
Rules of
Department of Agriculture
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer’s Law

Title		Page
2 CSR 60-5.010	Agricultural Commodities to be Regulated as Grain	3
2 CSR 60-5.020	Interpretive Rule	3
2 CSR 60-5.030	Scale Tickets.....	3
2 CSR 60-5.040	Daily Position Record.....	3
2 CSR 60-5.050	Acceptance of Appraisal Values on Financial Statements.....	4
2 CSR 60-5.060	Certificate of Deposit (Rescinded August 25, 1986)	5
2 CSR 60-5.070	Certificates of Deposit.....	5
2 CSR 60-5.080	Letters of Credit	6
2 CSR 60-5.090	Short-Term Letters of Credit	7
2 CSR 60-5.100	Preparation of Financial Statements	7
2 CSR 60-5.110	Surety Bond Amount.....	9

**Title 2—DEPARTMENT OF
AGRICULTURE**

**Division 60—Grain Inspection
and Warehousing**

Chapter 5—Missouri Grain Dealer's Law

2 CSR 60-5.010 Agricultural Commodities to be Regulated as Grain

PURPOSE: This rule explains the interpretation made by the department regarding the definition of grain in section 276.401(14), RSMo.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Rice shall be regulated as grain in addition to any grain for which the United States Department of Agriculture has established standards under the United States Grain Standards Act.

*AUTHORITY: sections 276.401, RSMo (Supp. 1987) and 276.406, RSMo (1986). * Original rule filed March 12, 1982, effective June 11, 1982. Amended: Filed Jan. 11, 1985, effective May 26, 1985. Amended: Filed Feb. 27, 1991, effective July 8, 1991.*

**Original authority: 276.401, RSMo (1980), amended 1986, 1987 and 276.406, RSMo (1980), amended 1986.*

2 CSR 60-5.020 Interpretive Rule

PURPOSE: This rule explains the interpretation made by the Missouri Department of Agriculture of provisions contained in sections 276.401—276.581, RSMo which may be confusing or subject to differing interpretations by interested members of the public.

(1) The exemption under the definition of grain dealer as found in section 276.401(9)(a), RSMo is deemed to mean that a person or entity who trades exclusively in grain futures contracts on a recognized board of trade or futures exchange shall not be subject to sections 276.401—276.581, RSMo.

(2) The exemption under the definition of grain dealer as found in section 276.401(9)(a), RSMo is also deemed to mean that a person or entity who is a member of a recognized board of trade or futures exchange and who buys grain from a licensed warehouseman, licensed grain dealer, farmer/producer or any other individual or entity in a manner other than through the purchase of a grain futures contract on a recognized board of trade or futures exchange shall be subject to sections 276.401—276.581, RSMo.

*AUTHORITY: section 276.406, RSMo (1986). * Original rule filed March 15, 1982, effective June 11, 1982.*

**Original authority 1980, amended 1986.*

2 CSR 60-5.030 Scale Tickets

PURPOSE: This rule details when a Class I grain dealer is to complete a scale ticket and the information to be contained on the ticket.

(1) A scale ticket shall be made out and filed for each movement of grain in or out of a Class I grain dealer's facility. Any scale ticket used in pricing grain for the purpose of sale to the Class I grain dealer shall have the price shown on all copies of the ticket.

(2) Scale tickets shall be maintained in the following manner:

(A) Tickets shall be consecutively numbered;

(B) Tickets shall be filed numerically; and

(C) A copy of the scale ticket shall be kept on file as a record in the Class I grain dealer's office for a period of three (3) years after the date of issuance. Note: If a Class I grain dealer is also a public grain warehouseman licensed under federal law or Chapter 411, RSMo and scale tickets are used as the basis for issuance of negotiable warehouse receipts, those scale tickets shall be kept on file as a record in the Class I grain dealer's office for a period of at least three (3) years after the date of cancellation of the warehouse receipt.

(3) All scale tickets issued shall contain the following entries:

(A) An entry shall show whether movement was IN or OUT;

(B) An entry shall show whether the grain was received for storage, purchase or other specified purpose;

(C) Entries shall be made showing gross, tare and net weights;

(D) An entry shall show net bushels; and

(E) Entries shall be made on the scale ticket or on attached documents showing all standard grain grading factors used by the grain dealer in determining grain price or quality.

*AUTHORITY: sections 276.406 and 276.516, RSMo (1986). * Original rule filed March 15, 1982, effective June 11, 1982.*

**Original authority: 276.406, RSMo (1980), amended 1986 and 276.516, RSMo (1980).*

2 CSR 60-5.040 Daily Position Record

PURPOSE: This rule requires a Class I grain dealer to keep a daily position record which reflects grain movements in and out of the facility and total grain in the facility.

(1) A daily position record shall be maintained and kept current showing, by kind and quantity, all movements of grain in and out of the facility. The record shall show total grain in the facility, total storage obligations (if a licensed warehouseman under federal law or Chapter 411, RSMo) and total company-owned grain for each kind of grain in the facility. All entries to the daily position record shall be supported by source documents except in the situations detailed in sections (2) and (3) of this rule.

(2) Every Class I grain dealer shall have and maintain a policy for shrinkage due to operational and moisture losses. This policy shall be formulated so that calculated losses are representative of actual shrinkage incurred. Adjustments to the daily position record shall be made for shrinkage. These adjustments shall be made at periodic intervals of at least once per month.

(3) Upward or downward adjustments of the daily position record to measured inventory may be made. However, these adjustments shall be made only upon departmental approval or when so ordered by departmental auditors. No other adjustments based on measured inventory shall be made. Upward or downward adjustments of the daily position record to an actual weigh-up of inventory may be made at any time. However, the Class I grain dealer shall furnish to the department copies of scale tickets used in that weigh-up.



*AUTHORITY: section 276.406, RSMo (1986). * Original rule filed March 15, 1982, effective June 11, 1982.*

**Original authority 1980, amended 1986.*

2 CSR 60-5.050 Acceptance of Appraisal Values on Financial Statements

PURPOSE: This rule sets forth who is eligible to submit an appraisal of financial statement items, what items may be appraised, who may prepare an appraisal, what an appraisal must contain, the definition of fair market value, how often an appraisal must be submitted and how an appraisal will be discounted.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) A grain dealer holding a Class I or Class II Missouri grain dealer's license or an applicant for a Class I or Class II Missouri grain dealer's license may submit an appraisal of fixed assets, such as land, buildings and equipment, for consideration in computing net worth. However, if at any time the director determines that a serious cash flow problem exists or that current liabilities far exceed current assets, the director may disallow the use of an appraisal in computing net worth.

(2) An appraisal must be submitted by an individual or company competent and experienced in conducting appraisals and in making assessments of the fair market value of fixed assets, such as land, buildings and equipment. (For Appraiser's Certification Form, see 2 CSR 60-4.130)

(3) If only land is being appraised, the appraisal may be completed by a real estate salesperson or broker licensed with the Missouri State Real Estate Commission or with a comparable commission of another state. If land is appraised by a real estate salesperson or broker, the appraisal must include at least two (2) quotes of recent sales of similar land in the same geographic area. In the absence of recent sales in the area,

this requirement may be waived by the director.

(4) If only transportation or farm equipment is being appraised, the appraisal may be completed by an equipment dealer with experience in appraising transportation and farm equipment.

(5) If a grain dealer holding a Class I or Class II Missouri grain dealer's license or an applicant for a Class I or Class II Missouri grain dealer's license desires to submit an appraisal, the director may require that the appraisal be conducted by an individual or professional appraisal company holding the designation Member of the Appraisal Institute (MAI) awarded by the American Institute of Real Estate Appraisers (AIREA) of the National Association of Realtors or that the appraisal be conducted by an individual or professional appraisal company who is a member in good standing of the Society of Real Estate Appraisers (SREA).

(6) For an appraisal to be considered in computing net worth, the appraiser must state the estimated fair market value of the items being appraised. For the purpose of this rule, fair market value shall be defined to mean the highest price in terms of money which a property will bring in a competitive and open market under all conditions requisite to a fair sale, buyer and seller each acting prudently, knowledgeable and assuming the price is not affected by undue stimulus.

(7) If buildings, equipment, or both, are being appraised, the appraiser shall use the cost approach (replacement cost less depreciation) or the market data approach, unless an alternate approach is approved by the director.

(8) If an appraiser determines fair market value by computing the replacement cost less depreciation, the appraisal process shall include, but not be limited to, the following steps:

(A) If land is appraised, the value of the land as if vacant is to be estimated;

(B) If improvements on the land are appraised, the cost to reproduce (new) the existing improvements is to be estimated;

(C) For the improvements, the deduction for depreciation from all causes is to be estimated; and

(D) If applicable, the value of the land is to be added to the cost to reproduce (new)

the existing improvements less the deduction for depreciation from all causes.

(9) To determine the deduction for depreciation from all causes, the appraiser should evaluate and estimate the disadvantages and deficiencies of the existing improvements as compared with new improvements. Depreciation, when measured as a disadvantage or deficiency, may be one (1) or all of the following kinds:

(A) Physical deterioration—deterioration or the physical wearing out of the property;

(B) Functional obsolescence—a lack of desirability in layout, style and design as compared with that of a new property serving the same function; or

(C) Economic obsolescence—relating to a loss of value from causes outside the property itself.

(10) If an appraiser determines fair market value by using the market data approach or comparison approach, the appraiser shall determine fair market value by comparing known sales of similar properties which have occurred within a recent period of time to the subject property.

(11) All appraisals must be accompanied by a statement of the appraiser's qualifications unless that statement is already on file with the department. This statement should include the appraiser's educational background, his/her experience in preparing appraisals, memberships in professional appraisal societies and organizations and a partial list of past clients.

(12) The appraisal must include a detailed description of the basic method or technique by which the appraised value was determined and must include a certification signed by the appraiser making the following statements:

(A) The appraiser has no present or contemplated future interest in the property appraised; and neither the employment to make the appraisal nor the compensation for it is contingent upon the appraised value of the property;

(B) The appraiser has no personal interest in or bias with respect to the subject matter of the appraisal report or the parties involved;

(C) The appraiser has personally inspected the property, both inside and out, and has made an exterior inspection of all comparable sales listed in the report. To the best of the appraiser's knowledge and belief, all statements and information in the appraisal

report are true and correct and the appraiser has not knowingly withheld any significant information;

(D) If the appraiser is affiliated with an appraisal organization, the appraisal report has been made in conformity with and is subject to the requirements of the *Code of Professional Ethics* and the *Standards of Professional Conduct* of the appraisal organization; and

(E) All conclusions and opinions concerning the properties set forth in the appraisal report were prepared by no one other than the appraiser unless otherwise indicated.

(13) The appraiser may set forth all of the limiting conditions (imposed by the terms of the assignment or by the appraiser) affecting the analysis, opinions and conclusions contained in the appraisal report.

(14) To assist the appraiser in setting forth his/her qualifications, experience and other information relating to the performance of the appraisal, the director may prepare a form (see 2 CSR 60-4.130) for use by the appraiser. However, in addition to the appraisal form, the appraiser shall submit a copy of the actual appraisal.

(15) An appraisal shall be accepted for a period of four (4) years from the date of the appraisal. However, if during the four (4)-year period the director becomes of the opinion that there may have been a significant reduction in the value of the appraised property, an updated appraisal may be requested. Otherwise, once four (4) years has elapsed, a new appraisal must be submitted with the next required financial statement or the department shall use the book value of the appraised property.

(16) The amount by which the appraised value exceeds the licensee's basis at the time of the appraisal shall be known as appraisal surplus. This value shall be discounted thirty percent (30%) to allow for possible fluctuations in market value and for capital gains taxes that could result if the asset(s) was disposed of at the appraised value. The discounted appraisal surplus shall be added to the book value to arrive at the allowable value for the appraised assets.

(17) If, during the period that an appraisal is allowed, the items included in the appraisal remain on the books or new items are added to the books, the allowable value for fixed assets will be determined by adding the orig-

inal discounted appraisal surplus to the present book value.

(18) If, during the period that an appraisal is allowed, some of the items included in the appraisal are removed from the books, the allowable value for fixed assets will be determined by recomputing the original discounted appraisal surplus, taking into account the items that must be removed from both the appraisal and the list of book values and adding the adjusted discounted appraisal surplus to the present book value.

(19) If the book value or basis in the property cannot be determined, the director shall discount the appraisal value thirty percent (30%) to allow for possible fluctuations in market value and for capital gains taxes that could result if the asset(s) was disposed of at the appraised value.

(20) An appraisal of assets will not be accepted for a period of one (1) year after the assets are purchased.

*AUTHORITY: sections 276.406, RSMo (1986) and 276.421, RSMo (Supp. 1987). * Original rule filed Jan. 11, 1985, effective May 26, 1985. Amended: Filed March 16, 1988, effective June 27, 1988.*

**Original authority: 276.406, RSMo (1980), amended 1986 and 276.421, RSMo (1980), amended 1986, 1987.*

2 CSR 60-5.060 Certificate of Deposit (Rescinded August 25, 1986)

2 CSR 60-5.070 Certificates of Deposit

PURPOSE: This rule sets forth guidelines for the submission, acceptance, safeguarding, possible liquidation and return of a certificate of deposit that has been submitted in lieu of a Missouri grain dealer bond.

(1) A certificate of deposit (CD) issued by a bank or savings and loan association that is a member in good standing with the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation respectively, may be submitted to the Missouri Department of Agriculture in lieu of a Missouri grain dealer bond as required by sections 276.401—276.581, RSMo. The CD must be in an amount equal to the otherwise required bond.

(2) A CD shall have a term of no longer than one (1) year and shall be automatically renewable. However, the term of the CD may be for a period longer than one (1) year if the issuing bank states, in writing, that in the event the Missouri Department of Agriculture liquidates the CD, the bank will honor the request for liquidation and will not assess a penalty for early withdrawal (see 2 CSR 60-4.140 for certificate of deposit waiver of penalty).

(3) A CD submitted in lieu of a Missouri grain dealer bond shall be held in a safe-deposit box of a local bank or savings and loan association by the director of the Missouri Department of Agriculture who shall act as trustee for the benefit of all persons selling grain to the grain dealer as set forth in the Missouri Grain Dealer Law, sections 276.401—276.581, RSMo.

(4) All CDs shall be made payable or properly assigned to the Missouri Department of Agriculture as follows: Pay to the order of the director of the Missouri Department of Agriculture (see 2 CSR 60-4.140 for Certificate of Deposit Assignment Form). If a CD is assigned to the Department of Agriculture, written consent of the assignment must be received from the financial institution issuing the certificate. The director may make the necessary inquiries to determine that the certificate is negotiable and, if applicable, to confirm that the assignment of the CD to the Missouri Department of Agriculture has been approved by the financial institution issuing the CD.

(5) A CD assigned or purchased by a principal, shareholder, officer, employee or any other individual for or on behalf of a licensee shall disclose on its face the name of the licensee in whose favor the CD is deposited. The balance of any proceeds remaining after liquidation and disbursement shall be paid to the assignor or purchaser.

(6) In the event that a plurality of CDs from any number of sources are deposited in satisfaction of a licensee's bonding obligation, the director may satisfy claims arising under the Missouri Grain Dealers Law by liquidating any one (1) or more of these CDs without regard to proration.

(7) In the event that a licensee desires to substitute a bond for a CD then on deposit with the director of agriculture, the CD shall be

retained by the Department of Agriculture for a period of ninety (90) days following the later of the effective date of the bond or the date the bond is received by the director. A substitute bond shall be considered as received or when a binding verbal commitment for a substitute bond has been accepted by the director. The director may retain the CD beyond ninety (90) days for such time as may be required to fully ascertain the existence of any claims. After that, the CD shall be returned to the purchaser. Should the maturity date be interposed during this transition period, the director, at the option of the licensee and upon its timely request, shall cause the CD to be liquidated and the proceeds be deposited in a passbook savings account for the duration of the transition period, when the funds shall be forwarded to the purchaser or assignor of the CD.

(8) A licensee shall be required to augment CD deposits in any situation where it would be required to increase its coverage under a bond; this augmentation shall be commensurate to the increased bond value required.

(9) All CDs liquidated by the Department of Agriculture pursuant to these rules may be redeemed by collection proceedings through a local bank or savings and loan association selected by the director.

(10) A CD may only be liquidated for disbursement upon the same reasons that bond proceeds may be demanded for disbursement and shall apply to all claims whenever arising.

(11) All interest earned on the CD is to be credited or paid directly to the purchaser of the CD, except in the event of liquidation for the purpose of paying claims, in which event interest attributed to the claim amounts shall be payable to claimants.

(12) If a licensee desires to surrender its license and requests the return of a CD to the purchaser, the licensee must return its grain dealer license and all grain dealer license plates and make written request by registered or certified mail with return receipt for return of the CD. Upon receipt of the written request and submission of the grain dealer license, the director shall hold the CD until the director is satisfied that no claims exist, which may include a minimum ninety (90)-day holding period, before the CD is returned to the purchaser.

(13) If a grain dealer license is revoked, the CD shall be held by the director for a period of one hundred twenty (120) days or until the director is satisfied that no claims against the licensee exist.

(14) In the event that a licensee desires to substitute a letter of credit for a CD, the director shall return the CD to the purchaser upon receipt and authentication of the letter of credit.

(15) In the event that the amount of the bond required under sections 276.401—276.581, RSMo decreases, a licensee may substitute a CD for the lesser amount; however, this substitution shall be made only at maturity of the CD in possession of the Department of Agriculture or at such time as approved by the director.

(16) If the decrease in bond requirement is due to an increase in net worth, a minimum ninety (90)-day holding period may be required from the date the improved net worth is accepted by the director.

*AUTHORITY: sections 276.406(2), RSMo (1986) and 276.431(1), RSMo (Supp. 1987). * Emergency rule filed April 15, 1986, effective April 25, 1986, expired Aug. 23, 1986. Original rule filed May 2, 1986, effective Aug. 25, 1986. Amended: Filed March 16, 1988, effective June 27, 1988.*

**Original authority: 276.406(2), RSMo (1980), amended 1986 and 276.431(1), RSMo (1980), amended 1986, 1987.*

2 CSR 60-5.080 Letters of Credit

PURPOSE: This rule sets forth guidelines for the submission, acceptance of and proceedings upon a bank letter of credit that has been submitted in lieu of a Missouri grain dealer bond.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) A letter of credit issued by a commercial bank chartered under the laws of Missouri or chartered pursuant to the National Banking

Act, Title 12 USC may be submitted to the Missouri Department of Agriculture in lieu of a Missouri grain dealer bond as required by sections 276.401—276.581, RSMo; provided, that the commercial bank adopts and adheres to the rules enumerated in the International Chamber of Commerce publication UCP-400 pertaining to letters of credit and issues those letters in conformity with Article V of the *Uniform Commercial Code*, section 400.5-101, RSMo. The letter of credit must be in an amount equal to the otherwise required bond.

(2) The letter of credit shall be irrevocable and the beneficiary shall be the Missouri Department of Agriculture. Payment shall be made immediately upon presentment of a sight draft(s) signed by the director of agriculture or his/her designated representative, without accompanying supporting documentation.

(3) All letters of credit shall conform to a required format, unless waived in writing by the director of agriculture. A standard letter of credit form (see 2 CSR 60-4.150) embodying the required format shall be made available upon the request of any licensee or prospective licensee. Forms may be obtained by directing an inquiry to the Division of Grain Inspection and Warehousing, Missouri Department of Agriculture, P.O. Box 630, Jefferson City, MO 65102.

(4) A sight draft upon a letter of credit may be presented for payment only upon the reasons that bond proceeds may be demanded for disbursement and shall apply to all claims whenever arising.

(5) All letters of credit must be negotiable at a financial institution located within Missouri.

(6) Letters of credit shall have a term of one (1) year which shall be automatically renewable for additional one (1) year terms. A letter of credit may be revoked by the licensee or issuer only at its expiration date by giving the Department of Agriculture at least ninety (90) days' written notice prior to renewal date. Notice is not deemed sufficiently given unless the director of agriculture receives the cancellation notice in writing at least ninety (90) days prior to the renewal date of the letter of credit. Upon notice timely received, the licensee shall be required to arrange for substitution of a suitable bond or certificate of deposit (CD) at least sixty (60) days prior

to the expiration of the letter of credit. If satisfactory evidence of these arrangements is not timely received, the director shall proceed in accordance with the provisions of section 276.426, RSMo.

(7) If a licensee desires to surrender its license and requests the release of a letter of credit, the licensee must return its grain dealer license and all grain dealer license plates and make written request by registered or certified mail with return receipt for the release of the letter of credit. Upon receipt of the written request and the submission of the grain dealer license, the director shall hold the letter of credit until the director is satisfied that no claims exist, which may include a minimum ninety (90)-day holding period, before notice of release is transmitted to the issuer.

(8) In the event that a licensee desires to substitute a bond for a letter of credit then in possession of the director of agriculture, the letter of credit shall remain in force for a period of ninety (90) days following the later of the effective date of the bond or the date the bond is received by the director. A substitute bond shall be considered as received by the director when the bond is actually received or when a binding verbal commitment for a substitute bond has been accepted by the director. The director may retain the letter of credit beyond ninety (90) days for such time as may be required to fully ascertain the existence of any claims. After that, notice of release shall be transmitted to the issuer of the letter of credit.

(9) In the event that a licensee desires to substitute a CD for a letter of credit, the director shall transmit a release to the issuer of the credit letter upon receipt and authentication of the CD.

(10) In the event that a plurality of letters of credit from any number of issuers is presented in satisfaction of a licensee's bonding obligation, the director may satisfy claims under the Missouri Grain Dealers Law by presentment of sight drafts against one (1) or more letters of credit, without regard to proration.

(11) A licensee shall be required to augment letters of credit in any situation where it would be required to increase its coverage under a bond (see 2 CSR 60-4.150 for Letter of Credit Amendment); this augmentation shall be commensurate to the increased bond value required. In the event

of a decreased bond requirement, a new letter of credit for the lesser amount may be substituted for a prior letter upon the renewal date of the letter of credit, or at such time as approved by the director.

(12) If the decrease in bond requirement is due to an increase in net worth, a minimum ninety (90)-day holding period may be required from the date the improved net worth is accepted by the director.

(13) Licensees or prospective licensees may present any combination of CDs, letters of credit and bonds in satisfaction of its bonding requirement under this chapter; however, in making disbursements for claims, the director shall liquidate the CDs first, draw upon the letters of credit second and make demand upon a bond(s) third.

(14) When the director has made written demand for payment of a letter of credit, the letter shall be considered paid if the issuing bank, within three (3) days of the bank's receipt of that demand, pays the sum demanded to the director, the sum demanded or if the issuing bank deposits, at a bank designated by the director, in an escrow account solely in the name of the director within three (3) days of the bank's receipt of that demand. Deposit of the sum demanded in the escrow account shall not constitute refusal or failure of the issuing bank to pay the sum demanded to the director and shall prevent a penalty assessment for refusal or failure to pay the sum demanded to the director. When the sum demanded is deposited in the escrow account, the funds shall remain in the escrow account until the liability of the bank has been determined in accordance with sections 276.401—276.581, RSMo. In the event that a penalty assessment is necessary in accordance with sections 276.401—276.581, RSMo, this penalty assessment shall begin on the fourth day following the date of the bank's receipt of written demand for payment by the director and shall be assessed at the rate of one-seventh (1/7) of a week for each day of delay.

*AUTHORITY: sections 276.406, RSMo (1986) and 276.431, RSMo (Supp. 1987). * Emergency rule filed April 15, 1986, effective April 25, 1986, expired Aug. 23, 1986. Original rule filed May 2, 1986, effective Aug. 25, 1986. Amended: Filed March 16, 1988, effective June 27, 1988.*

**Original authority: 276.406, RSMo (1980),*

amended 1986 and 276.431, RSMo (1980), amended 1986, 1987.

2 CSR 60-5.090 Short-Term Letters of Credit

Emergency rule filed June 19, 1986, effective June 29, 1986, expired Oct. 27, 1986.

2 CSR 60-5.100 Preparation of Financial Statements

PURPOSE: This rule sets forth what financial statements are required with an application for a Missouri grain dealer license, who may prepare the financial statements, how these financial statements shall be prepared and what assets may be disallowed for licensing purposes. Failure to submit financial statements in accordance with these rules may result in denial of the application.

Editor's Note: Except where indicated, the forms mentioned in this rule follow 2 CSR 60-4.110.

(1) The following definitions shall apply to these rules:

(A) Balance sheet—A statement of assets, liabilities and net worth;

(B) Combined balance sheet—A statement that includes all business and personal assets, liabilities and net worth of an individual;

(C) Director—The director of the Missouri Department of Agriculture or a designated representative;

(D) Generally accepted accounting principles (GAAP)—The conventions, rules and procedures necessary to define accepted accounting practice, which include broad guidelines of general application as well as detailed practices and procedures generally accepted by the accounting profession and which have substantial authoritative support from the American Institute of Certified Public Accountants;

(E) Personal balance sheet—A statement of personal assets, liabilities and net worth for an individual including the net equity of all business interests other than those for which an application is being made;

(F) Public accountant or certified public accountant—Any person permitted to engage in the practice of public accounting under Chapter 326, RSMo;

(G) Qualified accountant—A person competent in the application of GAAP provided

that this person is not the applicant. Also, that if the applicant is an individual, this person is not an employee of the applicant, or if the applicant is a corporation or partnership, this person is not an officer, shareholder, partner or employee of the applicant; and

(H) Statement of income and expenses—A statement showing the income and expenses of a particular entity for a given period of time.

(2) All applicants for a Missouri grain dealer license shall submit a balance sheet and a statement of income and expenses (see 2 CSR 60-4.080 for Application). The financial statements shall be no more than six (6) months old, unless waived by the director. If waived, the director may require interim financial statements as s/he deems necessary. The financial statements shall be prepared by a qualified accountant in accordance with these rules. If the applicant's qualified accountant has prepared a statement of retained earnings, a statement of changes in financial position, and notes and disclosures to the financial statements, then these items shall also be submitted.

(3) If an applicant submits financial statements as submitted to a bank, these financial statements shall be prepared by a qualified accountant in accordance with these rules. If the financial statements are prepared by a bank officer or other employee of the bank, the person shall be a qualified accountant and shall prepare the financial statements in accordance with these rules. Financial statements compiled or prepared by a qualified accountant who is not also a certified public accountant or public accountant shall not contain an opinion by this person regarding the financial statements.

(4) The applicant shall submit copies of the financial statements submitted to the applicant's bonding company, or submitted to the Commodity Credit Corporation in support of a Uniform Grain Storage Agreement, or submitted to the United States Department of Agriculture in support of a federal warehouse license if these financial statements are prepared as of a different date, or for a different period of time, or to show different amounts than those submitted with the application for a Missouri grain dealer license.

(5) The financial statements required by these rules shall be prepared in accordance with GAAP, except as otherwise allowed or required by these rules.

(6) All financial statements required by these rules shall be prepared on the accrual basis of accounting unless waived by the director. If waived, the director may require the applicant to provide an estimate, prepared by the applicant's qualified accountant, of the effect of converting the financial statements to the accrual basis of accounting.

(7) The qualified accountant shall certify on a form prescribed by the director that s/he is a qualified accountant.

(8) If the applicant is an individual, the applicant shall submit a balance sheet and a statement of income and expenses for the proprietorship business in accordance with GAAP. If the applicant is an individual, the applicant shall also submit a personal balance sheet. The applicant, in lieu of submitting a business and a personal balance sheet, may submit a combined balance sheet. Personal nonbusiness assets should be shown at the lower of historical cost or estimated fair market value. If the applicant is an individual and desires to show estimated current values that are higher than the historical cost basis for the proprietorship business balance sheet, the personal balance sheet or the combined balance sheet, the estimated current values should be accompanied by a qualified appraisal. If a qualified appraisal is accepted, appropriate adjustments to the balance sheet will be made by the Missouri Department of Agriculture.

(9) If the applicant is a partnership, the applicant shall submit a balance sheet and a statement of income and expenses for the partnership business in accordance with GAAP. Only the partnership assets and liabilities will be considered in computing net worth. The personal financial statements for the individual partners will not be considered in computing net worth.

(10) If the applicant is a partnership and desires to show estimated current values that are higher than the historical cost basis, the estimated current values should be accompanied by a qualified appraisal. If a qualified appraisal is accepted, appropriate adjustments to the balance sheet will be made by the Missouri Department of Agriculture.

(11) If the applicant is a partnership, a copy of a written partnership agreement shall be submitted.

(12) If the applicant is a corporation, the applicant shall submit a balance sheet and a statement of income and expenses for the

corporation in accordance with GAAP. If the applicant is a corporation and desires to show estimated current values that are higher than the historical cost basis, the estimated current values should be accompanied by a qualified appraisal. If a qualified appraisal is accepted, appropriate adjustments to the balance sheet will be made by the Missouri Department of Agriculture.

(13) If the applicant is a corporation and is a part of a majority- or wholly-owned corporate parent/subsidiary relationship, the applicant shall submit the financial statements required by these rules for the applicant and the consolidated financial statements. For licensing purposes, the director may use the applicant's net worth or the consolidated net worth. If the applicant is a wholly- or majority-owned subsidiary, the director may require the applicant to submit a corporate letter of guaranty from the parent company on a form prescribed by the director.

(14) If the applicant is a corporation and is a part of a group of related corporations that do business with each other where the same individual or partnership owns a controlling interest in all of the corporations, the applicant shall submit the required financial statements for the applicant and the combined financial statements for the group of related corporations.

(15) In determining allowable net worth for licensing purposes, the director shall disallow the following assets if s/he is of the opinion that these assets are withdrawals of equity or that these assets are uncollectible: 1) notes receivable due from stockholders, 2) accounts receivable, 3) advances to affiliates, 4) investments are equities in cooperatives and 5) goodwill. The director may also disallow other assets that in his/her opinion are or may be withdrawals of equity or that are or may be uncollectible.

*AUTHORITY: sections 276.406, RSMo (1986) and 276.421, RSMo (Supp. 1987). * This rule was previously filed as 2 CSR 60-5.090. Original rule filed March 16, 1988, effective June 27, 1988.*

**Original authority: 276.406, RSMo (1980), amended 1986 and 276.421, RSMo (1980), amended 1986, 1987.*

2 CSR 60-5.110 Surety Bond Amount

Emergency rule filed March 3, 1993, effective March 14, 1994, expired July 11, 1994.