

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. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 4. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 5. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 6. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 7. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 8. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 9. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 10. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 11. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 12. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 13. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 14. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 15. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 16. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 17. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 18. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 19. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 20. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 21. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 22. [Repealed, L 2012 c 244 art 1 s 83]
- Subp. 23. [Repealed, L 2012 c 244 art 1 s 83]

Subp. 24. [Repealed, L 2012 c 244 art 1 s 83]

Subp. 25. [Repealed, L 2012 c 244 art 1 s 83]

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; L 2012 c 244 art 1 s 83*

1562.0200 [Repealed, L 2012 c 244 art 1 s 83]

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 [Repealed, L 2012 c 244 art 1 s 83]

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.

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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 Subpart 1. [Repealed, L 2012 c 244 art 1 s 83]

Subp. 1a. [Repealed, L 2012 c 244 art 1 s 83]

Subp. 1b. [Repealed, L 2012 c 244 art 1 s 83]

Subp. 2. [Repealed, 33 SR 8; L 2012 c 244 art 1 s 83]

Subp. 3. [Repealed, L 2012 c 244 art 1 s 83]

Subp. 4. [Repealed, L 2012 c 244 art 1 s 83]

Subp. 5. [Repealed, L 2012 c 244 art 1 s 83]

1562.0800 Subpart 1. [Repealed, 21 SR 1855]

Subp. 2. [Repealed, 33 SR 8]

Subp. 3. [Repealed, 33 SR 8]

1562.0900 [Repealed, L 2012 c 244 art 1 s 83]

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*

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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.

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

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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.

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 [Repealed, L 2012 c 244 art 1 s 83]

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.

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.

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,

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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 [Repealed, L 2012 c 244 art 1 s 83]

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 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*