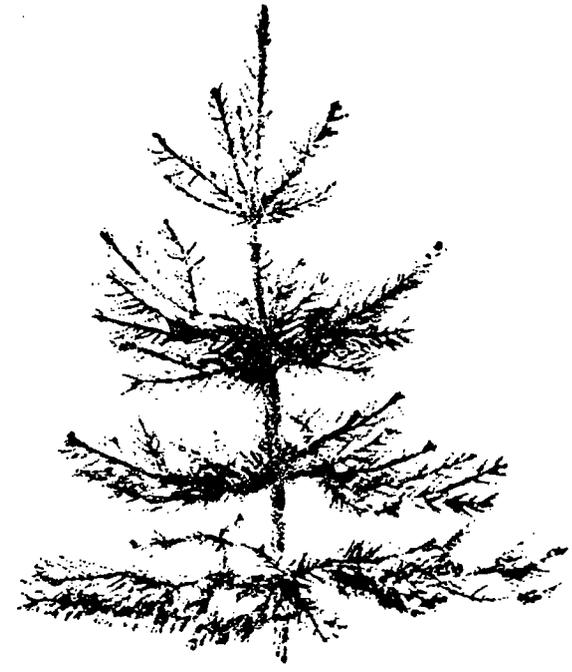
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1560.1600 MISCELLANEOUS

Subp. 2. Light density.



LIGHT DENSITY



LIGHT DENSITY

DENSITY HEAVIER THAN THIS WOULD BE CONSIDERED MEDIUM

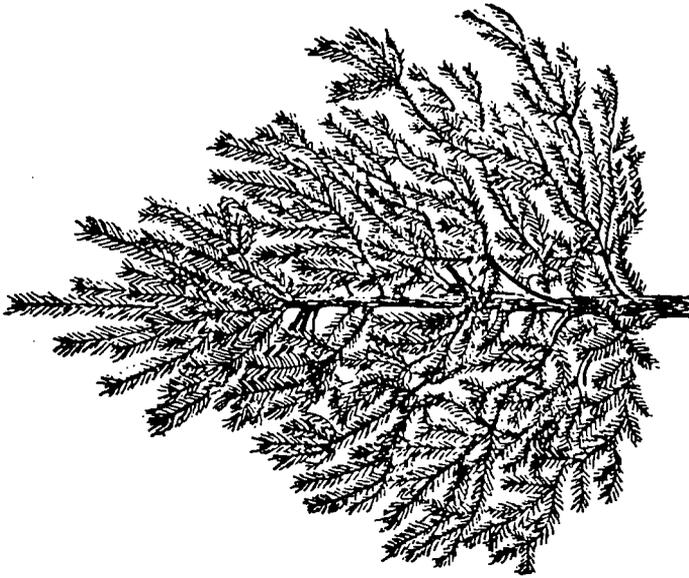
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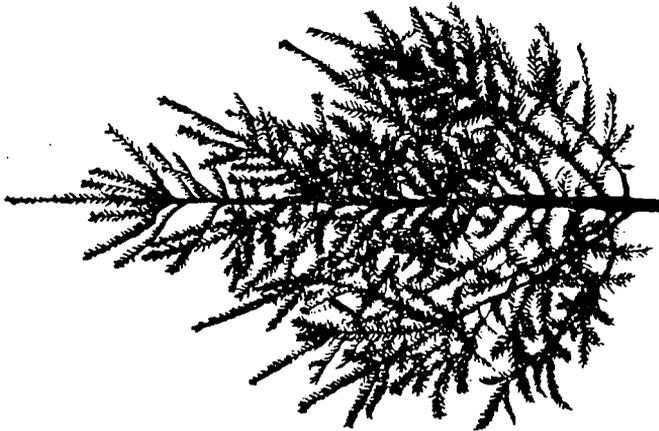
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Subp. 3. U.S. premium; lower limit medium density.



U.S. PREMIUM
LOWER LIMIT MEDIUM DENSITY
for trees of the genus *Pinus*



U.S. PREMIUM
LOWER LIMIT MEDIUM DENSITY
for trees other than the genus *Pinus*

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1560.1600 MISCELLANEOUS

Subp. 4. Upper limits of U.S. Choice, U.S. Standards.



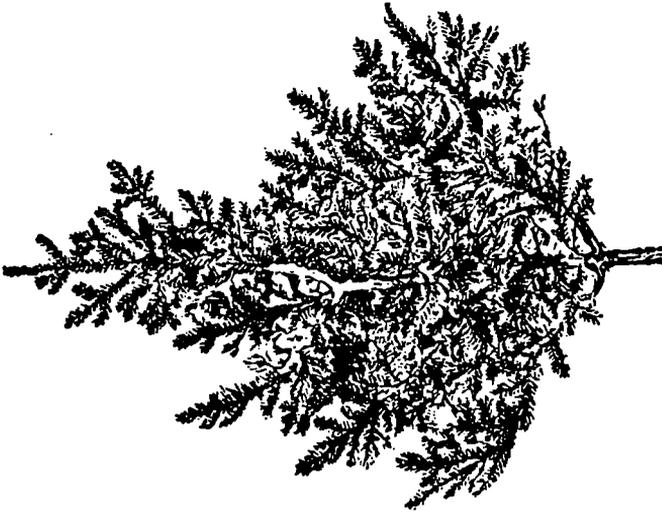
**U.S. NO. 1 OR U.S. CHOICE
(UPPER LIMIT)**
barren lower whorl



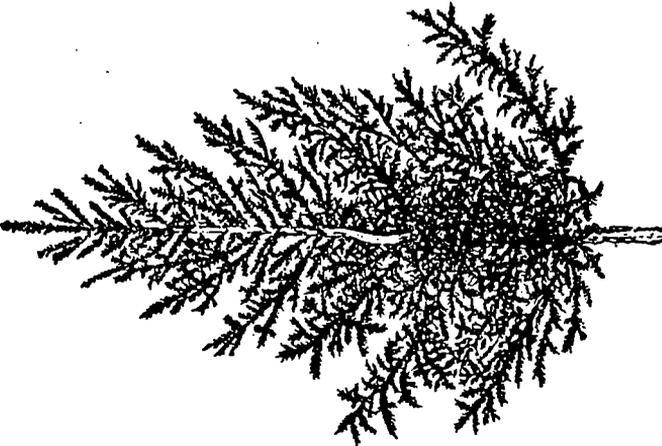
**U.S. NO. 2 OR U.S. STANDARD
(UPPER LIMIT)**
incomplete whorls, uneven density

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Subp. 5. Various defects of U.S. Standard.



U.S. NO. 2 OR U.S. STANDARD
appearance damaged by crook in stem,
and incomplete whorl



U.S. NO. 1 OR U.S. CHOICE
(UPPER LIMIT)
slight crook in stem

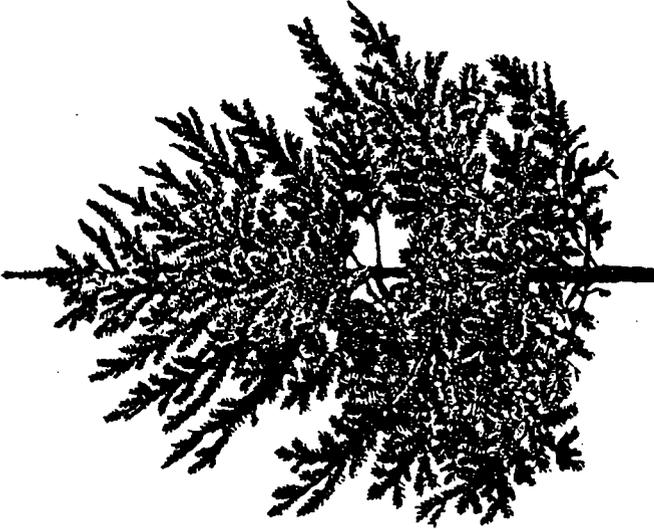
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U.S. NO. 2 OR U.S. STANDARD
multiple leaders and
incomplete whorl



U.S. NO. 2 OR U.S. STANDARD
hole in crown, affecting more
than one face

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Subp. 6. Cull.



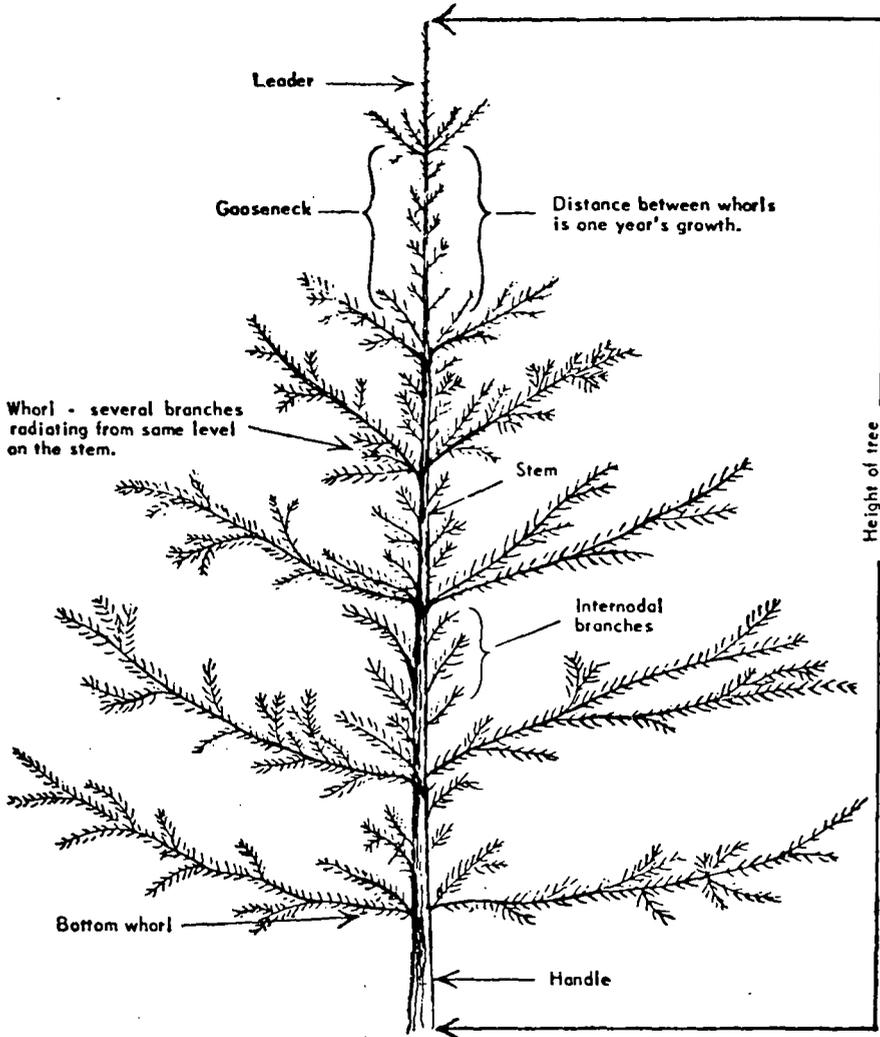
U.S. NO. 2 OR U.S. STANDARD
light density, too much space
between lower whorls



CULL
large hole, partial crows nest
uneven density

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Subp. 7. Christmas tree terminology.



Statutory Authority: *MS s 27.14*

FAMILY FARM SECURITY PROGRAM

1560.1800 PURPOSE AND AUTHORITY.

Subpart 1. **Purpose.** It is the purpose of parts 1560.1800 to 1560.3200 to carry out and administer the family farm security program established by Minnesota Statutes, chapter 41.

Subp. 2. **Authority.** Parts 1560.1800 to 1560.3200 are adopted pursuant to Minnesota Statutes, section 41.53, subdivision 2.

Statutory Authority: *MS s 41.53 subd 2*

1560.1900 DEFINITIONS.

Subpart 1. **Applicability.** For the purposes of parts 1560.1800 to 1560.3200 the terms defined in this part have the meanings given them.

Subp. 2. **Amortization schedule.** "Amortization schedule" means the loan repayment schedule approved by the commissioner.

Subp. 3. **Applicant.** "Applicant" means a natural person applying for a family farm security loan.

Subp. 4. **Balloon payment.** "Balloon payment" means the final payment of an amortization schedule which is equal to or exceeds four times the amount of the immediately preceding payment.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized representative.

Subp. 6. **Cooperating agency.** "Cooperating agency" has the meaning given in Minnesota Statutes, section 41.52, subdivision 11.

Subp. 7. **Council.** "Council" means the family farm advisory council.

Subp. 8. **Even payment.** "Even payment" means the payment amount necessary at a given interest rate to fully amortize the loan over a given period of time.

Subp. 9. **Farm business management course.** "Farm business management course" means a course in farm record keeping, farm business management, or other related areas approved by the commissioner.

Subp. 10. **Farm land.** "Farm land" has the meaning given in Minnesota Statutes, section 41.52, subdivision 6.

Subp. 11. **Fully amortize.** "Fully amortize" means to insert terms or provisions in a loan which do not result in a balloon payment.

Subp. 12. **Guarantee.** "Guarantee" means the "family farm loan guarantee" defined in Minnesota Statutes, section 41.52, subdivision 9.

Subp. 13. **Lender.** "Lender" has the meaning given in Minnesota Statutes, section 41.52, subdivision 7.

Subp. 14. **Loan.** "Loan" means "family farm security loan" as defined in Minnesota Statutes, section 41.52, subdivision 5.

Subp. 15. **Memorandum of understanding.** "Memorandum of understanding" has the meaning given in Minnesota Statutes, section 41.52, subdivision 12.

Subp. 16. **Participant.** "Participant" means an applicant who has received final approval for a guarantee which has been fully executed by the state.

Subp. 17. **Payment adjustment.** "Payment adjustment" has the meaning given in Minnesota Statutes, section 41.52, subdivision 10.

Subp. 18. **Program.** "Program" means the family farm security program of the Department of Agriculture.

Subp. 19. **Seller-sponsored loan.** "Seller-sponsored loan" has the meaning given in Minnesota Statutes, section 41.52, subdivision 8.

Subp. 20. **State.** "State" means the state of Minnesota.

Subp. 21. **Subordination.** "Subordination" means that the commissioner agrees that the state's interest in a loan has a lower lien priority than the interest of another party.

Statutory Authority: *MS s 41.53 subd 2*

1560.2000 ELIGIBILITY.

Subpart 1. Criteria. To be eligible for a guarantee, an applicant must meet the criteria listed in Minnesota Statutes, sections 41.55 and 500.221, subdivision 2 and those in this part.

Subp. 2. Net worth. The current net worth of the applicant, dependents, and spouse, as determined by generally accepted accounting principles, must not exceed the level set in Minnesota Statutes, section 41.55, clause (c).

Subp. 3. Farm land. Applications will be accepted only for loans to acquire farm land.

Subp. 4. Ownership. The applicant must be purchasing a 100 percent interest in the farm land. The farm may be operated in partnership, but the applicant must own the farm land individually.

Subp. 5. Use. The farm land must be purchased for agricultural uses.

Statutory Authority: *MS s 41.53 subd 2*

1560.2100 PRELIMINARY APPROVAL; NOTIFICATION AND RECONSIDERATION.

Subpart 1. Application. An applicant must apply for a guarantee on forms provided by the commissioner. The application must include the following:

- A. a farm land appraisal;
- B. a purchase agreement;
- C. letters of commitment, if appropriate;
- D. the financial information required in subpart 5;
- E. copies of any partnership agreements;
- F. a farm business management course registration form; and
- G. other information reasonably necessary to determine the likelihood of success of the applicant's proposed farming operation.

Subp. 2. Farm land appraisal. An appraisal of the market value of the farm land to be guaranteed must be performed by a qualified appraiser and recorded on the form provided by the commissioner. The appraiser must sign the form. A letter stating the appraiser's qualifications and experience must be on file with the commissioner. The commissioner may require the applicant to obtain an additional appraisal from another appraiser when comparable sales do not reasonably reflect the value of the farm land stated in the original appraisal.

Subp. 3. Purchase agreement. A binding purchase agreement between the seller of the farm land and the applicant, containing all terms agreed upon by the two parties, must be completed. The terms must be in accordance with Minnesota Statutes, chapter 41 and parts 1560.1800 to 1560.3200. The agreement must include a statement that the sale of the farm land is contingent upon the applicant's obtaining a guarantee from the commissioner. The purchase price of the farm land cannot exceed the appraisal value. ♦

Subp. 4. Letters of commitment. The following information must accompany the application:

- A. a letter of commitment for the financing, containing all the terms and provisions of the loan and signed by the lender, if any portion of the farm land purchase price is to be financed through a lender other than the seller;
- B. a letter of credit from a financial institution for required operating credit for the first year of operation;
- C. a written financing commitment, if financing is necessary for the purchase of livestock and equipment; and
- D. written equipment use agreements signed by both the applicant and the equipment owner, if equipment will be shared.

Subp. 5. Financial information. The application must include the following financial information:

- A. a statement of the applicant's current net worth;
- B. statements of the applicant's earnings for the two years immediately prior to the year of application, if available;
- C. statements of projected income and expenses for the first two years of the proposed farm operation;
- D. credit references; and
- E. a statement of the applicant's parents' net worth and the applicant's spouse's parents' net worth or other documentation of the parents' ability or willingness to financially assist the applicant.

Subp. 6. Review of applications. The commissioner shall consider and act upon an application for a guarantee, taking into account the recommendations of the council. In the event of a request for reconsideration of the commissioner's decision pursuant to subpart 9, the matter shall be reviewed at a regularly scheduled meeting of the council.

Subp. 7. Criteria for preliminary approval. The following criteria shall be considered by the commissioner in granting the preliminary approval for a guarantee:

- A. the eligibility criteria set forth in part 1560.2000;
- B. submission of a complete application;
- C. the degree to which farming will be the applicant's principal occupation;
- D. the extent to which the applicant demonstrates financial need for the guarantee to acquire farm land;
- E. the existence of or provisions for financing-related farm expenses other than real estate;
- F. the economic feasibility of the loans as evidenced by the applicant's present, past, and projected financial situation;
- G. the applicant's credit rating;
- H. an analysis of the applicant's debt-to-worth ratio and other factors related to risk and profit potential; and
- I. the likelihood of success of the applicant's proposed farming operation, based on the criteria in items A to H.

Subp. 8. Notification. After each review of an application for a guarantee, the commissioner shall provide written notification of the determination. If the application is approved, the commissioner shall notify the applicant and the lender. If the application is not approved, the commissioner shall notify the applicant and specify the reasons for disapproval.

Subp. 9. Reconsideration of decision. An applicant who wishes the commissioner to reconsider the decision may request, within 90 days of the notification of nonapproval, that the application be reconsidered. The applicant may present to the council, in writing or in person, any additional facts relevant to the reasons given for nonapproval of the application.

Statutory Authority: *MS s 41.53 subd 2*

1560.2200 FINAL APPROVAL.

Subpart 1. Closing. Upon receiving notice of preliminary approval for a guarantee, the applicant shall proceed in accordance with instructions provided by the commissioner for obtaining final approval for the guarantee.

All actions required of the applicant and lender to prepare for the state's execution of guarantee documents, including submission of a preliminary title opinion and execution of all relevant statements or declarations required for loan transactions by federal or state law, regulation, or rule, must be completed within 120 days of receipt of the notice unless an extension is granted. An extension for

a reasonable period of time shall be granted under the following conditions related to either the farm land being guaranteed under the program or assets of the applicant essential to completing the farm land purchase:

A. where title defects cannot reasonably be cured within a time frame which permits compliance with the 120-day deadline;

B. where title encumbrances cannot be released or satisfied within a time frame which permits compliance with the 120-day deadline; or

C. where other matters beyond the control of the applicant reasonably unforeseen prevent compliance with the 120-day deadline.

The commissioner may request and examine copies of other security agreements or loan documents or other records which relate to the applicant's farm land purchase in order to determine all liens and encumbrances on the property.

Subp. 2. Closing documents; seller-sponsored loan. If the loan to be guaranteed is seller-sponsored, the applicant and seller must execute a contract for deed or purchase money real estate mortgage and all additional instruments required to protect the interests of the applicant, the seller, and the state in accordance with the terms and conditions upon which the preliminary approval for the guarantee was granted.

Subp. 3. Closing documents; lender-sponsored loan. If the loan to be guaranteed is lender-sponsored, the applicant and lender must execute a mortgage and note or an assignment of contract for deed and any additional instruments. The lender shall take other actions consistent with prudent lending practices required to protect the interests of the applicant, the lender, and the state.

Subp. 4. Closing documents; releases. The seller must obtain a release or satisfaction of any underlying mortgages, liens, or encumbrances that exceed 90 percent of the balance of the loan to be guaranteed.

Subp. 5. Guarantee. When the closing documents are properly executed, the commissioner shall enter into an agreement with the participant and the lender providing that in the event of default by the participant of any of the terms of the contract for deed, mortgage and note, or assignment of contract for deed, the state shall pay the lender 90 percent of the sums due and payable under those terms. Sums due and payable include the principal balance outstanding, accrued interest up to the date on which the state performs under the guarantee, real estate taxes paid by the lender, and any other expenses incurred by the lender for maintenance and protection of the property during the default period which are determined by the commissioner to be reasonable and prudent.

Subp. 6. Recording. After the loan is closed, the appropriate instruments shall be recorded. The applicant shall furnish the commissioner with copies of the recorded instruments.

Subp. 7. Final title opinion. After the appropriate instruments are recorded, the applicant shall furnish the commissioner with a final title opinion which recognizes the interests of all parties.

Statutory Authority: *MS s 41.53 subd 2*

1560.2300 PAYMENT ADJUSTMENT.

Subpart 1. Amount and eligibility requirement. The state shall pay to the lender, according to the amortization schedule, an amount of money equal to four percent of the principal balance of the loan, provided that the conditions in subparts 2 to 4 are met.

Subp. 2. Loan terms and payments. The loan must either have a term of 20 years or less and require payments so that the loan is amortized with equal annual payments, including consideration of variable interest rates used by some lenders, or the loan must have a reasonable reduction of the principal balance with a balloon payment in ten years or less.

A. Extra days of interest may be included in calculating total interest for

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the first payment, provided that the total number of days used does not exceed an additional 50 percent of the normal payment period and does not cause a balloon payment for those loans on a fully amortized schedule.

B. Certain 20-year loans which have a specified interest-only payment preceding the 20-year schedule of principal and interest payments will be accepted for the guarantee, but the state shall not participate in the interest-only payment.

C. A disaster clause may be included in provisions of a loan, provided that it does not cause repayment to extend beyond 20 years or cause a balloon payment for loans on a fully amortized schedule.

D. An extension must be granted to the length of a loan that would require a balloon payment in ten years or less and the stated interest rate may be adjusted by consent of all parties to the loan including the state, the participant, and the lender, if the following conditions are met:

(1) the participant and lender both sign a written request for extension;

(2) the repayment provisions of the loan are based on a fully amortized schedule of 20 years or less;

(3) the extension is for the total remaining portion of the amortization schedule; and

(4) the participant has complied with all terms of the loan guarantee and has submitted to the commissioner a net worth statement and a farm business management course registration form annually within the times set in this part.

Subp. 3. **Net worth.** The conditions in items A to C regarding net worth apply to all participants:

A. Before February 20 of each year, on forms provided by the commissioner, the participant must submit to the commissioner a statement of the participant's, dependents', and spouse's net worth as of December 31 of the year immediately preceding the filing date, except for the first year of participation. This statement is not required if the statement of net worth submitted with the original application is less than ten months old on the February 15 following the applicant's preliminary approval by the commissioner.

B. If the total net worth as determined by generally accepted accounting principles exceeds the limitation stated in Minnesota Statutes, section 41.57, subdivision 3, the participant shall not be eligible for a payment adjustment for the next 12 months commencing April 1. The commissioner shall notify the participant and the lender that the participant is responsible for all interest payments for that 12-month period of the loan.

C. The net worth statement used by the council to recommend preliminary approval shall prevail in matters of determining eligibility for the guarantee and the first year's payment adjustment.

Subp. 4. **Course registration.** Before February 20 of each year, the participant must submit a farm business management course registration form.

Subp. 5. **Extension of deadline.** The commissioner will grant an extension of up to 30 days on the deadlines stated in subparts 3 and 4 if the participant is not able to submit the net worth statement or the farm business management course registration form on time due to other circumstances beyond the control of the participant which were reasonably unforeseen and which prevent meeting the deadlines stated in subparts 3 and 4.

Statutory Authority: *MS s 41.53 subd 2*

1560.2400 RECIPIENT OF PAYMENT ADJUSTMENTS.

Payment adjustments are made by the state directly to the lender, who

annually bills the commissioner for the amounts due for the current loan year. Under circumstances where the participant has paid a full installment, including the state's payment adjustment, to the lender, the participant may request that the payment adjustment be made to him by submitting proof to the commissioner that the full installment was paid.

Statutory Authority: *MS s 41.53 subd 2*

1560.2500 REIMBURSEMENT OF PAYMENT ADJUSTMENTS.

Subpart 1. Time; generally. The participant shall reimburse the state within 12 months after the tenth anniversary of the date of the loan for all sums paid as payment adjustments by the state on the participant's behalf.

Subp. 2. Reimbursement obligation as lien. The reimbursement obligation shall be a lien against the property and be subordinate to the real estate mortgage or contract for deed.

Subp. 3. Renewals and reimbursement. The participant may petition the commissioner for up to a ten-year renewal of the payment adjustment which the commissioner shall grant if the participant has complied with all terms of the loan guarantee and has submitted to the commissioner a net worth statement and a farm business management course registration form annually within the time frames prescribed in part 1560.2300.

If the payment adjustment is renewed for an additional period of years, within 12 months after the final payment date of the mortgage or contract for deed, the participant shall reimburse the state for all payment adjustments paid on the participant's behalf.

If the participant has more than one loan approved under a single guarantee, disposition of the renewal request on the latest maturing loan governs when reimbursement of the payment adjustment will be made on all the loans included under that guarantee.

Subp. 4. Reimbursement upon sale or conveyance. Except as provided in part 1560.3100, subpart 3, a participant who sells or conveys the farm land for which a guarantee was approved shall immediately retire the entire debt owed the state for payment adjustments paid on the participant's behalf.

Subp. 5. Interest; late payment. If the participant does not reimburse the state within the required time period, the commissioner may charge the maximum interest provided by law on the outstanding debt for the period of delinquency.

Statutory Authority: *MS s 41.53 subd 2*

1560.2600 CONDITIONS FOR DEFAULT OF PARTICIPANT.

A participant is in default if one or more of the following conditions exist:

A. the participant does not pay the principal or interest payment on the date due;

B. the participant breaches a material obligation in the note, loan agreement, or any instrument securing the loan, and the lender determines that this breach constitutes an adverse change in the participant's ability to repay the guaranteed loan; or

C. the participant fails to personally maintain the farm land in active agricultural production for longer than one year.

Statutory Authority: *MS s 41.53 subd 2*

1560.2700 CONSEQUENCES OF DEFAULT.

Subpart 1. In general. If the participant is in default for reasons given in part 1560.2600, item A or B, the lender, the participant, and the commissioner may take any steps reasonable to assure fulfillment of the loan obligation. If the matter is not resolved, the lender or seller and the commissioner shall take action according to the procedures in subparts 2 to 5 dependent on who sponsored the loan.

Subp. 2. Under contract for deed. Under a contract for deed, the seller has two options which may be pursued:

A. the seller may proceed according to the contract law in Minnesota Statutes, section 559.21 to cancel the contract. In this event, the seller shall forward to the commissioner all sums owed the state and regain real estate interest in the property.

B. the seller may exercise the state's guarantee pursuant to Minnesota Statutes, section 41.56, subdivision 3.

Subp. 3. Foreclosure. A lender may use statutory foreclosure proceedings in lieu of exercising the guarantee provisions of Minnesota Statutes, chapter 41 provided that the following conditions are met:

A. the lender pledges to take all reasonable and prudent steps to protect and maintain the farm land and to obtain the highest possible net proceeds from the subsequent sale of the property; and

B. the lender agrees that any money from the foreclosure sale in excess of 90 percent of the balance of the loan, plus 90 percent of the accrued interest calculated to the end of the 180-day default period, plus 90 percent of reasonable costs incurred during the foreclosure period will first be applied toward the satisfaction of the outstanding balance of the state's lien for reimbursement of the payment adjustment prior to any other disbursements, settlements, or satisfactions.

Subp. 4. Lender's failure to notify commissioner. If the lender fails to notify the commissioner in writing within 180 days of the initial default of the participant, the state shall exercise its guarantee based on the principal balance of the loan at the time of notification of the default according to the amortization schedule of the loan. Maximum accrued interest to be paid by the state, calculated on the principal balance at the time of notification of default, may not exceed 180 days beyond the normal payment period.

Subp. 5. More than one loan under one guarantee. When there is more than one loan under a single guarantee, all loans are considered to be in default if one is in default. The lenders concerned must then exercise their options in concert with each other and with the commissioner.

Subp. 6. Participant's failure to farm. If a participant is in default under part 1560.2600, item C and has not received a waiver pursuant to part 1560.2900, the state shall cease its payment adjustments on the loan, all payment adjustments made on the participant's behalf will be due and payable to the state within 12 months of the default date, the participant will no longer be considered active in the program, and the guarantee will no longer be in force or effect.

Statutory Authority: *MS s 41.53 subd 2*

1560.2800 SALE OF DEFAULTED FARM LAND.

In the event of default, the commissioner shall sell the farmland involved pursuant to Minnesota Statutes, section 41.56, subdivision 4 and the following:

A. The commissioner has the right to reject any bid submitted on the farm land to be sold.

B. For the purposes of Minnesota Statutes, section 41.56, subdivision 4, the following definitions apply:

(1) "Date of sale" means the date on which the state fully executed the purchase agreement.

(2) "Proceeds" means the sale price less reasonable closing costs, including but not limited to payment of taxes due, expenses for abstracting, custom field work completed, and other reasonable costs associated with the sale.

Statutory Authority: *MS s 41.53 subd 2*

1560.2900 WAIVER OF DEFAULT.

Subpart 1. **Granting waiver.** The commissioner may waive the default resulting from a participant's failure to personally continue agricultural production pursuant to part 1560.2600, item C for the reasons and following the procedures in subparts 2 to 4. If the waiver is granted, the participant shall continue to be eligible to receive the payment adjustment.

Subp. 2. **Waiver for public service.** The participant may be granted a waiver if the participant has accepted a position of public service through a government agency, church, charitable organization, or similar organization, with the intent to serve for a limited period of time and then return to full-time farming, provided that:

A. the participant submits a written notice of intent to the commissioner within 60 days after accepting the position;

B. the participant continues to submit annual financial statements to the commissioner; and

C. the participant agrees to make the full loan installments, including the state's payment adjustment, due during the waiver period.

Subp. 3. **Waiver for financial difficulty.** The participant may be granted a waiver and remain eligible for the payment adjustment if the participant demonstrates to the commissioner, as evidenced by financial statements and discussions with lenders, that the participant is in financial difficulty and has taken a job off the farm with the intent of providing the cash flow needed to return to full-time production, provided that:

A. the participant submits a written notice of intent to the commissioner within 60 days of taking an off-farm job;

B. the participant submits semiannual financial statements to the commissioner; and

C. the participant continues enrollment in a farm business management course.

Subp. 4. **Waiver for physical disability or extenuating circumstances.** The participant may be granted a waiver and remain eligible for the payment adjustment if the participant demonstrates to the commissioner that the farm land was not personally farmed by the participant because of the participant's physical disability or other extenuating circumstances beyond the control of the participant which were reasonably unforeseen and which prevent the participant from personally maintaining the farm land in agricultural production, provided that:

A. the participant submits documentation as to the disability or other circumstances which prohibit continuation in full-time farming; and

B. the participant submits semiannual financial statements to the commissioner.

Subp. 5. **Denial of waiver.** If the commissioner determines that the default should not be waived, the participant is entitled to a contested case hearing pursuant to Minnesota Statutes, chapter 14 to review the commissioner's determination.

Subp. 6. **Expiration.** If the participant does not return to full-time farming at the end of a two-year waiver period and does not provide convincing evidence that he will do so in the near future, the commissioner shall inform the participant that he is in default.

Statutory Authority: *MS s 41.53 subd 2*

1560.3000 TERMINATION OF GUARANTEE.

Subpart 1. **Conditions.** The guarantee will remain in force and effect until maturity of the loan unless default occurs under parts 1560.2600 to 1560.2800 and no waiver is granted pursuant to part 1560.2900 or any of the conditions in items A to C occur:

A. The lender consents to the change or alteration of any of the terms and provisions of the loan, or attempts to waive or waives any rights of the lender, the participant, the commissioner, or the state included in the loan, in a manner inconsistent with the terms of the loan as represented to and approved by the commissioner at the time of delivery of the guarantee, without the written consent and approval of the commissioner.

B. The lender fails to notify the commissioner in writing within 30 days of a transfer or assignment of the loan. The guarantee shall remain in force and effect if the commissioner is notified, provided that the purchaser of the loan assumes all duties and obligations of the original lender and agrees to comply with all the requirements of the laws and rules governing the program.

C. The lender violates any terms, provisions, covenants, or conditions of any document or agreement to which the lender is a party for purposes of the guarantee.

Subp. 2. **Consequences.** In the event that any of the conditions in subpart 1, items A to C occur, where there is substantial evidence that the lender's actions were calculated to defraud the state or misrepresent conditions of the loan, the state may terminate its guarantee and immediately and forever be released from all claims and demands based on the guarantee. If it can be clearly ascertained that the participant had no knowledge of and did not collaborate with the lender's actions, the state may make the payment adjustment directly to the participant.

Statutory Authority: *MS s 41.53 subd 2*

1560.3100 LOAN SERVICING.

Subpart 1. **Partial release.** The commissioner may approve the release of a portion of the property purchased under a loan from the state's lien for reimbursement of the payment adjustment under the following conditions:

A. the participant requests the release and pledges that it will not adversely affect the participant's ability to continue in the program; and

B. all lenders included in the guarantee agree to release their interest in the property and agree to the commissioner's conditions for release from the state's lien for reimbursement of the payment adjustment.

If the release is requested because the participant wishes to sell a portion of the property, the commissioner may stipulate to what use the proceeds from that sale may be put. Ordinarily a certain portion of these proceeds will be used as a special principal payment on the loans included under the guarantee.

Subp. 2. **Reamortization.** Reamortization of a loan will be permitted only in cases where the participant has made a sizable, special principal payment and where reamortization is jointly requested in writing by the participant and the lender. The reamortization shall not extend the maturity date of the loan, except for those loans originally calling for a balloon payment which have been approved for an extension according to part 1560.2300, subpart 5.

Subp. 3. **New owner guarantee.** If the participant sells the property for which a guarantee was issued, the purchaser may apply for a guarantee in his own right, but under no circumstances may the original loan guarantee be directly assumed by the purchaser. The purchaser may assume the former participant's responsibility for reimbursing the state for payment adjustments made if the following conditions are met:

A. the purchaser has obtained preliminary approval for a guarantee;

B. the council determines that permitting this assumption will be in the best interests of the state; and

C. the assumed indebtedness is not included in the guarantee for which the purchaser may receive final approval.

Subp. 4. **Subordination.** The commissioner may approve a request for subordination of the state's lien for reimbursement of the payment adjustment if he

determines this action is in the best interests of the state and the participant, or provisions for subordination are included in the memorandum of understanding with a cooperating agency.

Statutory Authority: *MS s 41.53 subd 2*

1560.3200 COMMISSIONER'S RIGHT TO INFORMATION.

At any time during the existence of a loan, the commissioner may request information and documents from the lender or the participant to enable the commissioner to determine that all terms and conditions of any agreements made pursuant to Minnesota Statutes, chapter 41 or parts 1560.1800 to 1560.3200 are in compliance with the statutes and rules.

Statutory Authority: *MS s 41.53 subd 2*

WEATHER MODIFICATION

1560.3300 PURPOSE AND AUTHORITY.

Parts 1560.3300 to 1560.5200 are adopted pursuant to Minnesota Statutes, chapter 42 (Laws 1977, chapter 426) by the commissioner of agriculture to implement procedures and conditions for the licensing and permitting of weather modification operators and operations, criteria for submission of operational reports, and financial liability limits. The procedures and criteria specified in parts 1560.3300 to 1560.5300 are in addition to those set forth in the act itself. Any violation of these parts is a misdemeanor pursuant to Minnesota Statutes, section 42.12.

Statutory Authority: *MS s 42.04 subd 1*

1560.3400 DEFINITIONS.

Subpart 1. Applicability. For purposes of parts 1560.3300 to 1560.5200, the following definitions, as well as those in the act, shall apply.

Subp. 2. Act. "The act" means Minnesota Statutes 1977 Supplement, sections 42:01 to 42.14.

Subp. 3. Managing agent. "Managing agent" means that geographic area and the atmosphere supervise and/or conduct the weather modification activity in Minnesota.

Subp. 4. Operational area. "Operational area" means that geographic area and the atmosphere there above wherein a person or persons place or attempt to place any substance in the atmosphere or clouds within the atmosphere for the purpose of producing or attempting to produce a certain modifying effect and the geographic area and the atmosphere there above wherein the weather is intended to be modified.

Subp. 5. Project office. "Project office" means the Minnesota office of the person conducting weather modification activities in Minnesota.

Statutory Authority: *MS s 42.04 subd 1*

1560.3500 APPLICATION FOR LICENSE.

No person as defined in Minnesota Statutes, section 42.02, subdivision 2, shall engage in any weather modification activity within the state of Minnesota without first obtaining a license as prescribed in the act and parts 1560.3300 to 1560.5200. Application for license shall be made under oath on forms provided by the commissioner. Such application shall contain the following:

- A. name, business address, and telephone number of the applicant;
- B. name of the applicant's chief executive officer;
- C. name(s), business address(es), and telephone number(s) of all the applicant's managing agents;
- D. project office address(es) and telephone number(s);

E. a list of other states in which the applicant is currently licensed;

F. documentary evidence demonstrating that the applicant:

(1) has at least eight years of experience at the professional level in weather modification field research or operations, at least three of these years as a professional director; or

(2) has obtained a baccalaureate degree in engineering, mathematics, or the physical sciences plus three years experience in weather modification field research or operations; or

(3) has obtained a baccalaureate degree in meteorology, or a degree in engineering or the physical sciences which includes, or is in addition to, the equivalent of at least 25 semester hours of meteorological course work and two years practical experience in weather modification operations or research;

G. a list of all adversary proceedings both pending and closed involving the applicant in any court or administrative agency;

H. the length of time the applicant has been in the business of conducting weather modification activities; and

I. other information deemed necessary and relevant by the commissioner.

All applicants shall comply with the requirements set forth by the secretary of state for conducting business in the state.

Statutory Authority: *MS s 42.04 subd 1*

1560.3600 CHANGE OF MANAGING AGENT.

The applicant or licensee shall notify the commissioner of a change in the managing agent. The replacement must meet the same requirements as set forth in the act and parts 1560.3300 to 1560.5300 for a managing agent.

Statutory Authority: *MS s 42.04 subd 1*

1560.3700 DURATION OF VALIDITY OF LICENSE.

Licenses shall be valid for one year from the date of issuance.

Statutory Authority: *MS s 42.04 subd 1*

1560.3800 AUTOMATIC RENEWAL OF LICENSE.

Renewal shall be automatic upon the following conditions: receipt of a request for renewal by the licensee, including any changes from the original application; receipt of the \$100 license fee, if applicable; and compliance with all the requirements necessary for issuance of an original license.

Statutory Authority: *MS s 42.04, subd 1*

1560.3900 REFUSAL TO RENEW LICENSE.

The commissioner shall refuse to renew a license, after notice and hearing, for the causes set forth in Minnesota Statutes, section 42.07.

Statutory Authority: *MS s 42.04 subd 1*

1560.4000 APPLICATION FOR PERMIT.

No person shall conduct any weather modification operation within the state of Minnesota without first obtaining a permit as prescribed in the act and these rules. Each operation shall require a separate application and permit.

Statutory Authority: *MS s 42.04 subd 1*

1560.4100 CONTENTS OF APPLICATION.

Application for permit shall be made under oath on forms provided by the commissioner. Such application shall contain:

A. name, business address, and telephone number of the applicant;

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- B. name of the applicant's chief executive officer;
- C. name, address, and telephone number of the applicant's managing agent;
- D. project office address and telephone number;
- E. a description of the method to be used in placing the substance into the atmosphere or clouds within the atmosphere;
- F. demonstration that the applicant and the applicant's managing agent, by his/her knowledge of meteorology, cloud physics, and field experience, has the qualifications to conduct a weather modification operation using the method by which the applicant plans to place the substance into the atmosphere or clouds within the atmosphere;
- G. the applicant's purpose and the anticipated effects of the operation;
- H. information set forth in Minnesota Statutes, section 42.09, subdivision 9; and
- I. other information deemed necessary and relevant by the commissioner.

Statutory Authority: *MS s 42.04 subd 1*

1560.4200 ADDITIONAL REQUIREMENTS.

Each application shall be accompanied by:

- A. a fee for \$100;
- B. proof of notification of county boards and publication of "notice of intent" to engage in weather modification activities as required in parts 1560.4400 and 1560.4500.
- C. proof of financial responsibility demonstrating the applicant's ability to respond to damages for liability which might reasonably result from the operation for which the permit is sought. This proof shall be in the form of a liability insurance policy in the amount set by the commissioner commensurate with the extent of the operation, the person's experience, and adequate protection for the public, or such other proof as the commissioner may require;
- D. a copy of all contractual agreements, including all financial agreements, relating to the operation; and
- E. copies of approval from the county boards of all counties required to give approval under Minnesota Statutes, section 42.05.

Statutory Authority: *MS s 42.04 subd 1*

1560.4300 REPORTS AND DOCUMENTS FOR PREVIOUS OPERATIONS.

The applicant shall have filed in a timely manner all reports and documents required under the act or parts 1560.3300 to 1560.5200 for all previous operations.

Statutory Authority: *MS s 42.04 subd 1*

1560.4400 NOTICE OF INTENT.

Upon the filing of a permit application, the applicant shall publish a notice of intent to engage in weather modification activities in each county of which all or part may be within the proposed operational area. The notice of intent shall be published for a period of not less than two consecutive weeks in all legal newspapers and newspapers of general circulation in the proposed operational area. In addition, the use of radio and television spot announcements shall be encouraged. The notice shall:

- A. describe the proposed operation area;
- B. describe the area which might reasonably be affected;
- C. specify the period of operation which need not be continuous, including starting and ending dates;

D. describe the general method of operation;

E. describe the intended effect of the operation;

F. state that complete details of the application for a permit will be available for examination in the Department of Agriculture;

G. state that the commissioner will receive written comments on the proposed operation for ten days before determining whether to order and notice an informal hearing for the purpose of determining whether to issue a permit for the proposed operation; and

H. contain other information deemed necessary and relevant by the commissioner.

Statutory Authority: *MS s 42.04 subd 1*

1560.4500 NOTICE TO COUNTY BOARDS.

Upon the filing of a permit application, the applicant shall notify in writing the county board of each county of which all or part may be within the proposed operational area and counties contiguous thereto. Such notice shall include all information required on the permit application.

Statutory Authority: *MS s 42.04 subd 1*

1560.4600 RESOLUTIONS FROM COUNTY BOARDS.

No applicant shall be granted a permit without first filing with the commissioner resolutions from the county board of each county in the operational area approving such operation in or over their respective counties. Except under the provisions of Minnesota Statutes, section 42.09, subdivision 4, the commissioner may issue a permit only after a period of at least ten days has transpired from the date that the notice requirements set forth in parts 1560.4000 to 1560.5200 have been met.

Statutory Authority: *MS s 42.04 subd 1*

1560.4700 ASSIGNMENT OR TRANSFER OF PERMIT.

A permit may not be assigned or transferred by the holder.

Statutory Authority: *MS s 42.04 subd 1*

1560.4800 PLACEMENT OR AMENDMENT OF CONDITIONS AND RESTRICTIONS.

The commissioner may place or amend conditions and restrictions on any permit at any time necessary to protect the environment or the public health, welfare, or safety. Any revision in an existing permit shall be made only after proper notice and hearing pursuant to Minnesota Statutes, chapter 14, except as provided for in Minnesota Statutes, section 42.11, subdivision 1(b).

Statutory Authority: *MS s 42.04 subd 1*

1560.4900 MODIFICATION OF BOUNDARIES OF PROJECT.

Before a permittee may modify the boundaries of a project for which a permit has previously been obtained, the permittee must make application to the commissioner and meet the requirements set forth in parts 1560.4000 to 1560.4800.

Statutory Authority: *MS s 42.04 subd 1*

1560.5000 DURATION OF VALIDITY OF PERMIT.

The permit shall be valid for one year from the date of issuance or until the operation terminates, whichever first occurs.

Statutory Authority: *MS s 42.04 subd 1*

1560.5100 RENEWAL.

Permits shall be renewed by the commissioner upon the following condi-

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tions: receipt of a request for renewal by the permittee including any changes from the original permit; receipt of the \$100 permit fee; and the permittee is meeting all the requirements necessary for issuance of an original permit.

Statutory Authority: *MS s 42.04 subd 1*

1560.5200 SUSPENSION, REVOCATION, OR REFUSAL TO RENEW PERMIT.

The commissioner shall suspend, revoke, or refuse to renew a permit under the provisions of Minnesota Statutes, section 42.10, subdivision 2.

Statutory Authority: *MS s 42.04 subd 1*

1560.5300 REPORTS.

All persons engaged in weather modification shall:

A. Maintain at their project office a current (within 24 hours) log of all operations. This log shall be available for inspection during normal working hours or at other reasonable hours by persons authorized by the commissioner. The log shall include: date of the operation; location of the operation including flight tracks; type, rate, and amount of artificial cloud seeding material used; time during which each weather modification device was activated; total hours of operation of each unit of equipment; and other information deemed necessary and relevant by the commissioner.

B. File monthly with the commissioner and with the county board of each county of which all or part may be within the operation area and counties contiguous thereto:

(1) Reports of weather modification activities. Such reports shall be filed no later than the 15th day of the following month and shall contain a tabulation and summary of the daily operational logs for the preceding month.

(2) Preliminary report within 30 days after the end of each calendar year or within 30 days after the end of an operation, whichever occurs first, and a final report on the operation no later than 90 days thereafter. Such reports shall contain: the name, business address, and phone number of the person engaged in the weather modification activity; the name, Minnesota address, and phone number of the responsible person; information regarding the permittee's qualifications for performing the operation; the scope of the operation as set forth in the permit; the total number of days on which operations were conducted; the total number of seeding or other modification missions attempted and completed; the total number of hours of operation of each type of weather modification equipment; the total amount of each seeding agent used; any significant environmental or public health, welfare, or safety impacts caused by the operation; and, other information deemed necessary and relevant by the commissioner.

Statutory Authority: *MS s 42.04 subd 1*

GRAIN WAREHOUSES

1560.5400 DEFINITIONS.

Subpart 1. **Bond.** "Bond" means an obligation, underwritten by a corporate surety acceptable to the commission, and running to the state of Minnesota, as obligee, for the purpose of indemnifying depositors and sellers of grain against breach of contract by any licensee.

Subp. 2. **Depositor.** "Depositor" means any person who is the owner or legal holder of an outstanding receipt, or open scale ticket marked for storage, on which a receipt is to be issued in accordance with Minnesota Statutes, section 232.23, subdivision 4, representing any grain stored in a public local grain warehouse or in a grain bank licensed under the provisions of Minnesota Statutes, section 236.02.

Subp. 3. **Grain buyer.** "Grain buyer" means any person who, while not

qualified to obtain a warehouse license, engages in the business of purchasing grain for resale, but need not use his own vehicles to transport grain so purchased.

Subp. 4. Itinerant grain buyer. "Itinerant grain buyer" means any person who, using a truck, tractor-trailer unit, or other vehicle, owned and/or operated by the licensee, travels from place to place to purchase grain for the purpose of resale.

Subp. 5. Person. "Person" means every corporation, company, joint stock company or association, partnership, firm, or individual and includes their agents, trustees, assignees, or duly appointed receivers.

Subp. 6. Private local grain warehouseman. "Private local grain warehouseman" means any person licensed to operate a warehouse for the sole purpose of purchasing, handling, processing, and shipping grain or its by-products and who is not authorized to accept grain belonging to others for storage.

Subp. 7. Public local grain warehouseman. "Public local grain warehouseman" means any person operating a warehouse wherein grain belonging to persons other than the warehouseman is accepted for storage or who holds himself out as offering grain storage or warehouse facilities to the public for hire.

Subp. 8. Scale ticket. "Scale ticket" means a memorandum showing weight, grade, and kind of grain which is issued by a warehouseman to every patron at the time such grain is delivered.

Subp. 9. Warehouse. "Warehouse" means any building, structure, other protected enclosure or part thereof, or any bins, tanks, silos, or containers suitable for use in the storing, handling, processing, or shipping of grain. Unless the context clearly indicates a different meaning, "warehouse" may be used interchangeably with "elevator," "storage house," or "facility."

Subp. 10. Warehouseman. "Warehouseman" means any person owning, controlling, operating, or managing, directly or indirectly, any licensed public or private local grain warehouse.

Subp. 11. Warehouse receipt. "Warehouse receipt" means a formal record issued to a depositor by the warehouseman under the provisions of Minnesota Statutes, section 232.23, subdivision 4, in which case the instrument is negotiable, or under the provisions of Minnesota Statutes, section 236.02, in which case the instrument is nonnegotiable. Unless the context clearly indicates a different meaning, "warehouse receipt" shall have the same meaning as, and may be used interchangeably with, "receipt," "legal warehouse storage receipt," "storage receipt," or "storage ticket."

Statutory Authority: *MS s 17B.28*

1560.5500 LICENSING AND BONDING.

The director of the warehouse division is hereby authorized and directed to issue, in a manner approved by the department, all licenses for which provision is made in the statute and to approve, in like manner, all license renewals of a routine nature. Said director shall require all licensees to maintain necessary bonds in a penal sum fixed by the department and shall, at least twice annually, transmit to the department a report on the status of all licensees together with any recommendations deemed pertinent. There shall be no deviation from established licensing and bonding policy without prior approval of the department. Licenses which may be issued in this manner are:

A. license to buy grain, authorized by Minnesota Statutes, section 223.17, subdivision 1;

B. license to buy and store grain, authorized by Minnesota Statutes, section 223.17, subdivision 3;

C. license to buy grain (other than a licensed warehouseman), authorized by Minnesota Statutes, section 223.17, subdivision 3;

D. grain bank license, authorized by Minnesota Statutes, section 236.02;

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E. itinerant grain buyer's license, authorized by Minnesota Statutes, section 223.17, subdivision 1;

F. flax straw, flax tow or hay buyer's license, authorized by Minnesota Statutes, section 223.17, subdivision 1;

G. commission merchant's license, authorized by Minnesota Statutes, section 223.02; and

H. public terminal warehouse license, Minnesota Statutes, section 233.08.

Statutory Authority: *MS s 17B.28*

NOTE: Minnesota Statutes, section 223.02, was repealed by Laws of Minnesota 1982, chapter 635, section 9.

1560.5600 PUBLIC LOCAL GRAIN WAREHOUSES; LICENSING OF ADJOINING WAREHOUSES.

Adjoining warehouses owned or operated by the same person may be covered by a single license provided such warehouses are connected by a spout or conveyor which permits the movement of grain, in each direction, from one warehouse to the other. Bins, tanks, or other structures which are not self-contained warehouses shall be designated as detached facilities and may operate under the license of the primary house. No conventional elevator may be considered as a detached facility unless the headhouse is permanently inoperable.

Statutory Authority: *MS s 17B.28*

1560.5700 REPORT OF NET CASH LIABILITY ON OUTSTANDING WAREHOUSE RECEIPTS.

All warehousemen shall, on or before the tenth day of each month, file with the warehouse division, on forms approved by the department, a report showing the net cash liability of all grain outstanding on warehouse receipts as of the close of business on the last day of the preceding month. Should any warehouseman willfully neglect or refuse to file such report for two consecutive months, the warehouse division director may request authorization from the department to order that the surety increase the penal sum of the licensee's warehouse bond in such amount as the department may direct.

Statutory Authority: *MS s 17B.28*

1560.5800 RECORDS AND ACCOUNTS.

Every warehouseman shall keep in a place of safety complete and accurate records and accounts relating to any warehouse operated by him. Such records shall reflect each commodity received and shipped daily, also the balance remaining in the warehouse at the close of each business day; a listing of all unissued warehouse receipts in his possession and a record of all receipts issued by him which remain outstanding, as well as those which have been returned for cancellation. Copies of receipts or other documents evidencing ownership of grain by a depositor, or other liability of the warehouseman, shall be retained as long as the liability exists but must be kept for a minimum of three years.

Statutory Authority: *MS s 17B.28*

1560.5900 AMOUNT OF GRAIN IN STOCK.

Every warehouseman must maintain in his warehouse at all times grain of proper grade and sufficient quantity to meet delivery obligations on all outstanding warehouse receipts.

Statutory Authority: *MS s 17B.28*

1560.6000 MOVEMENT OF ENCUMBERED GRAIN.

Grain encumbered by any outstanding warehouse receipt(s) may be moved from the issuing warehouse only under the following conditions:

A. When the original warehouse receipt is presented by the depositor for

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cancellation the grain may be moved to any licensed warehouse provided a receipt is issued by such warehouse to the depositor if requested by him.

B. When a warehouseman leases space in a licensed warehouse within the state of Minnesota for the purpose of reconcentrating grain, the original receipt(s) shall be canceled, with the depositor's consent, and a single currently dated receipt issued containing the following statement: "Owner waives redelivery, at this station, of grain represented by this receipt." Such statement must be signed by the depositor and all legally accrued charges against the grain settled when the replacement receipt is issued; liability for said receipt shall remain an obligation of the issuing warehouseman who must assess and collect storage charges as required by Minnesota Statutes, section 232.23, subdivision 4, and arrange for renewal or termination of the contract pursuant to the provisions of Minnesota Statutes, section 232.23, subdivision 11. Verification that grain of proper grade and amount is actually credited to his account shall be provided by the aforesaid issuing warehouseman when required for the purpose of establishing compliance with part 1560.5900. Such verification shall be in the following form:

VERIFICATION

This is to certify that there is in store at this warehouse _____
_____ bushels of _____, held for the account of
_____, which will be redelivered to
_____ on demand. We further certify that the statutory
storage rate will be assessed against this grain.

Dated: _____, 19____

By _____
An Authorized Signature

Statutory Authority: *MS s 17B.28*

1560.6100 INSURANCE.

Every warehouseman must carry fire, lightning, extended coverage, and inherent explosion insurance to the extent of the full market value of all grain outstanding on warehouse receipts; except, however, the insurance may provide for a deductible provision not exceeding one percent of the net worth of the warehouseman. In the event that damage occurs to receipted grain, the warehouseman shall, upon demand by the depositor, and, upon being presented with the receipt(s) or other legal evidence of ownership, make settlement, after deducting the warehouseman's charges and advances. The value of the grain in question shall be determined on the basis of the market value less freight charges, at the time of such loss or damage, at the terminal market selected by the warehouseman for the purpose of determining cash value on his insurance reporting form for the preceding month. In the event such settlement, or other satisfactory arrangement for payment, has not been made within 90 days from the date of such demand, the depositor may seek recovery from the surety.

Statutory Authority: *MS s 17B.28*

1560.6200 TERMINATION OF STORAGE CONTRACT.

The storage contract may be terminated by the depositor at any time prior to the expiration date by the payment or tender of all legal charges and surrender of the warehouse receipt, together with a demand for delivery or proper notice to the warehouseman to sell such receipt. Delivery charges may be assessed only when actual delivery of the grain is made to the depositor, or his order, from the issuing warehouse or, at the request of the depositor, from another warehouse as provided under part 1560.5800. Nothing herein contained shall be so construed as to prohibit the assessment and collection of delivery charges, set by the warehouseman's posted tariff, for grain handled and delivered to cars on consignment.

Statutory Authority: *MS s 17B.28*

1560.6300 DUPLICATE RECEIPTS.

While a warehouse receipt is outstanding, no other or further receipt shall be issued for the grain represented thereby, or any part thereof, except that, in case of a lost, stolen, or destroyed warehouse receipt, the depositor shall be entitled to a new receipt, plainly designated to be a duplicate or substitute for the one missing, indicating the date of issuance of the original, as well as the replacement, receipt. Before issuing any such duplicate the warehouseman shall require the depositor to make and file an affidavit stating that the applicant is lawfully entitled to possession of the original receipt and that he has not negotiated or assigned it; the circumstances in which it was lost or destroyed, and that, in case of loss, a diligent effort has been made to find same; the warehouseman may, if he desires, require the applicant to post a bond in an amount not more than double the value at the time the bond is given, of the grain represented by the lost or destroyed receipt; such bond shall be conditioned to indemnify the warehouseman against any loss which might be sustained because of the issuance of such duplicate receipt, shall be in a form approved by the department, and be executed by a corporate surety licensed to operate in the state of Minnesota, or by at least two individuals who are Minnesota residents each of whom owns real property within the state having a value, in excess of all exemptions and encumbrances, equal to the amount fixed as the penal sum of the bond. A valid duplicate or substitute receipt shall be endowed with all rights appertaining to the document in lieu of which it was issued.

Statutory Authority: *MS s 17B.28*

1560.6400 POSTING OF CHARGES.

Every warehouseman shall post conspicuously in his warehouse a statement of charges, including those set by statute for storage and redelivery, to be made by him for the various services rendered to patrons. No charge different from that posted shall be made to any patron.

Statutory Authority: *MS s 17B.28*

1560.6500 STORED GRAIN.

Any grain held in a special bin, received for direct consignment, for custom drying or any other purpose, which remains in a warehouse for a period exceeding 24 hours following completion of the service for which the grain was tendered, or subsequent to the spotting of an acceptable vehicle for the transportation of same, shall be considered as stored grain. Scale tickets and warehouse receipts issued for such grain shall show the name of the owner, the kind of grain and the weight thereof; grade and dockage need not be shown.

Statutory Authority: *MS s 17B.28*

1560.6600 CONDUCT IF LICENSE IS TERMINATED.

When a warehouse license is terminated by reason of sale, discontinuance of business, failure to renew such license, or for any other reason, the operator must forthwith discontinue accepting grain for storage and deliver or purchase all grain belonging to others on store in the warehouse. No licensee may sell or lease his warehouse unless proper indemnity is provided to all depositors; agreement, in writing, by the warehouseman's successor to assume liability for all receipts outstanding at the time of take-over or cancellation and reissue of outstanding receipts by such successor shall constitute sufficient indemnity.

Statutory Authority: *MS s 17B.28*

1560.6700 PROCEDURE IN CASE OF INSUFFICIENT GRAIN.

Whenever it appears that a warehouseman does not have on hand grain of sufficient quality and quantity to cover his outstanding warehouse receipt obligations, notice shall be given by the department to said warehouseman requiring

that the shortage be corrected immediately. If the warehouseman fails to comply with such order within ten days, the department may petition the district court for an order authorizing the seizure of all, or any part, of the grain stored in such warehouse, together with all pertinent books and records. If such petition be granted, written notice of any action taken shall be given to the warehouseman's surety. If deemed necessary, depositors of record, as shown by warehouseman's books, may be notified to present their warehouse receipts for inspection or accounting. An audit, or other investigation of the affairs of such warehouse, if approved by the court, may be made by the department, or its agents, for the purpose of determining the amount of shortage and computing the portion of loss sustained by each depositor. The warehouseman and his surety shall be notified forthwith of the approximate amount of any shortage and each depositor shall likewise be informed thereof by a notice mailed to his last known address as evidenced by the records of the warehouseman. Unless ordered sooner to do so by the court, the department shall surrender jurisdiction when the warehouseman, his surety, or both, shall have satisfied all valid claims.

Statutory Authority: *MS s 17B.28*

1560.6800 PROCEDURE IF WAREHOUSEMAN IS INSOLVENT.

If, during the course of any audit or investigation conducted pursuant to the provisions of part 1560.6700, the commission finds evidence that the warehouseman is insolvent or is unable to satisfy the claims of all depositors, the court shall immediately be so informed and petitioned to appoint a receiver to operate or liquidate the business of such warehouseman in accordance with the provisions of law.

Statutory Authority: *MS s 17B.28*

1560.6900 GRAIN BANKS.

All grain banks, whether operated separately or in conjunction with a public local grain warehouse, shall be subject to the provisions of parts 1560.5600 to 1560.6800 insofar as they apply to such operation.

Statutory Authority: *MS s 17B.28*

1560.7000 DEMAND DATE.

For the purpose of determining whether a voluntary extension of credit has been made where the statutory limitation relating to bonded purchasers of grain is at issue, the demand date on any transaction which involved the sale of grain shall be no later than the end of the business day next succeeding the day upon which delivery of the grain by the seller to the buyer is completed.

Statutory Authority: *MS s 17B.28*

1560.7100 SCALE TICKETS.

All scale tickets, negotiable and nonnegotiable receipts must, in addition to containing those statements required by statute, be consecutively prenumbered and have stamped or printed thereon the name and location of the issuing warehouse.

Statutory Authority: *MS s 17B.28*

1560.7200 SINGLE RECEIPT.

In no event may more than one receipt, either negotiable or nonnegotiable, be issued against the same parcel of grain except in the case of a lost, stolen or destroyed receipt replaced in accordance with part 1560.6300.

Statutory Authority: *MS s 17B.28*

1560.7300 LIMIT ON CHARGES.

The charge for receiving, handling, and delivering grain at any public termi-

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nal warehouse shall not exceed the tariff which has been filed with the department by the warehouseman assessing such charge. All filed tariffs must comply with the provisions of Minnesota Statutes, section 233.10.

Statutory Authority: *MS s 17B.28*

1560.7400 COMPLAINT TO DEPARTMENT.

Any complaint to the department must be in writing, must state specifically the charge or charges upon which such complaint is based, and must be signed by the complainant.

Statutory Authority: *MS s 17B.28*

1560.7500 VIOLATION OF RULES.

The intentional violation of any of the provisions contained in parts 1560.5400 to 1560.7600 shall make the violator liable to the full penalty provided by law in such cases.

Statutory Authority: *MS s 17B.28*

1560.7600 STATUS OF RULES.

These rules replace and supersede any and all rules heretofore made and adopted by the department for the regulation and operation of grain warehouses.

Statutory Authority: *MS s 17B.28*

WAREHOUSES OTHER THAN GRAIN OR COLD STORAGE

1560.7700 APPLICABILITY.

Parts 1560.7700 to 1560.8800 shall apply to all warehousemen, as hereafter defined, except part 1560.7900, which applies to warehousemen engaged in the storage of household goods as hereafter defined.

Statutory Authority: *MS s 17B.28*

1560.7750 DEFINITIONS.

Subpart 1. Department. "Department" means the Department of Agriculture.

Subp. 2. Household goods. The term "household goods" means personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments; and articles including objects of art, displays and exhibits, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods.

Statutory Authority: *MS s 17B.28*

1560.7800 WAREHOUSE RECEIPTS.

Subpart 1. Uniform Commercial Code. Warehouse receipts shall be issued by all warehousemen and must comply with the requirements of the Minnesota Uniform Commercial Code.

Subp. 2. Copy to department. A copy of the form of receipt used by the warehouseman shall be furnished to the department with the application for license.

Subp. 3. Insurance. All receipts shall show in conspicuous type whether or not the property for which the receipt has been issued is insured, for the benefit of the depositor, against fire or any other casualty.

Subp. 4. Lot number. The property of each depositor shall be specifically designated under a lot number, which number must appear on the receipt for the purpose of identification.

Subp. 5. Correctness of receipt. Unless notice be given by the depositor to the warehouseman in writing within 30 days after the date of mailing or delivery to the depositor of the warehouse receipt, stating that there are errors or omissions in the list of goods, and specifying the same, the warehouseman shall be entitled to assume that the list of goods set forth in the warehouse receipt is a complete and correct list of goods tendered to the warehouseman for storage, under the terms and conditions of the contract, and shall constitute acceptance by the depositor of all terms and conditions of the contract.

Subp. 6. Storing additional goods. If the depositor, subsequent to the original storing, places other goods with the warehouseman for storage, such additional goods may come in under the same terms and conditions as if a part of the original lot.

Subp. 7. Notices to depositor. Notices by the warehouseman to the depositor pertaining to the goods, wares, or merchandise shall be sent to the depositor at the address given at the time of depositing the goods, wares, or merchandise with the warehouseman, unless written notice of change of address is received by the warehouseman from the depositor. Notices mailed by the warehouseman to the last address given by the depositor shall constitute effective notice for all purposes.

Statutory Authority: *MS s 17B.28*

1560.7850 LIABILITY LIMITATION; OTHER THAN HOUSEHOLD GOODS.

Unless otherwise specified by the depositor in writing, it shall be agreed and be prima facie proof that no one piece, package, or complete article with the contents thereof, enumerated in the list of goods in the warehouse receipt of contract exceeds the sum of \$50 in value. If the depositor declares in writing a higher valuation, the warehouseman may charge a higher rate for storing such pieces, packages, or complete articles. Each warehouseman shall, upon the day of storage, clearly inform the depositor, in writing, that he may declare such higher valuation.

Statutory Authority: *MS s 17B.28*

1560.7900 LIABILITY LIMITATION; HOUSEHOLD GOODS.

Subpart 1. Insurance. From and after the date of storage, the warehouseman storing household goods shall, on behalf of the depositor, cause the stored goods of the depositor to be insured at least in the amount of \$1.25 per pound per article against loss from any peril covered by standard fire and extended coverage policies. The depositor shall pay to the warehouseman the cost of such insurance in addition to other warehousing charges.

Subp. 2. Depositor's declaration of value. Provided, however, that the depositor may declare in writing that the value of the stored goods does not exceed 60 cents per pound per article, and if the depositor shall so declare the value of the goods stored, the depositor shall be so limited in the recovery of any damages against the warehouseman.

Subp. 3. Weight of goods. Warehousemen whose charges for storage are not based upon actual weight, and who may not, therefore, have available an actual weight figure, may use a weight figure obtained by application of the constructive weight rule in effect in such warehousemen's tariff.

Subp. 4. Informing depositor of rights and obligations. Each warehouseman shall, upon the day of storage, clearly inform the depositor in writing of the substance of subparts 1 and 2. If the depositor's goods are delivered to the warehouseman for storage by another person, the warehouseman shall so inform that person of the depositor's rights and obligations under subparts 1 and 2.

Subp. 5. Liability under Uniform Commercial Code. Nothing in this rule shall be deemed to impose liability upon a warehouseman for damages where such liability would not otherwise be imposed under the provisions of the Uniform

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Commercial Code, Minnesota Statutes, chapter 336, and in particular, Minnesota Statutes, 336.7-204.

Statutory Authority: *MS s 17B.28*

1560.8000 TENDER FOR STORAGE.

At the time of or prior to tender of goods for storage by a depositor, a storage order must be signed in writing by the depositor, or his duly authorized representative, which must show the name and address of the warehouseman in whose custody the goods are to be deposited.

Statutory Authority: *MS s 17B.28*

1560.8100 GOODS; LABELING.

When a warehouseman receives a lot of goods, he must identify each article or lot by tag or lot number, as recorded on the warehouseman's books and on the warehouse receipt or contract.

Statutory Authority: *MS s 17B.28*

1560.8200 RATES, CHARGES, TARIFFS.

Every warehouseman shall file with the department and keep open for public inspection a printed schedule of rates and charges, in conformity with Minnesota Statutes, section 231.11. All tariffs of rates and charges shall contain terms and conditions under which the rates and charges are assessed. A warehouseman shall charge no more nor no less than the rates and charges so published and filed with the department, as provided by law.

Thirty days' written notice preceding effective date of any alteration in rates must be given depositor by warehousemen.

Statutory Authority: *MS s 17B.28*

1560.8300 FIRE PROTECTION.

All warehouses must be protected against fire by an automatic device or fire extinguishers. Extinguishers must be recharged at least once a year and tagged, showing the date of such recharge. Where an automatic device is maintained, it must be kept in complete working condition at all times. Goods, wares, or merchandise must not be piled to a greater height than 1-1/2 feet from the outlets of the automatic device.

Statutory Authority: *MS s 17B.28*

1560.8400 FLOOR LOAD.

No warehouse floor or part of floor shall at any time be loaded or stored with a greater weight of goods or materials per square foot than the floor will sustain with safety, and if the department directs a warehouseman to ascertain from a competent registered architect or engineer, or from the proper municipal authorities as to what may be the safe load capacity in pounds per square foot of each floor of his warehouse or warehouses, he shall do so without unnecessary delay, and must post signs in several conspicuous places on each floor, stating the safe live load such floor will sustain.

Statutory Authority: *MS s 17B.28*

1560.8500 OPENING AND ABANDONMENT OF WAREHOUSES.

No building or structure shall be used as a warehouse or branch warehouse until it has been inspected and approved for warehousing purposes by the department.

Whenever a warehouseman ceases to use a building or other structure, he shall promptly notify the department thereof.

Statutory Authority: *MS s 17B.28*

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1560.8600 STORAGE CONDITIONS.

Subpart 1. **Aisles.** On each floor where there is open storage of goods, wares, or merchandise, there must be aisles wide enough to permit of the free and unimpeded passage of goods, wares, or merchandise. All aisles must be kept free from obstructions, dust, and litter.

Subp. 2. **Wrapping.** Pieces of overstuffed furniture, mattresses, rugs, carpets, and other goods not stored in containers must be protected by wrapping before being placed in permanent storage.

Subp. 3. **Packing room.** Warehousemen storing household goods shall have available a packing or crating room partitioned off from the storage of goods on the same floor.

Statutory Authority: *MS s 17B.28*

1560.8700 LICENSE PERIOD.

All warehouse licenses expire on September 30 of each year.

Statutory Authority: *MS s 17B.28*

1560.8800 BONDS.

No surety bond required of a warehouseman under Minnesota Statutes, section 231.17, will be acceptable to the department unless it is written by a surety company authorized to do business in Minnesota.

Warehousemen shall file a surety bond and in an amount to be determined by the department as reasonable for warehousemen in cities and villages subject to Minnesota Statutes, chapter 231, but not less than \$10,000.

A new surety bond must be filed with each application for a license to do business as a warehouseman.

Statutory Authority: *MS s 17B.28*