

CHAPTER 1562
DEPARTMENT OF AGRICULTURE
BUYING AND STORING OF GRAIN

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1562.0100 DEFINITIONS.

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

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

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

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

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.

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

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

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

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

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

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

Subp. 7. **Grain.** "Grain" means any cereal grain, coarse grain, or oilseed in unprocessed form for which a standard has been established by the United States Secretary of

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Agriculture or the Minnesota Board of Grain Standards, dry edible beans, or other agricultural crops designated by the commissioner by rule.

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

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

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

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

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

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

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

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

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

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

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

Subp. 19. **Private grain warehouse operator.** "Private grain warehouse operator" means a person operating a grain warehouse for the sole purpose of purchasing, handling, processing, and shipping grain or its by-products who is not licensed by the commissioner to accept grain belonging to others for storage. "Private grain warehouse operator" includes any person licensed under the United States Warehouse Act.

Subp. 20. **Producer.** "Producer" means a person who grows grain on land that the person owns or leases.

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

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

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

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

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

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392; 14 SR 2583*

1562.0200 LICENSING.

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

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

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.0300 LICENSE EXCEPTIONS.

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

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.0400 TYPES OF LICENSES.

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

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

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.0500 GRAIN STORAGE LICENSE REQUIREMENTS.

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

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

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

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

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

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

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.0600 LICENSING OF LEASED FACILITIES.

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

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

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.0700 BOND.

Subpart 1. **Requirement.** Before a license to buy or store grain is issued, the applicant for the license must file with the commissioner a bond or acceptable security in lieu of a bond in an amount prescribed by this part. The bond or other acceptable security provides coverage at all licensed locations.

Subp. 1a. **Duration of bond.** The bond must be continuous until canceled. To cancel a bond, the surety must provide 90 days written notice of the bond's termination date to the licensee and the commissioner.

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Subp. 1b. **Acceptable security in lieu of a bond.** In lieu of the bond required by this part, the license applicant may deposit with the commissioner of management and budget cash, or a certified check, cashier's check, money order, assignable bond or note of the United States, certificate of deposit, or an irrevocable bank letter of credit in the same amount as would be required for the bond.

Subp. 2. [Repealed, 33 SR 8]

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

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

Subp. 5. **Grain bank bond.** The grain bank bond is based on 50 percent of the local market value of grain stored in grain banks in Minnesota. A person licensed to store grain may include the additional liability for grain bank grain in the determination of the amount of the storage bond in lieu of obtaining a separate grain bank bond. The minimum grain bank bond is \$1,500. The maximum grain bank bond is \$150,000. The grain bank bond amount may be increased during the license year. The grain bank bond may not be reduced during the license year.

Statutory Authority: *MS s 14.05; 16A.128; 16A.1283; 18.79; 21.85; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392; 14 SR 2583; L 2003 c 112 art 2 s 50; 33 SR 8; L 2009 c 101 art 2 s 109*

1562.0800 Subpart 1. [Repealed, 21 SR 1855]

Subp. 2. [Repealed, 33 SR 8]

Subp. 3. [Repealed, 33 SR 8]

1562.0900 STATEMENT OF GRAIN IN STORAGE.

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

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

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

Subp. 4. **Exceptions.** A person with the maximum grain bank bond or grain storage bond is not required to submit a monthly grain storage report. A person who has the maximum grain bank bond or storage bond and who requests a reduction in the bond amount

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must submit 12 consecutive monthly grain storage reports, to verify the request for a reduced bond amount. Persons having their bond amount reduced under this procedure must continue to submit monthly storage reports to the department. A reduction in the bond amount under this provision shall commence with the next licensing period.

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.1000 VOLUNTARY EXTENSION OF CREDIT CONTRACT.

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

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

BUYER	_____	SELLER	_____
	(Type or print name)		(Type or print name)
BY	_____	BY	_____
	(Buyer's signature)		(Seller's signature)

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

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

Subp. 3. **Not a storage agreement.** A contract sale of grain is not a storage agreement. The title to grain delivered on a voluntary extension of credit contract transfers to the grain buyer upon delivery, and no storage charges may be charged with respect to that grain. A voluntary extension of credit contract sale of grain is not covered by either the grain storage bond or the grain buyer's bond.

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.1100 WAREHOUSE EXAMINATIONS.

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

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

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

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

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

GRAIN INVENTORY EXAMINATION		
Name of Elevator		
Date		Kind of Grain
I.	Physical Measurement of Grain Inventory	
	Grain Inventory as of _____	# bushels
	plus or minus Receipts	"
	plus or minus Sales -- Shipments	"
	Adjusted Inventory as of _____ *	# bushels
II.	Grain Inventory per Books as of _____ *	
	Storage Liability	# bushels
	Grain Bank Liability	"
	Other	"
	Warehouse Owned	"
	Total Grain Inventory per Books	# bushels
III.	Other Grain Detail	
	Obligations on Grain Delivered to the Elevator	
	Deferred Payment Contracts	# bushels
	Delayed Price Contracts	"
	Other	"
	Total	# bushels
IV.	Grain Inventory Measured by _____	
	This Report Prepared by _____	
	*These dates should be the same.	

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.1200 GRAIN PURCHASE RECEIPT.

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

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

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

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

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.1300 SCALE TICKET.

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

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

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

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.1400 DETERMINATION OF GRADE.

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.1500 WAREHOUSE RECEIPT.

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

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.1600 CHARGES; RATES.

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

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

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

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.1700 CLAIMS AGAINST A BOND.

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

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

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

Subp. 2. **Form of claim.** All claims must be in writing, must state the facts upon which the claim is based, must include any supporting evidence, and must be signed by the claimant. The supporting evidence may consist of, but is not limited to, a purchase agreement, a scale ticket, a grain purchase receipt, a check indicating insufficient funds, a warehouse receipt, or an assembly sheet.

Subp. 3. **Where to file.** All claims must be filed at the following address: Minnesota Department of Agriculture, Grain Licensing, 625 Robert Street North, Saint Paul, Minnesota 55155-2538.

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

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

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

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

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.1800 BOND COVERAGE.

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

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

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.1900 LOST, STOLEN, OR DESTROYED WAREHOUSE RECEIPTS.

While a warehouse receipt is outstanding, no other warehouse receipt may be issued for any part of the grain represented by the original warehouse receipt except that, in case of a lost, stolen, or destroyed warehouse receipt, the depositor is entitled to a new warehouse receipt, plainly designated to be a duplicate or substitute for the one missing or destroyed indicating the dates of issuance of the original and the replacement warehouse receipts. Before issuing a duplicate warehouse receipt the warehouse operator shall require the depositor to make and file an affidavit stating that the depositor is lawfully entitled to possession of the original receipt and that the depositor has not negotiated or assigned it, the circumstances in which it was lost or destroyed, and that, if lost, a diligent effort has been made to find it. The warehouse operator may require the depositor 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 missing or destroyed warehouse receipt. The bond must be conditioned to indemnify the warehouse operator against any loss which might be sustained because of the issuance of a duplicate receipt, must be in a form approved by the commissioner, and must be executed by a corporate surety licensed to operate in Minnesota. A valid duplicate or substitute warehouse receipt has all the rights of the document in lieu of which it was issued.

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.2000 SHORTAGES OF GRAIN.

Whenever it appears that a warehouse operator does not have on hand grain of sufficient quality and quantity to cover the outstanding warehouse receipt obligations, notice must be given by the commissioner to the warehouse operator requiring that the shortage be corrected immediately. If the warehouse operator fails to comply with that order and the commissioner determines that the interests of depositors may be threatened, then the

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commissioner shall seal the warehouse to prevent any further removal of grain until the shortage is corrected.

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

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

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.2100 MOVEMENT OF ENCUMBERED GRAIN.

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

1562.2200 TERMINATION OF LICENSE; CHANGE OF OWNERSHIP.

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

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*