

Subpart 2-Administrative Rules  
Chapter 09 - Grain Dealers

Definitions

- 100 The following terms shall have the meaning ascribed herein unless the context shall otherwise require:
1. "Person" shall mean any person, firm, association, or corporation.
  2. "Grain" shall mean all grains for which standards have been established pursuant to the United States Grain Standards Act as amended, and rice as defined by the Agriculture Marketing Act of 1946, as amended.
  3. "Grain Dealer" shall mean any person engaged in the business of buying grain from producers thereof for resale or for milling or processing. A producer of grain buying grain for his own use as seed or feed shall not be considered as being engaged in the business of buying grain for resale or for milling or processing.
  4. "Producer" shall mean the owner, tenant or operator of land in this state who has an interest in and receives all or any part of the proceeds from the sale of the grain produced thereon.
  5. "Department" shall mean the Mississippi Department of Agriculture & Commerce.
  6. "Commissioner" shall mean the Commissioner of the Mississippi Department of Agriculture & Commerce, or his designated representative.
  7. "Date of Delivery of Grain to the Dealer" shall mean the date that such grain is physically delivered to the dealer for the purpose of sale to the dealer. It does not mean the date that the grain is delivered for the purpose of storage; if the grain is in storage, then the delivery date is the date the Warehouse Receipt is cancelled.
  8. "Location" shall mean any site other than the principal office where the grain dealer engages in the business of purchasing grain from producers.
  9. "Accountant" shall mean any person qualified in the skills of practicing Accounting.
  10. "Certified Public Accountant" shall mean a Public Accountant who is licensed in the State of Mississippi.
  11. "Daily Grain Transaction Report" shall mean a record of the daily transactions of a grain dealer showing the amount of all grain received, shipped, and on hand at day's end.
  12. "Price Later Contract," "Basis Contract," "Deferred Price Contract," "Delayed Price Contract," "Growers Option Contract" or similar agreement means a complete written contract and it constitutes a bona fide sale and a change in ownership when either the price for the grain or the formula for determining the price has been agreed upon and the contract obligation is either paid in full or carried as an account payable.

Source: *Miss. Code Ann.* §75-45-313.

### Application of Rules and Regulations

- 101.01 These rules and regulations apply to all persons who buy grain from producers in the State of Mississippi and are subject to change and modification as the Department may from time to time deem advisable, and to such exceptions as may be considered just and reasonable in individual cases.
- 101.02 Any person buying grain in substantial amounts from producers for reasons, such as livestock feeding or seed for resale, are determined to be grain dealers and are covered by these rules and regulations.
- 101.03 Every grain dealer domiciled outside the State of Mississippi, who does not maintain an office or place of business in Mississippi, who buys grain from producers in Mississippi, shall be covered under the Act and these rules and regulations for that part of his business that comes from Mississippi.

Source: *Miss. Code Ann.* §75-45-313.

### Application for License

- 102.01 All applications for a license to operate as a grain dealer shall be made on forms supplied by the Department, with all information furnished as required and the application sworn to under oath as required by the Act and these Rules and Regulations.
- 102.02 The application shall include all addresses of locations where the grain dealer engages in the business of buying grain and shall identify the principal location that such business is engaged in.
- 102.03 The grain dealer's application shall be accompanied by a chart showing the locations of all facilities to be used by the dealer, including a bin chart assigning each bin a number, and listing the measurements including length, width and depth, the capacity and the bushels per foot.
- 102.04 The application shall be accompanied by a current financial statement, prepared by an accountant who is not in the employment of, related to or directly associated with the grain dealer's business.
- 102.05 If the applicant applies for waiver of bond in excess of the \$25,000 minimum, the financial statement must be certified by a certified public accountant, with an unqualified opinion thereon.
- 102.06 The age of all accounts receivable shall be shown on the financial statement.
- 102.07 On request for waiver of bond in excess of the \$25,000 minimum, the financial statement shall show that the fixed assets are covered by insurance and must

indicate the total dollar amount of coverage. The method of insuring the grain inventory shall be described.

102.08 An application for renewal of a license must indicate changes in locations and/or facilities from the prior year.

Source: *Miss. Code Ann.* §75-45-313.

### Surety Bond

103.01 Before a license is issued to the applicant, he shall file with the Department a surety bond in accordance with Section 75-45-305 of the Act. The bond must be executed on forms supplied by the Department and made payable to the people of the State of Mississippi with the Commissioner of the Department as trustee.

103.02 The name and address of the grain dealer on the surety bond shall correspond with the name and address in the application.

103.03 Every bond must be signed by the grain dealer in the same manner as the application, and if the applicant is a corporation, the corporate seal shall be affixed thereto.

103.04 Every bond so filed shall contain a provision that it may not be cancelled by the principal or surety company, except on 60 days prior notice in writing, by certified mail to the Commissioner. A copy of such notice shall be mailed on the same day to the principal. The cancellation shall not affect the liability accrued or which may accrue under such bond before the expiration of the 60 days. The notice shall contain a proposed termination date.

103.05 If, at the end of the 60 days prior notice of cancellation, the grain dealer has not replaced the bond, he shall immediately notify all of the producers from whom he is currently buying grain and the holders of "price later contracts" that his bond has been cancelled and that he is no longer a licensed grain dealer.

103.06 The effective date of the bond shall be the date that it is issued.

103.07 All grain dealers must furnish a minimum \$25,000 bond. To be eligible for waiver of any bond requirement in excess of the \$25,000 minimum bond, the grain dealer's net worth and net assets over and above all other obligations must be equal to at least (3) three times the amount of the original bond requirement.

103.08 During the first year of operation, if a grain dealer has purchased an amount of grain equal to his initial estimate, he shall re-adjust the estimate and immediately furnish the Department with sufficient additional bond to cover the additional projected purchases.

Source: *Miss. Code Ann.* §75-45-305.

### Fees

104.01 A filing fee of \$50 shall accompany the application for a license or renewal thereof.

104.02 When applicable, a fee of \$10 for each certificate that a license has been issued or renewed and a bond filed shall accompany the application. These certificates must be posted in each location and carried in each truck or tractor-trailer unit used to pick up grain from the producers for a grain dealer.

Source: *Miss. Code Ann.* §75-45-307.

### Right of Examination, and Required Records.

105.01 Each grain dealer shall permit any officer or authorized representative of the Department to enter all locations listed in accordance with subsection 102.02 of this chapter and inspect or examine all contents, facilities, equipment, records, books and accounts relating thereto. Such inspection and/or examination may be made on any business day, during usual business hours. The grain dealer shall provide the necessary assistance required for any inspection or examination made in accordance with the Act and these rules and regulations.

105.02 A consecutive page numbered permanent record of purchase receipts and shipments will be maintained and these records will be used to maintain the Daily Grain Transaction Report. This report must clearly indicate all grain which has been sold by means of a "price later contract." In cases where the grain dealer is also a licensed warehouseman, the Daily Position Report can be used in lieu of the Daily Grain Transaction Report and must be a consecutive page numbered permanent record.

105.03 A "price later contract" shall be made out in duplicate on a form approved by the Department. One copy shall be given to the producer and the other copy kept for the grain dealer's files. The statement that the grain is covered by the grain dealer's bond for only 270 days from the date of delivery shall be printed on the contract directly above the place for the producer to sign. To validate the contract, both the producer and the grain dealer shall sign this agreement. This contract must be written and contain a clear agreement between the two parties involved as to how the price will be determined.

105.04 Regardless of the type of record system used, it must be kept up-to-date. There shall not be a lag of more than 7 days in posting to this record. All records must be maintained for a period of not less than one year.

- 105.05 To retain his license, a grain dealer must maintain a liquid position throughout the year. There shall be no evidence of post-dated checks, checks returned by a bank due to nonsufficient funds, or that a producer has been asked not to cash a grain dealer's check until a specified date. Any evidence that indicates a non-liquid position shall be grounds for the suspension or revocation of the grain dealer's license.
- 105.06 The Department may require the grain dealer to report the number of bushels and kind of grain under price later contract at the end of any month. Such report shall be requested by the Department prior to the end of the month in question and shall be forwarded to the Department by not later than the 10th day of the following month.
- 105.07 The Department may require the grain dealer to provide a current profit and loss statement and balance sheet; the total bushels of grain and kind sold by means of price later contracts; a Daily Grain Transaction Report; a report of hedging activities; and a review of the activities of the hedging account for the past 60 days. Such information will be furnished to the Department within 10 days upon request.
- 105.08 Any person buying grain in the field from producers for a grain dealer must have a certificate from the grain dealer authorizing him to do so.
- 105.09 The grain dealer must give the producer a document indicating the weight, grade, dockage, and the price of the grain upon settlement.
- 105.10 The document representing grain delivered to the grain dealer shall be clearly marked "Sold" and the price indicated thereon, unless it has been sold by means of a price later contract. In such case, the document will be marked "Sold Price Later Contract" or similar wording. This document does not replace or substitute for any other requirement of the Act or these rules and regulations.

Source: *Miss. Code Ann.* §75-45-309.

#### Posting of Notices

- 106 The Department may from time to time require the grain dealer to conspicuously display certain notices or other information as the Department may deem necessary.

Source: *Miss. Code Ann.* §75-45-313.