



**STATE OF MINNESOTA**  
Department of Agriculture

Proposed Amendment of Rules of the  
Department of Agriculture Governing  
Buying and Storing Grain

Minnesota Rules 1562.0100 - 1562.2200

**STATEMENT OF NEED AND REASONABLENESS**

**I. General Need and Authority for Rules**

The Minnesota Department of Agriculture is authorized by Minnesota Statutes, section 223.19, 232.22, subs. 3 and 4, 232.24, subd. 1 and 236.08 to make rules to carry out the provisions of the grain buyer's act (chapter 223), the grain storage act (chapter 232) and the grain bank law (chapter 236).

The proposed amendments to the rules address the bond requirements for persons buying and storing grain.

Before a license to buy or store grain can be issued, a person must obtain a bond. The proposed amendments to the rules explain the kind of bond that is acceptable, the procedure for terminating a bond and the kind of security acceptable in lieu of a bond.

In addition, the definition of "grain" in the rules was amended to be consistent with the statutory definition of "grain."

It is necessary and reasonable to adopt the proposed amendment to the rules so that:

1. sellers and depositors of grain and persons buying and storing grain are provided with information on bonding and the acceptable security which may be submitted in lieu of a bond, and
2. the department is provided with a means to implement the statutes relative to the requirements for bonding.

## **II. Need and Reasonableness of Each Rule Part**

### **1562.0100 Definitions**

**Subp. 7. Grain.** The Minnesota legislature in 1988 amended the definition of grain to include dry edible beans. The definition of grain was amended in both the grain buyers act and the grain storage act.

The current definition of grain in the rules is incorrect because it does not include dry edible beans. It is necessary and reasonable to amend the definition of grain in the rules so that it is consistent with the statutory definition.

### **1562.0700 Bond.**

Before a license to buy or store grain can be issued the law requires that the applicant for the license obtain a bond for the protection of persons selling grain to or storing grain with the licensee.

The amended rules in this part provide for the acceptance of security in lieu of the bond and in the same amount as the bond.

For the license applicants who obtain a bond, the amended rules specify the duration of the bond and the procedure for terminating the bond.

It is necessary to provide an alternative to the bond because some license applicants who otherwise qualify for a bond are nevertheless refused a bond by the surety.

The department believes it is necessary and reasonable to accept the alternative security so that license applicants who may be buying or storing grain without benefit of bond coverage can be licensed, and so that the public is thus provided the security of an irrevocable letter of credit or other form of security.

With respect to the duration of the bond the amended rules provide for notification to the licensee and the commissioner by the surety of its intention to terminate the bond.

It is necessary and reasonable that adequate notification of a bond's cancellation be provided to the licensee and the commissioner so that steps may be taken to obtain a bond with another surety. And so that continuity of bond coverage is provided to the public.

### III. Impact of the Proposed Rules on Small Businesses

Most of the grain buyers, grain bank operators and grain warehouse operators licensed by the state are a "small business" as defined at Minnesota Statutes, section 14.115, subd. 1.

The proposed amended rules do not impose any additional regulations on persons the state is licensing to buy or store grain. Instead, the rules loosen the regulations or make the regulations less stringent in that licensees who are refused a bond could submit an alternative form of security.

The rules do impose the reporting requirement on the surety or insurance company issuing a bond to provide 90 days notice of the bond's termination. This is the only additional "regulation" per se imposed by the rules. The insurance companies and sureties currently writing bonds are large businesses, and they could not be classified as "small businesses."

The department considered the impact of the proposed amendment rules on small businesses as follows:

#### A. The Establishment of Less Stringent Compliance or Reporting Requirements

The proposed rules would establish less stringent requirements. They offer the prospective licensee more flexibility and options to comply with the department's bonding requirement without in any way lessening the security or jeopardizing the position of the seller or depositor of grain.

#### B. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements

The proposed rules do not establish any schedules or deadlines for small businesses.

#### C. The Consolidation or Simplification of Compliance or Reporting Requirements

The proposed rules do not impose any new compliance or reporting requirements. The proposed rules would grant the licensee more flexibility in satisfying compliance or reporting requirements already enacted.

#### D. The Establishment of Performance Standards for Small Business to Replace Design or Operational Standards Required in the Rule

The proposed rules do not establish any design or operational standards.

#### E. The Exemption of Small Business from Any or All Requirements of the Rule

The proposed rules do not impose or establish any additional requirements. The rules instead allow the small business to more easily comply with the bonding requirement already enacted by statute.

#### **IV. Conclusion**

For the reasons stated, the Minnesota Department of Agriculture believes that each of the proposed rules is necessary and reasonable to effectively administer Minnesota Statutes, chapters 223, 232 and 236 relating to the buying and storing of grain.