

DEPARTMENT OF AGRICULTURE  
FINANCE AND RECHNOLOGY DIVISION  
REGULATION NO. 560. GRAIN DEALERS

(By authority conferred on the department of agriculture by section 3 of Act No. 141 of the Public Acts of 1939, as amended, being S285.63 of the Michigan Compiled Laws)

R 285.560.1 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 141 of the Public Acts of 1939, as amended, being S285.61 et seq. of the Michigan Compiled Laws.

(b) "Allowable net assets" means tangible net worth.

(c) "Bailment" means the delivery of farm produce by one party to a grain dealer to be held according to the purpose or object of the delivery and to be returned or delivered over by the grain dealer when that purpose is accomplished.

(d) "Bulk" means farm produce not packaged into separate units.

(e) "Cash basis" means the purchase of farm produce with United States currency or check not later than at time of delivery.

(f) "Director" means the director of the state department of agriculture and the director's authorized agents and representatives.

(g) "Facility" means an edifice, silo, tank, bin, crib, interstice, protected enclosed structure, or collection thereof used for the purpose of receiving, depositing, or storing of farm produce in bulk.

(h) "Incidental portion" means that the proportion of farm produce sales to total annual sales of merchandise intended for resale is 10% or less.

(i) "Operating within this state" means that the physical possession or title of the farm produce has transferred from the owner to the person, partnership, firm, corporation, association, cooperative organization, or other legal entity within the boundaries of the state of Michigan. When physical possession or title has transferred and the farm produce is shipped out of the state of Michigan and sold by the same person, the person is under the jurisdiction of the act. A person who takes possession or title of farm produce within the boundaries of the state and ships the farm produce directly to his or her out-of-state facility is not under the jurisdiction of the act.

(j) "Retailer" means a person selling small quantities of farm produce directly to the ultimate consumer.

(k) "Review," with respect to financial statements, means performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in conformity with generally accepted accounting principles.

(2) "Raw or natural state," as used in the act, means farm produce, including that which has been cleaned, dried, graded, or picked.

History: 1984 AACS.

R 285.560.2 Grain bank or feed bank farm produce.

Rule 2. (1) Grain bank or feed bank farm produce constitutes a bailment requiring the issuance of a warehouse receipt and is subject to all requirements pertaining to the storage of farm produce as set forth in the act.

(2) A grain dealer may permit a person to overdraw his or her grain bank or feed bank balance if the withdrawal of farm produce is only that owned by the grain dealer and is not farm produce owned individually or collectively by other grain bank depositors.

History: 1984 AACS.

R 285.560.3 Daily position report.

Rule 3. The information required on a daily position report as set forth in the act shall be submitted to the director during the first 10 business days of each month and shall include farm produce transactions conducted by the grain dealer on the last business day of the grain dealer's fiscal month.

History: 1984 AACS.

R 285.560.4 Grain dealer's license.

Rule 4. (1) Unless otherwise provided in the act, an application for a grain dealer's license, on forms provided by the director, shall be made by any person, partnership, firm, corporation, association, cooperative organization, or other legal entity operating in this state and engaged in the business of receiving, buying, exchanging, selling, or storing farm produce.

(2) A separate grain dealer's license is required for each facility operated by a grain dealer.

(3) A grain dealer who operates more than 1 facility, whether or not the facility locations are within the same city or town, may apply for a single grain dealer's license if all of the following conditions are met:

(a) All farm produce is only received at 1 facility.

(b) Any movement of farm produce to a secondary facility is performed exclusively by or at the direction of the grain dealer.

(c) A single daily position report for all facilities is maintained.

(d) All price later agreements, warehouse receipts, or payments are issued from a single facility and all accounting records are maintained at that same facility.

(e) A written statement listing the address and storage capacity of each facility location has been submitted to the director.

(f) Insurance coverage for the full market value of the farm produce is maintained for all facilities at all times.

(4) A person receiving, buying, exchanging, or selling farm produce who does not operate a facility shall obtain a license for each vehicle used for transporting farm produce.

(5) A person who is buying, exchanging, selling, or storing farm produce and who does not operate either a facility or a vehicle for transporting farm produce shall obtain a license for each office location.

History: 1984 AACS.

R 285.560.5 License fee.

Rule 5. (1) The license fee for a grain dealer as set forth in the act shall be determined by the total bushels of bulk farm produce that could be contained in the facility at full capacity.

(2) The license fee for a grain dealer operating more than 1 farm produce facility under a single grain dealer's license shall be determined by the sum of the total bushel capacities of the individual facility locations. When the sum of the capacities of the individual facility locations exceeds 500,000 bushels, the license fee shall be \$400.00.

(3) The license fee for a grain dealer who does not operate a farm produce facility or a vehicle used to transport farm produce shall be \$125.00.

(4) The license fee for a grain dealer who buys farm produce exclusively on a cash basis shall be \$125.00.

(5) The license fee for a grain dealer storing hay only shall be \$125.00.

History: 1984 AACS.

R 285.560.6 Temporary facilities; reports and fees.

Rule 6. (1) The grain dealer shall report to the director any facility which is on property not owned by the grain dealer and which is temporarily used to hold farm produce owned or stored by the grain dealer.

(2) If a temporary facility is being used when a license application is submitted, the grain dealer shall report the temporary bushel capacity and the address of the facility on the application. The license fee shall be based on the total of the bushel capacities of the permanent and temporary facilities.

(3) If the grain dealer uses a temporary facility during the license year, the address and bushel capacity of the temporary facility shall be reported on the daily position reporting form. An additional fee is not required if the total of the permanent and temporary bushel capacities does not place the grain dealer into a different fee category. If the total of the permanent and temporary bushel capacities places the grain dealer into a different fee category, the grain dealer shall pay an additional fee equal to the difference between the fee previously submitted and the fee required according to the new fee category. The additional fee shall be submitted with the daily position reporting form for the first month the grain dealer begins using the temporary facility. An additional license will not be issued for a temporary facility.

History: 1984 AACCS.

#### R 285.560.7 Financial statements.

Rule 7. (1) Financial statements shall be prepared in accordance with generally accepted accounting principles.

(2) Financial statements shall be not less than a review and shall consist of, at a minimum, all of the following to adequately interpret the financial information submitted:

- (a) The accountant's letter of verification.
- (b) A balance sheet.
- (c) Income statement.
- (d) Notes and disclosures.

(3) The notes describing significant accounting policy shall include the method of inventory valuation, depreciation, and accrual. The notes shall disclose how each class of farm produce is represented in the inventory account and corresponding liability accounts, if applicable. Classes are as follows:

- (a) Farm produce stored under warehouse receipts.
- (b) Farm produce received under price later agreements.
- (c) Farm produce received but not paid for and not on a warehouse receipt or price later agreement document.
- (d) Farm produce owned by the company. The notes shall contain a full disclosure of the futures market position.

(4) The financial statement shall be for the most current fiscal year end available and shall be for a time period not more than the previous 12 months.

History: 1984 AACCS.

#### R 285.560.8 Price later agreements.

Rule 8. (1) A grain dealer issuing price later agreements shall maintain allowable net assets of not less than \$20,000.00 at all times during the grain dealer's fiscal year. This allowable net asset requirement is not in addition to the allowable net asset requirement to obtain a grain dealer's license.

(2) Farm produce delivered to a grain dealer for which a price later agreement is issued shall not be represented as stored farm produce. Only warehouse receipted commodities shall be represented as stored farm produce.

(3) Farm produce which is not received as part of a bailment or cash sale is a transaction for which a price later agreement is defined, and the grain dealer shall comply with the requirements relating to price later agreements in these transactions, regardless of the title of the document.

(4) A grain dealer issuing price later agreements shall also comply with 1 or more of the provisions provided in the act. If the grain dealer has outstanding price later agreement obligations and does not have the commodity, the equivalent quantity of another commodity of equal or higher dollar value on hand as the dealer's own property, or price later agreements or warehouse receipts from another dealer, he or she shall maintain sufficient cash or short-term secured investments in an amount

equal to 80% of the value of the commodity. An irrevocable letter of credit shall constitute cash for the purpose of this rule. Short-term secured investments, as authorized by the act, shall be limited to an escrow account approved by the director.

History: 1984 AACCS.

R 285.560.9 Submission of grain receipts.

Rule 9. (1) A grain dealer shall submit with an application for license a sample of the scale ticket, temporary receipt, warehouse receipt, price later agreement, or other grain acknowledgment document proposed to be used.

(2) If a grain dealer has all of his or her current grain receipt documents on file with the department, annual submission of the forms is not necessary.

(3) One copy of the sample receipt submitted to the department shall be on file at the business location of the grain dealer.

History: 1984 AACCS.

R 285.560.10 Suspension or revocation of grain dealer's license.

Rule 10. The director may suspend or revoke a grain dealer's license, in accordance with the procedures provided for in Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, for any of the following reasons:

- (a) Failure to comply with any of the requirements set forth in the act.
- (b) Failure to comply with any of the rules set forth in this regulation.
- (c) Submission of false information on any of the following:
  - (i) An application for a grain dealer's license.
  - (ii) Daily position report.
  - (iii) Financial statement.
  - (iv) Any other document required by the director.

History: 1984 AACCS.

R 285.560.11 Hearings.

Rule 11. (1) The notification of hearing shall state all of the following information:

- (a) The date, time, place of the hearing.
  - (b) Issues involved.
  - (c) Reasons for holding the hearing. Notice shall be served not less than 15 days before the hearing.
- (2) When an appearance is made at a hearing, it shall be made in person, by a duly authorized representative, or by counsel.
- (3) The person or persons who have been served with a notice of hearing may file a written answer hereto before the date set for hearing or may appear at the hearing and present an oral statement on the charges contained in the notice of hearing. When written briefs or arguments are presented, a copy shall be served upon the director not less than 5 days before the date set for the hearing.
- (4) If the person or persons who have been previously served with a notice of hearing fail to appear at a noticed hearing, the director, hearing officer, or the member of the department staff authorized by law to conduct such hearings may proceed with the hearing and may, on the evidence presented, make a decision.
- (5) A hearing shall not be adjourned or continued, except upon an order of the director, hearing officer, or the department employee conducting the hearing. All motions and requests for an adjournment or a continuance shall be in writing. The motion or request shall state concisely the reasons why an adjournment or a continuance is necessary. A motion or request for an adjournment or continuance will not be considered unless the motion or request is filed with the director not less than 5 days before the date assigned for the hearing, except upon order of the director,

which exception will be granted only upon a showing that, for reasons not within the control of the person or party making the motion or request, the motion or request could not be filed within the time allotted.

(6) The parties to any hearing before the director may, by a stipulation in writing filed with the director, agree upon the facts or any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence in the hearing. Parties are requested to agree upon the facts when practicable.

(7) Depositions shall only be taken upon written authority of the director where it is proved, in writing, to the director that it is impractical or impossible to otherwise obtain the evidence. Where depositions are permitted, they shall be taken according to the rules for taking depositions as set forth in Michigan general court rules.

(8) Holders of warehouse receipts or price later agreements from a grain dealer for whom a hearing has been noticed may attend the hearing and may, in the discretion of the director, hearing officer, or departmental employee conducting the hearing, submit evidence relating to the issues involved.

History: 1984 AACCS.