

1 Department of Agriculture

2

3 Adopted Permanent Rules Relating to Buying and Storing Grain

4

5 Rules as Adopted

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DEPARTMENT OF AGRICULTURE

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BUYING AND STORING OF GRAIN

8 1562.0100 DEFINITIONS.

9

Subpart 1. **Scope.** For the purposes of this chapter, the terms defined in this part have the meanings given them.

11

Subp. 2. **Bond.** "Bond" means an obligation acceptable to and running to the state, as obligee, for the purpose of:

13

A. indemnifying producers of grain against the breach of a cash sale contract by a grain buyer licensed under Minnesota Statutes, chapter 223;

16

B. indemnifying depositors of grain against the breach of a grain storage contract by a public grain warehouse operator licensed under Minnesota Statutes, chapter 232; or

19

C. indemnifying depositors of grain against the breach of a grain bank storage contract by a public or private grain warehouse operator licensed under Minnesota Statutes, chapter 236.

23

Subp. 3. **Cash sale.** "Cash sale" means:

24

A. a sale for which payment is tendered to the seller not later than the close of business on the next business day after the sale, either by cash or by check, or by mailing or wiring funds to the seller's account in the amount of at least 80 percent of the value of the grain at delivery; or

29

B. a sale of a shipment of grain which is part of a multiple shipment sale, for which a scale ticket clearly marked "cash" has been received by the seller before completion of the entire sale, and for which payment is tendered in cash or by check not later than ten days after the sale of that shipment, except that when the entire sale is completed, payment is tendered in cash or by check not later than the close of

1 business on the next business day, or within 48 hours, whichever
2 is later.

3 Subp. 4. **Commissioner.** "Commissioner" means the
4 commissioner of agriculture or the commissioner's designee.

5 Subp. 5. **Department.** "Department" means the Minnesota
6 Department of Agriculture.

7 Subp. 6. **Depositor.** "Depositor" means a person who is the
8 owner or legal holder of an outstanding grain warehouse receipt,
9 grain bank receipt, or open scale ticket marked for storage on
10 which a receipt is to be issued, representing any grain stored
11 in a public grain warehouse or grain bank.

12 Subp. 7. **Grain.** "Grain" means any cereal grain, coarse
13 grain, or oilseed in unprocessed form for which a standard has
14 been established by the United States Secretary of Agriculture
15 or the Minnesota Board of Grain Standards, or any other
16 agricultural crop which the commissioner may designate by rule.

17 Subp. 8. **Grain bank.** "Grain bank" means a feed-processing
18 plant that receives and stores grain, the equivalent of which,
19 except as is otherwise permitted by Minnesota Statutes, section
20 236.04, it processes and returns to the grain's owner in
21 amounts, at intervals, and with added ingredients that are
22 mutually agreeable to the grain's owner and the person operating
23 the plant.

24 Subp. 9. **Grain bank bond.** "Grain bank bond" means an
25 obligation acceptable to and running to the state, as obligee,
26 for the purpose of indemnifying depositors of grain against the
27 breach of a grain bank storage contract by a person with a grain
28 bank license.

29 Subp. 10. **Grain bank receipt.** "Grain bank receipt" means
30 a nonnegotiable receipt issued to the owner of the grain, or the
31 owner's agent, for grain which is being stored for the purpose
32 of being processed into feed.

33 Subp. 11. **Grain buyer.** "Grain buyer" means a person who
34 purchases grain from a producer with the exception of a person
35 who purchases seed grain for crop production or who purchases
36 grain as feed for the person's own livestock.

1 Subp. 12. Grain buyer's bond. "Grain buyer's bond" means
2 an obligation acceptable to and running to the state, as
3 obligee, for the purpose of indemnifying producers of grain
4 against the breach of a cash sale contract by a licensed grain
5 buyer.

6 Subp. 13. Grain purchase receipt. "Grain purchase receipt"
7 means a memorandum issued by a grain buyer to a seller at the
8 time grain is delivered from the seller to the grain buyer, and
9 which shows the weight or quantity and kind of grain.

10 Subp. 14. Grain storage bond. "Grain storage bond" means
11 an obligation acceptable to and running to the state, as
12 obligee, for the purpose of indemnifying depositors of grain
13 against the breach of a grain storage contract by a person
14 licensed to store grain.

15 Subp. 15. Grain warehouse. "Grain warehouse" means an
16 elevator, flour, cereal or feed mill, malthouse or warehouse in
17 which grain belonging to a person other than the warehouse
18 operator is received for purchase or storage.

19 Subp. 16. Grain warehouse receipt. "Grain warehouse
20 receipt" means a formal record issued to a depositor by a grain
21 warehouse operator under Minnesota Statutes, section 232.23.

22 Subp. 17. Independent grain buyer. "Independent grain
23 buyer" means a person who buys grain from producers and does not
24 operate a grain warehouse.

25 Subp. 18. Person. "Person" means a corporation, company,
26 joint stock company or association, partnership, firm, or
27 individual and includes their agents, trustees, assignees, or
28 duly appointed receivers.

29 Subp. 19. Private grain warehouse operator. "Private
30 grain warehouse operator" means a person operating a grain
31 warehouse for the sole purpose of purchasing, handling,
32 processing, and shipping grain or its byproducts who is not
33 licensed by the commissioner to accept grain belonging to others
34 for storage. "Private grain warehouse operator" includes any
35 person licensed under the United States Warehouse Act.

36 Subp. 20. Producer. "Producer" means a person who grows

1 grain on land that the person owns or leases.

2 Subp. 21. **Public grain warehouse operator.** "Public grain
3 warehouse operator" means a person operating a grain warehouse
4 in which grain belonging to persons other than the grain
5 warehouse operator is accepted for storage or purchase or who
6 offers grain storage or warehouse facilities to the public for
7 hire.

8 Subp. 22. **Public terminal warehouse.** "Public terminal
9 warehouse" has the meaning given in Minnesota Statutes, section
10 233.01.

11 Subp. 23. **Scale ticket.** "Scale ticket" means a memorandum
12 issued by a grain elevator or warehouse operator to a depositor
13 at the time grain is delivered showing the weight and kind of
14 grain.

15 Subp. 24. **Vehicle.** "Vehicle" means a device in, upon, or
16 by which any person or property is or may be transported or
17 drawn upon a highway, except devices used exclusively upon
18 stationary rails or tracks.

19 Subp. 25. **Voluntary extension of credit contract.**
20 "Voluntary extension of credit contract" means a contract for
21 the purchase of a specific amount of grain from a producer in
22 which title to the grain passes to the grain buyer upon delivery
23 but the price is to be determined or payment for the grain is to
24 be made at a date later than the date of delivery of the grain
25 to the grain buyer. Voluntary extension of credit contracts
26 include deferred or delayed payment contracts, unpriced sales,
27 no-price-established contracts, average pricing contracts, and
28 all other contractual arrangements with the exception of cash
29 sales and grain storage agreements evidenced by a grain
30 warehouse receipt or scale ticket marked "storage."

31 Subp. 26. **Warehouse.** "Warehouse" means all or a portion
32 of a building, structure, or other protected enclosure in which
33 grain is or may be stored.

34 1562.0200 LICENSING.

35 Before purchasing or storing grain in Minnesota a person

1 must file with the commissioner an application for a license on
2 forms provided by the commissioner. No person may buy grain
3 from producers in Minnesota without first obtaining a grain
4 buyer's license or store grain for others in Minnesota without
5 first obtaining a grain storage license.

6 Applications may be submitted any time during the year.
7 Each license must be renewed every year on July 1. All licenses
8 expire at midnight each June 30. Only one person may obtain a
9 license to buy or store grain at any one grain warehouse.

10 A separate license is required for each home rule charter
11 or statutory city or town in which a grain buyer or public grain
12 warehouse operator buys or stores grain.

13 1562.0300 LICENSE EXCEPTIONS.

14 The following persons are not required to obtain a license
15 to buy grain in Minnesota:

- 16 A. a person who does not buy grain from producers;
- 17 B. a producer selling the producer's own grain;
- 18 C. a person who buys seed grain for crop production;
- 19 and
- 20 D. a person who purchases grain as feed for the
21 person's own livestock or poultry.

22 1562.0400 TYPES OF LICENSES.

23 Subpart 1. Grain buyer. A license to buy grain is a
24 license issued to an independent grain buyer, private grain
25 warehouse operator, or public grain warehouse operator who buys
26 grain from producers.

27 Subp. 2. Grain storage. A license to store grain is a
28 license issued to a public grain warehouse operator who accepts
29 grain for storage or who offers grain storage facilities to the
30 public for hire.

31 Subp. 3. Grain bank. A grain bank license is a license
32 issued to a private or public grain warehouse operator who
33 processes grain into feed and who has a license to buy grain.

34 1562.0500 GRAIN STORAGE LICENSE REQUIREMENTS.

1 Subpart 1. **Place of business.** A public grain warehouse
2 operator must have a permanent established place of business at
3 each licensed location where the books, records, and files
4 necessary to conduct the business are kept and maintained, and
5 where the license and tariff are posted in a conspicuous place.

6 Subp. 2. **Warehouse equipment.** Each licensed location must
7 include a warehouse that is equipped for the weighing, drying,
8 grading, storing, handling, processing, and shipping of grain.

9 Subp. 3. **Multiple warehouse license.** Grain warehouses
10 located within the same home rule charter or statutory city or
11 town and operated by the same person may be included under the
12 same license.

13 Subp. 4. **Inspection; approval.** A grain warehouse must be
14 inspected and approved by the commissioner before a license is
15 issued and grain is stored.

16 Subp. 5. **Cleanliness.** A grain warehouse must be kept
17 reasonably clean of dust, rubbish, and materials that might
18 increase the fire hazard or interfere with the handling of grain.

19 Subp. 6. **Grain quality.** Grain must be maintained in good
20 quality condition at all times and be kept free of rodents,
21 insects, birds, and contaminants harmful to the quality of the
22 grain.

23 Subp. 7. **Records and accounts.** A person licensed to store
24 grain shall maintain a daily position record of each kind of
25 grain stored in the warehouse including warehouse-owned cash
26 grain, grain priced but not paid, and grain bought but not
27 priced.

28 1562.0600 LICENSING OF LEASED FACILITIES.

29 A person shall obtain a grain buyer's license or storage
30 license for each grain warehouse leased, except that all grain
31 warehouses located within the same home rule charter or
32 statutory city or town and leased and operated by the same
33 person may be covered by a single license. A person may not
34 lease storage space that is licensed and operated by another
35 person licensed to buy or store grain.

1 A warehouse must be under the control of the licensed
2 warehouse operator leasing the warehouse.

3 All grain or commodities stored in a leased warehouse must
4 be covered under the licensee's storage bond and must be
5 included under the licensee's insurance policy, as required by
6 Minnesota Statutes, section 232.23, subdivision 16.

7 1562.0700 BOND.

8 Subpart 1. Requirement. Before a license to buy or store
9 grain is issued, the applicant for the license must file with
10 the commissioner a bond in an amount prescribed by this part.
11 The bond provides coverage at all licensed locations.

12 Subp. 2. Grain buyer's bond. The grain buyer's bond
13 amount is based on the latest total annual dollar amount of
14 grain purchased by the grain buyer in Minnesota as follows:

15	GRAIN BUYER'S BOND	TOTAL ANNUAL GRAIN PURCHASES
16	\$10,000	\$100,000 or less
17	\$20,000	\$100,001 to \$750,000
18	\$30,000	\$750,001 to \$1,500,000
19	\$40,000	\$1,500,001 to \$3,000,000
20	\$50,000	more than \$3,000,000
21		
22		

23 Subp. 3. Grain buyer's bond; first-time applicant. A
24 first-time applicant for a grain buyer's license shall file a
25 \$20,000 grain buyer's bond with the commissioner. This bond
26 must remain in effect for the first year of the license. A
27 first-time applicant includes a person previously licensed to
28 buy grain who has not renewed the license for one or more years.

29 Subp. 4. Grain storage bond. The amount of bond required
30 for grain storage is based on 50 percent of the local market
31 value of grain stored by a public grain warehouse operator in
32 Minnesota. The minimum grain storage bond is \$20,000. The
33 maximum grain storage bond is \$500,000, excluding any grain bank
34 liability. The storage bond amount may be increased during the
35 license year. However, the storage bond may not be reduced
36 during the license year.

37 Subp. 5. Grain bank bond. The grain bank bond is based on
38 50 percent of the local market value of grain stored in grain
39 banks in Minnesota. A person licensed to store grain may

1 include the additional liability for grain bank grain in the
 2 determination of the amount of the storage bond in lieu of
 3 obtaining a separate grain bank bond. The minimum grain bank
 4 bond is \$1,500. The maximum grain bank bond is \$150,000. The
 5 grain bank bond amount may be increased during the license
 6 year. The grain bank bond may not be reduced during the license
 7 year.

8 1562.0800 FEES.

9 Subpart 1. License to buy grain. The fee for a license to
 10 buy grain is based on the latest total annual dollar amount of
 11 grain purchased in Minnesota as follows:

12 A. For annual grain purchases under \$1,500,000, the
 13 license fee is \$100 plus \$50 for each additional home rule
 14 charter or statutory city or town in which the grain buyer is to
 15 be licensed to buy grain.

16 B. For annual grain purchases of \$1,500,000 to
 17 \$3,000,000, the license fee is \$200 plus \$50 for each additional
 18 home rule charter or statutory city or town in which the grain
 19 buyer is to be licensed to buy grain.

20 C. For annual grain purchases over \$3,000,000, the
 21 license fee is \$300 plus \$50 for each additional home rule
 22 charter or statutory city or town in which the grain buyer is to
 23 be licensed to buy grain.

24 Subp. 2. License to store grain. The fees for a license
 25 to store grain are as follows:

26 A. For a license to store grain, the license fee is
 27 \$40 for each home rule charter or statutory city or town in
 28 which a public grain warehouse is operated.

29 B. A person with a license to store grain in a public
 30 grain warehouse is subject to an examination fee for each
 31 licensed location, based on the following schedule for one
 32 examination:

33	BUSHEL CAPACITY	EXAMINATION FEE
34	Less than 150,001 bushels	\$ 275
35	150,001 to 250,000 bushels	385
36	250,001 to 500,000 bushels	495
37		
38		

1	500,001 to 750,000 bushels	605
2	750,001 to 1,000,000 bushels	715
3	1,000,001 to 1,200,000 bushels	825
4	1,200,001 to 1,500,000 bushels	935
5	1,500,001 to 2,000,000 bushels	1,045
6	More than 2,000,000 bushels	1,155

7 The fee for the second examination is \$22 per hour per
 8 examiner for warehouse operators who choose to have it performed
 9 by the commissioner.

10 Subp. 3. Grain bank license. The license fee is \$30 for
 11 each home rule charter or statutory city or town in which a
 12 private or public grain warehouse is operated and which will be
 13 used to operate a grain bank.

14 1562.0900 STATEMENT OF GRAIN IN STORAGE.

15 Subpart 1. Monthly grain storage reports. A person with a
 16 grain bank license or a license to store grain must, by the
 17 tenth day of each month, file with the commissioner on forms
 18 provided by the commissioner a monthly storage report showing
 19 the net monetary liability, based on the local market price, of
 20 all grain outstanding on grain bank receipts, grain warehouse
 21 receipts, and scale tickets marked "store" as of the close of
 22 business on the last day of the preceding month.

23 Subp. 2. Determination of grain bank and grain storage
 24 bond amount. The monthly grain storage reports referred to in
 25 subpart 1, shall be used for the purpose of determining the
 26 dollar amount of the grain bank bond and the grain storage bond,
 27 and for determining whether these bond amounts should be
 28 increased during the license year.

29 Subp. 3. Penalty. If a person wilfully neglects or
 30 refuses to file the reports required in subpart 1 for two
 31 consecutive months, the commissioner may immediately suspend the
 32 person's license and the licensee must surrender the license to
 33 the commissioner. Within 15 days the licensee may request an
 34 administrative hearing subject to Minnesota Statutes, chapter 14
 35 to determine if the license should be revoked. If no request is
 36 made within 15 days, the commissioner shall revoke the license.

37 Subp. 4. Exceptions. A person with the maximum grain bank
 38 bond or grain storage bond is not required to submit a monthly

1 grain storage report. A person who has the maximum grain bank
 2 bond or storage bond and who requests a reduction in the bond
 3 amount must submit 12 consecutive monthly grain storage reports,
 4 to verify the request for a reduced bond amount. Persons having
 5 their bond amount reduced under this procedure must continue to
 6 submit monthly storage reports to the department. A reduction
 7 in the bond amount under this provision shall commence with the
 8 next licensing period.

9 1562.1000 VOLUNTARY EXTENSION OF CREDIT CONTRACT.

10 Subpart 1. Form. A voluntary extension of credit contract
 11 must include a statement of the legal and financial
 12 responsibilities of the grain buyer and seller and the following
 13 statement in not less than ten point, all capital type, framed
 14 in a box with space provided for the seller's signature:

15 "THIS CONTRACT CONSTITUTES A VOLUNTARY EXTENSION OF
 16 CREDIT. THIS CONTRACT IS NOT COVERED BY ANY GRAIN
 17 BUYER'S BOND."

18 BUYER _____ SELLER _____
 19 (Type or print name) (Type or print name)
 20 BY _____ BY _____
 21 (Buyer's signature) (Seller's signature)

22 If a written contract is provided at the time the grain is
 23 delivered to the grain buyer, the seller shall sign the contract
 24 in the space provided directly beneath the statement. If the
 25 seller does not sign the contract at the time of delivery, then
 26 the buyer shall send the contract to the seller by certified
 27 mail, return receipt requested, to be signed. All contracts
 28 must be put in writing.

29 Subp. 2. Requirements. Voluntary extension of credit
 30 contracts must be consecutively prenumbered.

31 Subp. 3. Not a storage agreement. A contract sale of
 32 grain is not a storage agreement. The title to grain delivered
 33 on a voluntary extension of credit contract transfers to the
 34 grain buyer upon delivery, and no storage charges may be charged
 35 with respect to that grain. A voluntary extension of credit

1 contract sale of grain is not covered by either the grain
2 storage bond or the grain buyer's bond.

3 1562.1100 WAREHOUSE EXAMINATIONS.

4 Subpart 1. **Required examinations.** A person with a license
5 to store grain is subject to two grain inventory examinations
6 per year, for the purpose of determining whether there is enough
7 grain at the warehouse to satisfy all grain storage obligations.

8 Subp. 2. **First warehouse examination.** The commissioner
9 shall perform at least one of the required warehouse
10 examinations during the license year.

11 Subp. 3. **Second warehouse examination.** The second
12 examination may be performed by an independent third party
13 qualified to do a physical grain measure-up, or weigh-up, if the
14 independent third party agrees to perform the second warehouse
15 examination, within 30 days of the date of the licensee's fiscal
16 year end. In the absence of such an agreement the commissioner
17 shall perform the second examination. The results of the grain
18 inventory examination must include an accounting of all
19 outstanding warehouse receipts, grain bank receipts, and other
20 evidence of grain storage obligations.

21 Subp. 4. **Warehouses with a Commodity Credit Corporation**
22 **storage agreement.** At the request of Commodity Credit
23 Corporation, the commissioner shall perform warehouse
24 examinations at warehouses with a uniform grain storage
25 agreement. The results of these examinations must be forwarded
26 to Commodity Credit Corporation.

27 Subp. 5. **Required information; form.** A grain inventory
28 examination must include the following information:

29 GRAIN INVENTORY EXAMINATION

30 Name of Elevator

31 Date

32 I. Physical Measurement of Grain Inventory

KIND OF GRAIN

33 Grain Inventory as of # bushels

34 plus or minus Receipts "

35 plus or minus Sales -- Shipments "

36 Adjusted Inventory as of* # bushels

37
38
39 II. Grain Inventory per Books as of*

1	Storage Liability	# bushels
2	Grain Bank Liability	"
3	Other	"
4	Warehouse Owned	"
5	Total Grain Inventory per Books	# bushels

7	III. Other Grain Detail	
8	Obligations on Grain Delivered to the	
9	Elevator	
10	Deferred Payment Contracts	# bushels
11	Delayed Price Contracts	"
12	Other	"
13	Total	# bushels

15 IV. Grain Inventory Measured by

17 This Report Prepared by

19 *These dates should be the same.

20 1562.1200 GRAIN PURCHASE RECEIPT.

21 An independent grain buyer, upon purchasing grain, shall
 22 issue a grain purchase receipt. A duplicate copy of each grain
 23 purchase receipt must remain in the possession of the
 24 independent grain buyer as a permanent record. The original
 25 grain purchase receipt must be delivered to the seller upon
 26 receipt of each load of grain.

27 The grain purchase receipt must state specifically whether
 28 the grain was sold on contract or for cash and the price at
 29 which the grain was sold. For contract purchases, if the price
 30 is not determined at the time of delivery, then the grain
 31 purchase receipt must be marked "price later."

32 All grain purchase receipts must be consecutively
 33 prenumbered and must contain the following information:

- 34 A. the name and address of the grain buyer;
- 35 B. the name of the seller;
- 36 C. the location and date of the transaction;
- 37 D. the weight or volume and kind of grain; and
- 38 E. the signature of the grain buyer.

39 For the sale of grain designated "contract" on the grain
 40 purchase receipt, the grain buyer must put the terms of the
 41 contract in writing as required by Minnesota Statutes, section
 42 223.177, subdivision 3. The term "contract" signifies any form
 43 of sale except a cash sale. A contract sale of grain is not
 44 covered by the grain buyer's bond.

1 1562.1300 SCALE TICKET.

2 A grain warehouse operator, upon receiving grain, shall
3 issue a scale ticket for each load of grain received. A
4 duplicate copy of each scale ticket must remain in the
5 possession of the grain warehouse operator as a permanent
6 record. The original scale ticket must be delivered to the
7 seller or depositor upon receipt of each load of grain.

8 The scale ticket must state specifically whether the grain
9 was sold on contract or for cash and the price at which the
10 grain was sold. If the grain was not sold, then the scale
11 ticket must state whether the grain was received for storage.
12 The term "contract" signifies any form of sale except a cash
13 sale.

14 All scale tickets must be consecutively prenumbered and
15 must contain the following information:

- 16 A. the name and address of the grain warehouse
17 operator;
18 B. the name of the seller or depositor;
19 C. the location and date of the transaction;
20 D. the weight, volume, and kind of grain; and
21 E. the signature of the grain warehouse operator.

22 1562.1400 DETERMINATION OF GRADE.

23 If the grade of grain is established at the time of
24 delivery to a warehouse, it must be recorded on the original and
25 duplicate copy of the scale ticket. If the grade is not
26 established at the time of delivery, the grade and factors that
27 relate to the grade must be recorded on the duplicate copy of
28 the scale ticket retained by the grain warehouse operator. The
29 depositor or seller must be notified of the grade within 48
30 hours after the grade has been determined.

31 1562.1500 WAREHOUSE RECEIPT.

32 If grain is received for storage, the grain warehouse
33 operator shall issue a grain warehouse receipt to the depositor
34 within five working days of the date of deposit.

1 Storage contracts on grain being stored end on the
2 expiration date of the storage license if not ended earlier by
3 the depositor. In the absence of a demand for delivery, order
4 to sell, or notice by the grain warehouse operator, it is
5 presumed that the parties intended to renew the storage contract
6 for the next licensing year.

7 1562.1600 CHARGES; RATES.

8 Subpart 1. Filing of rates for storing and handling
9 grain. A person licensed to store grain shall file with the
10 commissioner a tariff or schedule of all charges relating to the
11 storage of grain including charges for receiving, storing,
12 redelivery, and handling on forms provided by the commissioner.

13 Subp. 2. Posting of charges. Every warehouse operator
14 shall post conspicuously in the warehouse, at each licensed
15 location, a statement of all charges relating to the storage of
16 grain.

17 Subp. 3. Charges to depositor. No charge different from
18 that filed with the commissioner and posted may be made to any
19 depositor for the same service.

20 All depositors must be notified of any changes in the
21 tariff or schedule of charges prior to their implementation. A
22 conspicuous posting of the revised tariff in the warehouse,
23 plainly visible to all customers, qualifies as notification to
24 depositors.

25 1562.1700 CLAIMS AGAINST A BOND.

26 Subpart 1. Filing a claim. Claims against a bond may be
27 filed by the persons indicated in this subpart.

28 A. A producer claiming to be damaged by the breach of
29 an agreement to purchase grain according to the terms of a cash
30 sale must file a claim with the commissioner within 180 days of
31 the date of breach.

32 B. A depositor claiming to be damaged by the breach
33 of an agreement to store grain, including an agreement to sell
34 grain which was originally delivered for storage, must file a
35 claim with the commissioner within 180 days of the date of

1 breach.

2 Subp. 2. Form of claim. All claims must be in writing,
3 must state the facts upon which the claim is based, must include
4 any supporting evidence, and must be signed by the claimant.

5 The supporting evidence may consist of, but is not limited to, a
6 purchase agreement, a scale ticket, a grain purchase receipt, a
7 check indicating insufficient funds, a warehouse receipt, or an
8 assembly sheet.

9 Subp. 3. Where to file. All claims must be filed at the
10 following address: Minnesota Department of Agriculture, Grain
11 Inspection Division, Warehouse Section, 316 Grain Exchange
12 Building, Minneapolis, MN 55415.

13 Subp. 4. Bond limitations. The bonds are not cumulative
14 from one year to the next. A claim against the bond may only be
15 made against the bond in effect at the time the agreement is
16 breached. A bond is not liable for claims filed after 180 days
17 from the date of breach of the bond.

18 Subp. 5. Public notice of a claim. Upon determining that
19 a producer or depositor has filed a valid claim, the
20 commissioner shall publish notice of the claim in the official
21 county newspaper of the county in which the licensee's place of
22 business is located.

23 The notice must state that a claim against the bond of a
24 licensee has been filed with the commissioner, the name and
25 address of the licensee, that any additional claims should be
26 filed with the commissioner, the bond disbursement date, and
27 where the claims should be filed.

28 The public notice of the claim must appear for three
29 consecutive days in newspapers with a daily circulation and for
30 two consecutive publications in newspapers published less than
31 daily.

32 Subp. 6. Bond disbursement date. The bond disbursement
33 date is 90 days from the date the commissioner publishes a
34 public notice of a claim. At the end of this time period, the
35 commissioner will initiate bond payments on all valid claims
36 received by the department.

1 1562.1800 BOND COVERAGE.

2 Subpart 1. Grain buyers bond. The grain buyers bond
3 provides for payment of loss to producers caused by a licensed
4 grain buyer's failure to pay, upon the owner's demand, for grain
5 purchased in Minnesota according to the terms of a cash sale.

6 Subp. 2. Grain storage bond. The grain storage bond
7 provides for payment of loss caused by the failure of a person
8 licensed to store grain in Minnesota to deliver stored grain to
9 the depositor's order, or for nonpayment of grain when the
10 depositor orders that the grain be sold in lieu of taking
11 redelivery of the grain in storage.

12 Subp. 3. Grain bank bond. The grain bank bond provides
13 for payment of loss caused by the failure of a person with a
14 grain bank license in Minnesota to deliver grain bank-receipted
15 grain to the depositor's order, or for nonpayment of grain when
16 the depositor orders that the grain bank-receipted grain be sold
17 in lieu of taking redelivery of the grain in the grain bank.

18 1562.1900 LOST, STOLEN, OR DESTROYED WAREHOUSE RECEIPTS.

19 While a warehouse receipt is outstanding, no other
20 warehouse receipt may be issued for any part of the grain
21 represented by the original warehouse receipt except that, in
22 case of a lost, stolen, or destroyed warehouse receipt, the
23 depositor is entitled to a new warehouse receipt, plainly
24 designated to be a duplicate or substitute for the one missing
25 or destroyed indicating the dates of issuance of the original
26 and the replacement warehouse receipts. Before issuing a
27 duplicate warehouse receipt the warehouse operator shall require
28 the depositor to make and file an affidavit stating that the
29 depositor is lawfully entitled to possession of the original
30 receipt and that the depositor has not negotiated or assigned
31 it, the circumstances in which it was lost or destroyed, and
32 that, if lost, a diligent effort has been made to find it. The
33 warehouse operator may require the depositor to post a bond in
34 an amount not more than double the value at the time the bond is
35 given of the grain represented by the missing or destroyed

1 warehouse receipt. The bond must be conditioned to indemnify
2 the warehouse operator against any loss which might be sustained
3 because of the issuance of a duplicate receipt, must be in a
4 form approved by the commissioner, and must be executed by a
5 corporate surety licensed to operate in Minnesota. A valid
6 duplicate or substitute warehouse receipt has all the rights of
7 the document in lieu of which it was issued.

8 1562.2000 SHORTAGES OF GRAIN.

9 Whenever it appears that a warehouse operator does not have
10 on hand grain of sufficient quality and quantity to cover the
11 outstanding warehouse receipt obligations, notice must be given
12 by the commissioner to the warehouse operator requiring that the
13 shortage be corrected immediately. If the warehouse operator
14 fails to comply with that order and the commissioner determines
15 that the interests of depositors may be threatened, then the
16 commissioner shall seal the warehouse to prevent any further
17 removal of grain until the shortage is corrected.

18 If it appears that the warehouse operator is in default to
19 warehouse receipt holders and unable to correct the default
20 within a reasonable time the commissioner shall make
21 arrangements to protect the warehouse receipt holders by either
22 redelivering the grain, on a pro rata basis, to each warehouse
23 receipt holder of record or liquidating the grain inventory,
24 depositing the proceeds in an interest-bearing trust account,
25 and distributing the proceeds, on a pro rata basis, to each
26 warehouse receipt holder of record. The proceeds must remain in
27 the trust account until the bond disbursement date, if
28 applicable. Valid claims by warehouse receipt holders in excess
29 of the amount in the trust account will be applied against the
30 storage bond. The warehouse operator, the operator's surety,
31 and each warehouse receipt holder of record must be notified of
32 the shortage and the proposed action to be taken by the
33 commissioner to protect warehouse receipt holders. Notice must
34 be mailed to each warehouse receipt holder's last known address
35 as evidenced by the records of the warehouse operator.

1 If any interested party files a written objection to the
2 department's proposed action within ten days of receipt of the
3 commissioner's notice, the commissioner shall apply to the
4 district court for the appointment of a trustee or receiver to
5 manage and supervise the operations of the grain warehouse
6 operator in default.

7 An audit or other investigation of the affairs of the
8 warehouse operator must be made by the commissioner for the
9 purpose of determining the amount of the shortage and computing
10 the loss sustained by each depositor.

11 1562.2100 MOVEMENT OF ENCUMBERED GRAIN.

12 Grain encumbered by a warehouse receipt may be moved to
13 another public grain warehouse with the depositor's request,
14 pursuant to Minnesota Statutes, section 232.23, subdivision 13.
15 The original warehouse receipt must be canceled and the
16 receiving public grain warehouse operator must issue a
17 currently-dated warehouse receipt for the grain being moved and
18 stored. All storage charges must be paid through the date of
19 cancellation of the original warehouse receipt.

20 1562.2200 TERMINATION OF LICENSE; CHANGE OF OWNERSHIP.

21 When a license is terminated by reason of sale,
22 discontinuance of business, failure to renew a license, or for
23 any other reason, the grain buyer or warehouse operator must
24 discontinue buying grain from producers or storing grain, and
25 redeliver or purchase all grain belonging to others in the
26 warehouse. If a licensee sells or leases a grain warehouse to
27 another person, proper indemnity must be provided to all
28 depositors. Agreement in writing by the warehouse operator's
29 successor to assume liability for all warehouse receipts
30 outstanding at the time of take-over and reissuance of warehouse
31 receipts by the successor constitutes sufficient indemnity. The
32 commissioner must be notified of a change in ownership so that a
33 new license and bond may be issued.

34

35 REPEALER. Minnesota Rules, parts 1560.5400; 1560.5500;

2/2/88

[REVISOR] CEL/SS AR1258

- 1 1560.5600; 1560.5700; 1560.5800; 1560.5900; 1560.6000;
- 2 1560.6100; 1560.6200; 1560.6300; 1560.6400; 1560.6500;
- 3 1560.6600; 1560.6700; 1560.6800; 1560.6900; 1560.7000;
- 4 1560.7100; 1560.7200; 1560.7300; 1560.7400; 1560.7500; and
- 5 1560.7600 are repealed.