



Rules of
Department of Agriculture
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

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Title 2—DEPARTMENT OF AGRICULTURE

Division 60—Grain Inspection and Warehousing

Chapter 4—Missouri Grain Warehouse Law

2 CSR 60-4.010 Definitions
(Rescinded May 11, 1980)

AUTHORITY: section 411.070, RSMo 1978. Original rule filed May 5, 1972, effective May 15, 1972. Rescinded: Filed Feb. 13, 1980, effective May 11, 1980.

2 CSR 60-4.011 Agricultural Commodities to be Regulated as Grain

PURPOSE: This rule explains the interpretation made by the department regarding the definition of grain in section 411.026(17), RSMo.

(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: section 411.070, RSMo Supp. 1998. Original rule filed March 12, 1982, effective June 11, 1982. Amended: Filed Jan. 11, 1985, effective May 26, 1985. Amended: Filed Dec. 13, 1989, effective May 31, 1990. Amended: Filed Feb. 27, 1991, effective July 8, 1991. Amended: Filed Oct. 25, 1999, effective June 30, 2000.*

**Original authority: 411.070, RSMo 1941, amended 1955, 1965, 1977, 1980, 1986, 1993, 1995, 1997.*

2 CSR 60-4.015 Scope of Law

PURPOSE: This rule explains the interpretation made by the department regarding the scope of the Missouri Grain Warehouse Law as provided in section 411.015, RSMo.

(1) The provisions of the Missouri Grain Warehouse Law apply to all warehouse workers (warehousemen, as defined in section 411.026, RSMo) and warehouses located in Missouri. Warehouse workers and warehouses licensed under the United States Warehouse Act are exempted from those provisions of the law which are specifically addressed and covered in the United States Warehouse Act.

AUTHORITY: section 411.070, RSMo 1986. Original rule filed Nov. 2, 1992, effective May 6, 1993.*

**Original authority 1941, amended 1955, 1965, 1977, 1980, 1986.*

2 CSR 60-4.016 Application of Law
(Rescinded January 30, 2019)

AUTHORITY: section 411.070, RSMo 1986. Original rule filed Jan. 5, 1993, effective June 7, 1993. Rescinded: Filed May 18, 2018, effective Jan. 30, 2019.

2 CSR 60-4.020 Audit of Warehouses—Fees

PURPOSE: This rule states the scheduled fees to be charged for warehouse examinations.

(1) Actual capacity, not over 150,000 bushel (bu.) capacity, minimum fee \$50; 150,001 bu.—300,000 bu., \$50 plus 60¢ per 1000 based on 1/3 capacity of excess over 150,000 bu.; 300,001 bu.—600,000 bu., \$80 plus 50¢ per 1000 based on 1/3 capacity of excess over 300,000 bu.; 600,001 bu.—1,200,000 bu., \$130 plus 40¢ per 1000 based on 1/3 capacity of excess over 600,000 bu.; 1,200,001 bu.—2,400,000 bu., \$210 plus 30¢ per 1000 based on 1/3 capacity of excess over 1,200,000 bu.; 2,400,001 bu.—4,800,000 bu., \$330 plus 20¢ per 1000 based on 1/3 capacity of excess over 2,400,000 bu.; and over 4,800,000 bu., \$490 plus 15¢ per 1000 based on 1/3 capacity of excess over 4,800,000 bu.

AUTHORITY: section 411.070(6), RSMo 1986. This rule was previously filed as 2 CSR 40-4.020. Original rule filed May 5, 1972, effective May 15, 1972. Rescinded and readopted: Filed Feb. 13, 1980, effective May 11, 1980.*

**Original authority 1941, amended 1955, 1965, 1977, 1980, 1986.*

2 CSR 60-4.030 Warehouse License—Fees

PURPOSE: This rule states the schedule of fees to be charged for public warehouse licenses.

<u>Actual Capacity</u> (bushels)	<u>Fee</u> (per year)
1–100,000	\$100
100,001–300,000	\$200
300,001–600,000	\$250
600,001–900,000	\$300
900,001–1,500,000	\$350
1,500,001–2,500,000	\$400

2,500,001–3,500,000
over 3,500,000

\$450
add \$50
for each
additional
million
bushels.

AUTHORITY: section 411.070, RSMo 2000. This rule was previously filed as 2 CSR 40-4.030. Original rule filed May 5, 1972, effective May 15, 1972. Rescinded and readopted: Filed Feb. 13, 1980, effective May 11, 1980. Amended: Filed Dec. 29, 2015, effective June 30, 2016.*

**Original authority 1941, amended 1955, 1965, 1977, 1980, 1986, 1993, 1995, 1997.*

2 CSR 60-4.040 Licensing of Grain Weighers and Grain Inspectors
(Rescinded June 30, 2000)

AUTHORITY: section 411.070, RSMo 1986. This rule was previously filed as 2 CSR 40-4.040. Original rule filed May 5, 1972, effective May 15, 1972. Amended: Filed Feb. 13, 1980, effective May 11, 1980. Rescinded: Filed Oct. 25, 1999, effective June 30, 2000.

2 CSR 60-4.045 Weighing of Grain
(Rescinded January 30, 2019)

AUTHORITY: section 411.070, RSMo 1986. Original rule filed Nov. 2, 1992, effective May 5, 1993. Rescinded: Filed May 18, 2018, effective Jan. 30, 2019.

2 CSR 60-4.050 Warehouse Receipts

PURPOSE: This rule states the requirements for negotiable warehouse receipts including the issuance, distribution, cancellation, retention, and the procedures required when a negotiable receipt is lost or stolen, including the issuance of duplicate receipts, and also requirements on nonnegotiable receipts.

(1) All paper negotiable warehouse receipts must be ordered from the Missouri Department of Agriculture, GRS, PO Box 630, Jefferson City, MO 65102. Copies shall be distributed as follows:

(A) The original copy of the negotiable warehouse receipt must be issued to the owner of the stored commodity; and

(B) The original warehouse receipt stub and at least one (1) copy of each warehouse receipt ordered, whether issued or voided, must be retained by the warehouseman in accordance with section 411.383, RSMo.



(2) The cancellation date, method of disposition and disposition document number must be shown on each original warehouse receipt cancelled by the warehouseman.

(3) If the original copy of a negotiable warehouse receipt is lost, stolen, or destroyed by the owner, the following procedures must be followed:

(A) The owner(s) of the receipt shall complete and file an affidavit, on a form approved by the department, with the issuing warehouseman stating that s/he is lawfully entitled to the possession of the original receipt, that s/he has not negotiated or assigned the original receipt, how the original receipt was lost, stolen or destroyed, and that a diligent effort has been made to find the receipt without success;

(B) The owner also shall obtain and file with the warehouseman a lost instrument bond, issued by a surety company that is authorized to do business in Missouri, in an amount equal to double the current value of the commodity represented by the lost warehouse receipt. The bond shall indemnify the warehouseman against loss, liability, or expense that may be sustained as a result of the warehouseman's issuance of duplicate (replacement) receipt; and

(C) Upon receipt of the previously mentioned documents, the warehouseman shall issue a duplicate (replacement) warehouse receipt with the same terms, subject to the same conditions and bearing on its face the number and date of the receipt which it is replacing, along with the word DUPLICATE.

(4) If the original copy of a negotiable warehouse receipt is lost or destroyed by a licensed warehouseman, the director shall require proof of that loss or destruction and may require the warehouseman to sign an affidavit stating— that the receipt has been lost or destroyed and therefore cannot be produced for cancellation, that delivery or payment in full for the commodity receipted has been made to the owner, and that the warehouseman has not negotiated the receipt for value. The director also may require the owner(s) of the negotiable receipt to sign an affidavit stating that s/he received delivery of, or payment in full for, the grain represented by the receipt and that the original receipt was given to the warehouseman for cancellation.

(5) A summary of all nonnegotiable warehouse receipts, other than scale tickets, issued by a licensed warehouse must be made available to department auditors or mailed to the Missouri Department of Agriculture,

GRS, P.O. Box 630, Jefferson City, MO 65102. The summary must state the bushel amount and current market value of each type of commodity receipted and the total dollar amount receipted.

(6) Negotiable electronic warehouse receipts may be utilized. All electronic warehouse receipts must be obtained from a Missouri Department of Agriculture approved provider.

AUTHORITY: section 411.070, RSMo 2000. This rule was previously filed as 2 CSR 40-4.050. Original rule filed May 5, 1972, effective May 15, 1972. Amended: Filed Feb. 13, 1980, effective May 11, 1980. Amended: Filed March 2, 1989, effective May 25, 1989. Rescinded and readopted: Filed Feb. 2, 1990, effective May 31, 1990. Amended: Filed Dec. 29, 2015, effective June 30, 2016.*

**Original authority 1941, amended 1955, 1965, 1977, 1980, 1986, 1993, 1995, 1997.*

2 CSR 60-4.060 Safety Requirements
(Rescinded January 30, 2019)

AUTHORITY: section 411.070, RSMo 1986. This rule was previously filed as 2 CSR 40-4.060. Original rule filed May 5, 1972, effective May 15, 1972. Amended: Filed Feb. 13, 1980, effective May 11, 1980. Rescinded and readopted: Filed Feb. 2, 1990, effective May 31, 1990. Rescinded: Filed May 18, 2018, effective Jan. 30, 2019.

2 CSR 60-4.070 Notification of Destruction or Damage to Grain
(Rescinded January 30, 2019)

AUTHORITY: section 411.070, RSMo Supp. 1998. This rule was previously filed as 2 CSR 40-4.070. Original rule filed May 5, 1972, effective May 15, 1972. Amended: Filed Feb. 13, 1980, effective May 11, 1980. Amended: Filed Dec. 13, 1989, effective May 31, 1990. Amended: Filed Oct. 25, 1999, effective June 30, 2000. Rescinded: Filed May 18, 2018, effective Jan. 30, 2019.

2 CSR 60-4.080 Storage Space Approval

PURPOSE: This rule establishes requirements for the approval of warehouse storage space for licensing.

(1) Upon receipt of an application for a warehouse license, the director shall verify the following prior to approving storage space for licensing:

(A) The flooring is steel or concrete, except for wooden elevators and raised aeration floors;

(B) The sidewalls are rigid and self-supporting;

(C) The space is immobile;

(D) Adequate means of entrance and exit to the storage space are provided; and

(E) The space is otherwise capable of maintaining the quantity and quality of grain stored in it.

(2) The requirements for flooring, sidewalls, and immobility may be modified by the director for emergency or temporary storage on a case-by-case basis if it is shown that adequate protection for stored grain is provided by the storage space.

(3) Approved space may be used only when all other licensing requirements have been met, and a warehouse license has been issued by the director.

(4) The licensed storage capacity of the warehouse may be increased upon the director's verification that the space to be added meets the requirements of section (1) of this rule; however, prior to using any additional space, the warehouseman, based on the increased capacity, shall increase stock insurance and license security to the amounts required under sections 411.278, 411.281 and 411.290, RSMo.

(5) The licensed storage capacity of the warehouse may be decreased or space deleted from a license upon the director's verification that all grain has been removed from the space. However, if the space is connected to other licensed space by grain transporting equipment, the director may consider the space one (1) functional unit and require the space to remain licensed.

AUTHORITY: section 411.070, RSMo 2016. This rule was previously filed as 2 CSR 40-4.080. Original rule filed May 5, 1972, effective May 15, 1972. Amended: Filed Feb. 13, 1980, effective May 11, 1980. Rescinded and readopted: Filed Feb. 2, 1990, effective May 31, 1990. Amended: Filed May 18, 2018, effective Jan. 30, 2019.*

**Original authority: 411.070, RSMo 1941, amended 1955, 1965, 1977, 1980, 1986, 1993, 1995, 1997.*

2 CSR 60-4.081 Approval of Emergency Storage

Emergency rule filed Nov. 19, 1992, effective Nov. 29, 1992, expired Dec. 31, 1992.

**2 CSR 60-4.090 Scale Tickets**

(Rescinded January 30, 2019)

AUTHORITY: section 411.070, RSMo 1986. This rule was previously filed as 2 CSR 40-4.090. Original rule filed May 5, 1972, effective May 15, 1972. Amended: Filed Feb. 13, 1980, effective May 11, 1980. Rescinded and readopted: Filed Feb. 2, 1990, effective May 31, 1990. Rescinded: Filed May 18, 2018, effective Jan. 30, 2019.

2 CSR 60-4.100 Daily Position Record

PURPOSE: This rule clarifies the requirements of a perpetual inventory record.

(1) A perpetual inventory record shall be called a daily position record for the purpose of this rule. This record must reflect grain movements in and out of the warehouse and total amount of grain stocks in the warehouse at the close of each business day. A business day shall be defined as any twenty-four (24)-hour period, during which time business is conducted. All entries to the daily position record shall be supported by source documents.

(2) Adjustments for shrinkage due to operational and moisture losses shall be made to the daily position record at least once per month, based on a shrinkage policy established by the warehouseman. The policy shall be formulated so that calculated losses are representative of actual shrinkage incurred.

(3) Upward or downward adjustments of the daily position record to measured inventory may be made only upon departmental approval or when ordered by departmental auditors.

(4) Upward or downward adjustments of the daily position record to actual weigh-up inventory may be made at any time. However, the warehouseman shall furnish upon request of the department copies of scale tickets used in the weigh-up.

AUTHORITY: section 411.070, RSMo 1986. This rule was previously filed as 2 CSR 40-4.100. Original rule filed May 5, 1972, effective May 15, 1972. Amended: Filed Feb. 13, 1980, effective May 11, 1980. Rescinded and readopted: Filed Feb. 2, 1990, effective May 31, 1990.*

**Original authority 1941, amended 1955, 1965, 1977, 1980, 1986.*

2 CSR 60-4.110 Preparation of Financial Statements

PURPOSE: This rule sets forth what financial statements are required with an application for a Missouri grain warehouse license, who may prepare the financial statements, how these financial statements shall be prepared and what assets may be disallowed for licensing purposes.

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

(G) Qualified accountant—A certified public accountant 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 warehouse license shall submit a balance sheet and a statement of income and expenses. 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) 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 the 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 warehouse license.

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

(5) 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.

(6) 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 also shall 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 non-business 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.

(7) 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.

(8) 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.

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

(10) 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.

(11) If the applicant is a corporation and is a party of a majority- or wholly-owned corporate parent/subsidiary relationship, the applicant shall submit the financial statements required by these rules 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.

(12) 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.

(13) 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 or equities in cooperatives or 5) goodwill. The director also may disallow other

assets that in his/her opinion are or may be withdrawals of equity, or that are or may be uncollectible.

*AUTHORITY: sections 411.070 and 411.260, RSMo Supp. 1998. * Original rule filed Feb. 13, 1980, effective May 11, 1980. Amended: Filed March 16, 1988, effective June 27, 1988. Amended: Filed Oct. 25, 1999, effective June 30, 2000.*

**Original authority 411.070, RSMo 1941, amended 1955, 1965, 1977, 1980, 1986, 1993, 1995, 1997; and 411.260, RSMo 1939, amended 1941, 1949, 1965, 1977, 1986, 1997.*

2 CSR 60-4.120 Tariffs

PURPOSE: This rule states when a tariff must be submitted to the department and establishes what the tariff must contain.

(1) A schedule of charges shall be submitted with an original warehouse license application. An amended schedule of charges may be filed at any time. The schedule shall contain rates to be charged for storage, receiving, loadout, cleaning, drying, and any other charges applicable to the conditioning or processing of grain delivered by patrons of the warehouse. The schedule of charges also shall set forth any minimum charges, shrinks, or time limits applicable to grain storage accounts.

(2) The charges applicable to stored products shall be those which were in effect at the time of delivery, except that if a new or amended schedule of charges is filed, the new rate shall be applicable from the anniversary of the deposit date.

*AUTHORITY: section 411.070, RSMo 2016. * Original rule filed Feb. 13, 1980, effective May 11, 1980. Amended: Filed Dec. 29, 2015, effective June 30, 2016. Amended: Filed May 18, 2018, effective Jan. 30, 2019.*

**Original authority: 411.070, RSMo 1941, amended 1955, 1965, 1977, 1980, 1986, 1993, 1995, 1997.*

2 CSR 60-4.130 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.

(1) A grain warehouseman holding a Mis-

souri public grain warehouse license or an applicant for a Missouri public grain warehouse license may submit an appraisal of fixed assets, that is, 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 as land, buildings, and equipment.

(3) If only land is being appraised, the appraisal may be completed by a real estate salesperson or broker licensed with the Missouri 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 warehouseman holding a Missouri public grain warehouse license or an applicant for a Missouri public grain warehouse 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 MAI (Member of the Appraisal Institute) 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, knowledgeably, 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; and

(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 the 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 statement:

(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 that are 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 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 taxed that could result if the asset(s) were 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 original 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) were disposed of at the appraised value.

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

AUTHORITY: sections 411.070 and 411.260, RSMo 2016. Original rule filed Jan. 11, 1985, effective May 26, 1985. Amended: Filed March 16, 1988, effective June 27, 1988. Amended: Filed May 18, 2018, effective Jan. 30, 2019.*

**Original authority: 411.070, RSMo 1941, amended 1955, 1965, 1977, 1980, 1986, 1993, 1995, 1997 and 411.260, RSMo 1939, amended 1941, 1949, 1965, 1977, 1986, 1997, 2014.*

2 CSR 60-4.140 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 warehouse 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 warehouse bond as required by sections 411.010–411.800, 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.

(3) A CD submitted in lieu of a Missouri grain warehouse 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 storing grain with the warehousemen as set forth in the Missouri Grain Warehouse Law, sections 411.010–411.800, 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. 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 Warehouse Law by liquidating any one (1) or more of these CDs without regard to proration.

(7) In the event that a licensee desires to sub-

stitute 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 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 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 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 CD purchaser, the licensee must return its grain warehouse license 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 warehouse 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 warehouse 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 411.010–411.800, RSMo decreases, a licensee may substitute a CD for the lesser amount; however, that 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 a decrease in storage capacity, a minimum ninety (90)-day holding period may be required from the date of the amendment audit, before a decreased CD will be accepted.

(17) 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 411.070(2) and 411.277.1., RSMo Supp. 1998. 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. Amended: Filed Oct. 25, 1999, effective June 30, 2000.*

**Original authority 411.070(2), RSMo 1941, amended 1955, 1965, 1977, 1980, 1986, 1993, 1995, 1997; and 411.277.1, RSMo 1986, amended 1987.*

2 CSR 60-4.150 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 warehouse bond.

(1) A letter of credit issued by a commercial bank chartered under the laws of Missouri, or any state, or chartered pursuant to the National Banking Act, Title 12 U.S.C. may be submitted to the Missouri Department of Agriculture in lieu of a Missouri grain warehouse bond as required by sections 411.010–411.800, RSMo, provided that the commercial bank adopts and



adheres to the rules enumerated in the International Chamber of Commerce publication *UCP-600* 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) or a letter of demand 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 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 or by telephone at 573-751-4112.

(4) A sight draft or letter of demand 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) Letters of credit shall have a term of one (1) year which shall be renewable automatically 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, by certified mail, prior to a renewal date. Notice is not deemed sufficiently given unless the director of agriculture receives the cancellation notice in writing, by certified mail, at least ninety (90) days prior to the renewal date of the letter of credit. Upon the timely receipt of this notice, 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 411.275, RSMo.

(6) If a licensee desires to surrender its license and requests the release of a letter of credit, the licensee must return its grain warehouse license and make written request by registered mail 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 warehouse 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.

(7) 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.

(8) 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.

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

(10) 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; 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 that time as approved by the director.

(11) If the decrease in bond requirement is due to a decrease in storage capacity, a minimum ninety- (90-) day bonding period may be required from the date of the amendment audit before a decreased letter of credit will be accepted.

(12) If the decrease in bond requirement is

due to an increase in net worth, a minimum ninety- (90-) day bonding 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 the 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 pays the sum demanded to the director within three (3) days of the bank's receipt of that demand, or if the issuing bank deposits the sum demanded in an escrow account solely in the name of the director at a bank designated by the director within three (3) days of the bank's receipt of that demand. Deposit of the sum demanded in this 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 this escrow account, the funds shall remain in the escrow account until the liability of the bank has been determined in accordance with Chapter 411, RSMo. In the event that a penalty assessment is necessary in accordance with Chapter 411, RSMo, the 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 411.070(2) and 411.277, RSMo 2000. 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. Amended: Filed Oct. 25, 1999, effective June 30, 2000. Amended: Filed Dec. 29, 2015, effective June 30, 2016.*

**Original authority 411.070(2), RSMo 1941, amended 1955, 1965, 1977, 1980, 1986, 1993, 1995, 1997; and 411.277.1, rsmo 1986, amended 1987, 1993, 1995, 1997.*

2 CSR 60-4.160 Short-Term Letters of Credit

Emergency rule filed June 18, 1986, effective June 29, 1986, expired Oct. 27, 1986.

**2 CSR 60-4.170 Insurance Deductible**

PURPOSE: This rule provides for the acceptance of insurance policies with deductible clauses.

(1) An insurance policy with a deductible clause pertaining to the insurance of grain stocks contained in a licensed grain warehouse shall be acceptable if the amount of the Missouri grain warehouse bond, or certificate of deposit, or letter of credit submitted in place of a Missouri grain warehouse bond is increased by the amount of the deductible.

AUTHORITY: sections 411.070 and 411.290, RSMo 2016.* Original rule filed March 2, 1989, effective May 25, 1989. Amended: Filed May 18, 2018, effective Jan. 30, 2019.

*Original authority: 411.070, RSMo 1941, amended 1955, 1965, 1977, 1980, 1986, 1993, 1995, 1997 and 411.290, RSMo 1941, amended 1965, 1977, 1986, 1987.

2 CSR 60-4.180 Claim Valuation

PURPOSE: This rule establishes procedures to be followed in settling storage claims and in determining the value of storage claims. It also sets forth the methods and procedures to be used in allowing claims against the bond (security) files with the Department of Agriculture.

(1) The following words, terms and phrases when used in this rule, except where the context clearly indicates otherwise, shall mean:

(A) Board price—purchase price offered by grain warehouses for grain delivered or sold from storage. Generally this price is posted in public view and is changed periodically as market prices change;

(B) Claimant—any person who has a grain storage claim against a licensed warehouse;

(C) Costs of liquidating grain—costs incurred by the department in liquidating and loading out the grain contained in the warehouse. This includes labor to monitor the warehouse facility until the grain is loaded out, load-out of the grain and charges for grading, as well as trucking expenses;

(D) Daily Market Summary—report published daily by the market news section of the marketing division of the Missouri Department of Agriculture which notes among other things, the range of cash truck bids paid for grain to producers for different areas of the state;

(E) Department—the Missouri Department of Agriculture;

(F) Depositor—any person who deposits grain in a warehouse for storage, handling,

shipment or processing, or who is the owner or holder of a warehouse receipt, or who is otherwise lawfully entitled to possession of the grain;

(G) Director—the director of the Missouri Department of Agriculture or his/her designated representative;

(H) Licensed warehouse—a warehouse for which the department has issued a license to operate as a public warehouse in accordance with the provisions of Chapter 411, RSMo;

(I) Local paying price—purchase price offered by grain warehouses and grain dealers, with receiving and shipping capabilities similar to the warehouse with storage claims, located in a twenty (20)-mile radius;

(J) Pricing date—the date that a claimant loses the ability, by action of the warehouse or the Missouri Department of Agriculture, to demand redelivery of grain deposited at the warehouse or sell the grain to the warehouse;

(K) Storage claim—occurs upon the inability of a licensed warehouse to redeliver grain to a depositor upon demand;

(L) Storage grain—any grain received in a warehouse, including grain bank grain, unless sold in accordance with the provisions of section(s) 411.325 or 276.401–276.582, RSMo;

(M) Total gross claim value—claimant's quantity of a commodity multiplied times the unit claim value;

(N) Total net claim value—total gross claim value less warehouse charges and other charges approved by the director or circuit court;

(O) Unit claim value—the price determined by the department in accordance with this rule to be the value per normally traded unit of individual commodities stored by the warehouse as of the pricing date; and

(P) Warehouse charges—amounts charged by the licensed warehouse in accordance with the schedule of charges filed with the department. Allowable charges include: storage, receiving, load-out, cleaning, drying, quality discounts and other charges applicable to the conditioning or processing of grain delivered.

(2) When a license of a warehouse is revoked or expires, when a renewal is refused or when an examination conducted by the department shows storage claims, these claims shall be settled in accordance with this rule or as approved by the department.

(3) The department shall determine if a shortage of grain, either in quantity or quality, in the warehouse versus storage grain obligations may exist. If a shortage does exist, the department shall determine if redelivery of grain in the warehouse to storage customers

on a *pro rata* basis shall be allowed. This determination may be made on the basis of each commodity.

(4) If the department determines that a shortage may exist, the earlier of either the date the license is revoked or expires or renewal is refused, or the date that the redelivery period ends shall be considered the pricing date.

(5) If redelivery is an option, the department shall verify storage claims prior to allowing redelivery. This shall be done by contacting known storage customers, as noted in the records of the warehouse, and public notice of claim filing procedures. This public announcement shall be made by the news media serving the county the warehouse is located in as well as adjoining counties or other counties the warehouse is known to do business in which, all storage claims shall be filed on an affidavit of grain claim form available from the department. The department shall verify all claims based on records of the warehouse, records of the claimant and other means necessary.

(6) The period for filing claims shall be set by the department and shall not be less than seven (7) days after public notice is made. The failure of a claimant to file a claim within the time period set by the department shall limit the claimant's ability to participate in redelivery of storage obligations.

(7) To be considered as a claim under the security filed by the warehouse with the department, the period for filing claims shall be sixty (60) days from the date public notice is made. If the department determines that redelivery is not an option, the filing period of claims against the escrow account also shall be sixty (60) days. The department may grant an extension when deemed necessary.

(8) After the claim filing deadline, the department shall reconsider the viability of allowing redelivery, based on claims filed, inventory of grain on hand and if claimants desire redelivery. If the department determines that redelivery is still an option, the department shall establish a redelivery schedule, notify all claimants of this schedule and how quality differences will be handled. Notification may be verbal.

(9) Load-out charges and warehouse charges shall be paid before the grain is loaded out or deducted from the quantity of grain loaded out. The department shall determine the quantity of grain deducted based on the unit claim value.



(10) If the department determines that redelivery is not an option, the grain shall be sold at the best price available, as determined by the department. The sale of the grain shall not be delayed by the claims filing period. Proceeds from the sale of the grain shall be deposited into an interest bearing escrow account to be distributed only upon further order of the director or circuit court. The department shall document bid procedures used, bids received and the reason the bid was awarded if any price other than the highest gross price is accepted. This report shall be available for review by any claimant or other interested party.

(11) The grade on all grain loaded out or sold shall be based on official grades based on submitted samples or official samples as drawn from the grain loaded out unless the grain is sold or redelivered on an as-is, where-is basis, with no quality discounts to apply.

(12) The gross unit claim value may be based on any of the following methods, listed in order of preference. Different methods may be used to value different commodities. Rationale used should be documented and available for review if any of the methods of lower preference are used:

(A) The board price of the warehouse. If this price varies by more than one percent (1%) from the local paying price, the local paying price shall be used;

(B) The local paying price as determined by the department;

(C) The average bid price for grain reported by the "Daily Market Summary" for the area in which the warehouse is located;

(D) The value per unit of the storage as determined by experts in the industry as defined by the department; and

(E) The gross value per unit received for the grain sold less any market basis differential.

(13) Following the determination of the unit claim value, the total gross claim value and net claim value shall be determined. Warehouse charges shall be computed through the pricing date. Prepaid charges paid by the storage claimant shall not be added to the total gross claim value.

(14) Upon written order of the director or circuit court, proceeds from the sale of a commodity plus accumulated interest shall be distributed on a *pro rata* basis to storage customers with a storage claim for that commodity. The amount distributed shall be deducted from the total net claim value. The excess of proceeds from the sale of an indi-

vidual commodity shall be set aside for distribution by future order of the director or circuit court. Uses of this excess include payment of grain dealer claims for the same commodity, payment of grain dealer claims for other commodities, payment of storage claims within other commodities, payment of lien holders and payment to the warehouse.

(15) The cost of liquidating the grain may be deducted from the proceeds from the sale of the grain. These costs may be paid by the department immediately upon incurring them without waiting for an order approving the payment of storage claims. These costs shall be prorated per commodity. If liquidation costs of any one (1) commodity exceed the proceeds from that commodity, the remaining liquidation costs shall be paid by the department and may be charged to the warehouse.

(16) The department shall document procedures used for valuing claims and the costs of liquidating grain. A report summarizing this information shall be available for review by any claimant or other interested party.

(17) After the distribution of proceeds from the sale of grain, any remaining unpaid claim shall be a claim against the security filed by the warehouse with the department. Accumulated interest on the proceeds from the sale of grain distributed shall not be considered a reduction in the net claim value. All remaining claim amounts, regardless of commodity, shall be an equal claim against the security. If total remaining claims exceed the total security plus any accumulated interest or penalty, the total proceeds shall be distributed on a *pro rata* basis, by order of the department or circuit court, to all individual claims per commodity.

AUTHORITY: section 411.070, RSMo Supp. 1998. Original rule filed April 19, 1989, effective June 29, 1989. Amended: Filed Oct. 25, 1999, effective June 30, 2000.*

**Original authority: 411.070, RSMo 1941, amended 1955, 1965, 1977, 1980, 1986, 1993, 1995, 1997.*