

REGULATIONS ON GRAIN DEALERS IN ARKANSAS

**(Promulgated and adopted under authority of
The Arkansas Grain Dealer Act A.C.A. § 2-24-101 et seq.)**

SECTION I. GENERAL PURPOSE AND INTENT

The Arkansas Grain Dealers Act is established to regulate grain dealers in the state of Arkansas that are not licensed under the Arkansas Public Grain Warehouse Law, the United States Warehouse Act and are not end users of grain. The Director of the Arkansas State Plant Board is appointed as the administrator of this law. The director shall administer this chapter and shall be the ultimate authority in the administration of this chapter. The agency may employ all necessary employees, counsel, and consultants to carry out the provisions of this law and is vested with the power necessary to fully and effectively carry out the provisions and objectives of this chapter.

SECTION II. ORGANIZATION AND DESIGNATION OF DUTIES

The Arkansas Grain Dealers Act will be administered by the Arkansas State Plant Board. The Director or appointed representative is hereby designated as having the authority to carry out the activities needed to administer the Arkansas Grain Dealers Act. All proceedings and hearings will be conducted in accordance with A.C.A. § 2-24-101 et seq. and A.C.A. § 25-15-201 et seq.

SECTION III. LICENSING AND BONDING

Application Form, GD-1 or GD-2, is to be used in securing a license under this Act, whether for a new license or the renewal of a license. This form will be supplied, upon request by the applicant, by the Plant Board. For renewals the form will be sent to all licensees from the previous year prior to the renewal deadline. Renewal applications should be delivered to the Plant Board at least thirty (30) days before the current license expires. The licensing period shall be from July 1 through June 30 of each year, with the exception of those licenses issued during the inception of the regulations. Those licenses will be inclusive of the time between their issuance and June 30, 2016.

Each application for a license or license renewal shall be accompanied with a financial statement and signed report of a CPA or registered public accountant which must be a representation of an examined audit report, a review report or a compilation report. Additional reports required are a balance sheet, a schedule of notes payable, a statement of cash flows and other reports that may be stipulated by the Plant Board. All financial reports for year two and beyond of licensing are to be submitted to the Plant Board within 120 days of the company's fiscal year end. All financial statements must be in bound copy or in electronic pdf from the accountant. New companies, just being established and having less than one complete fiscal year of operation, need only a trial

balance and estimated purchases for their first year to apply for a license. All financial records will be handled as dictated by A.C.A. 25-19-101 et. seq. (Arkansas Freedom of Information Act.)

The Bond Form, Letter of Credit Form, and a Certificate of Deposit Form for the purpose of securing bonding for the grain dealer will be supplied in the application packet. Only one type of bonding is required.

Bonding requirements are as follows:

Purchases of Grain In dollars (Range)		Bonding in dollars
1	5,000,000	\$50,000.00
5,000,001	20,000,000	\$100,000.00
20,000,001	40,000,000	\$200,000.00
40,000,001	60,000,000	\$400,000.00
60,000,001	80,000,000	\$600,000.00
80,000,001	100,000,000	\$800,000.00
100,000,001	and over	\$1,000,000.00

SECTION IV. FEES

As required by law, the application fee for a newly established business (a business with less than one (1) fiscal year of operation) is \$150.00. The fee for an established business (a business with more than one (1) fiscal year of operation) is as follows:

Purchases of Grain In dollars (Range)		License Fee
1	5,000,000	\$250.00
5,000,001	20,000,000	\$300.00
20,000,001	40,000,000	\$400.00
40,000,001	60,000,000	\$500.00
60,000,001	80,000,000	\$600.00
80,000,001	100,000,000	\$700.00
100,000,001	and over	\$800.00

One examination is to be made each year on each licensed dealer, the cost of which is included in the application fee. Additional examinations may be made at any time and at the discretion of the Director. If during the additional examinations a material discrepancy is found, the licensed dealer will be required to reimburse the State Plant Board at the rate of \$10.00 per hour for the time required to make the additional examination(s).

SECTION V. PENALTIES AND VIOLATIONS

Violations

Operating without a license, refusing to provide records during an audit, or knowingly violating the grain dealers act is a Class D felony. A person who negligently violates this law is guilty of a Class A misdemeanor. Upon conviction both are punishable by a criminal fine up to \$100 dollars. Civil penalties may apply as well. The director may issue a cease and desist order for any violation of this law.

Minor Violations

Upon the first offense, violations that are clerical and believed to be accidental in nature will be considered to be minor violations. Examples of such violations include, but are not limited to, the loss of voided scale tickets, settlements or contracts and not conducting business as prescribed by the grain dealer act.

Penalty Violations

Violations that fall under the civil penalty matrix.

- A. Second violation of the minor violations.
- B. Failure to pay on the due date of the payment agreement.
- C. Knowingly falsifying records.
- D. Refusal to allow inspection of records.
- E. Operating without a license.

Penalty Matrix (See Appendix 1)

SECTION VI. SUSPENSION OF LICENSE

A. A grain dealer's license may be temporarily suspended without a hearing if the director determines that public health, safety, or welfare is at risk. Upon the temporary suspension the director shall by certified mail notify dealer of said suspension and notify the dealer of the time and date of the hearing concerning the suspension. The hearing shall occur within ten days of the suspension.

B. A grain dealer's license may be suspended without a hearing five days after sending a notice by certified mail that surety has expired or if the grain dealer refuses to submit to an audit of their records. License shall not be suspended for more than 60 days without a hearing.

SECTION VII. SLOW PAY HOTLINE

The slow-pay hotline number will be on every license that the State Plant Board issues to grain dealers. Also, grain dealers must have the slow-pay hotline number on all purchase agreements. The hotline number will be published and provided to all licensees upon establishment of the number.

SECTION VIII. FINANCIAL REQUIREMENTS

All grain dealers purchasing less than \$100,000,000 worth of grain are required to maintain a minimum net worth of \$25,000. Dealers who purchase more than \$100,000,000 worth of grain, will maintain a minimum net worth of \$50,000. To be licensed, a grain dealer who does not meet the minimum financial requirements must post additional bond to cover the short fall in the minimum net worth. This additional bond may be an amendment to the original bond or it may be a new bond to cover the deficiency amount.

SECTION IX. OUT OF STATE GRAIN DEALERS

If the grain dealer does not maintain an office in this state and does not have a resident agent in this state, the application shall include a written appointment of a statutory agent upon whom process, notice, or demand may be served. The statutory agent shall be an individual residing in this state or a corporation whose principal place of business is located in the state. If the identity or address of the statutory agent changes the grain dealer shall within 3 days file with the Plant Board a written appointment of the new statutory agent or written notice of the new address, as applicable.

APPENDIX 1

**ARKANSAS GRAIN DEALERS ACT
CIVIL PENALTY MATRIX**

VIOLATIONS	1 ST LEVEL OF ENFORCEMENT		2 ND LEVEL OF ENFORCEMENT		3 RD LEVEL OF ENFORCEMENT		4 TH LEVEL OF ENFORCEMENT	
	Action Options	Penalty	Action Options	Penalty	Action Options	Penalty	Action Options	Penalty
Recordkeeping mistakes that are clerical and believed to be accidental in nature. Ex: Lost scale tickets, incomplete contracts, settlement mistakes, DPR inaccurate, etc.	A	---	B&C	\$100 to \$600	B,C&D	\$600 to \$900	B,C&D	\$1,000
Failure to pay seller on Due Date.	A,B	\$100 to \$300	B,C,D&E	\$200 to \$600	B,C,D&E	\$600 To \$1,000	B,C,D&E	\$1,000
Knowingly falsifying records.	B,C&D	\$500	B,C,D&E	\$500 to \$800	B,C,D&E	\$800 to \$1,000	B,C,D&E	\$1,000
Refusal to allow inspection of records.	B,C&D	\$100 to \$300	B,C&D	\$400 to \$600	B,C,D&E	\$600 to \$900	B,C,D&E	\$1,000
Operating without a license	B	\$300 to \$500	B&E	\$500 to \$700	B&E	\$800 to \$1,000	B&E	\$1,000

- Each violation moves grain dealer to the next level of enforcement
- Each individual violation is removed 3 years from the date the violation was first proven.

- A. Warning Letter
- B. Hearing before the board
- C. License Suspension
- D. Revocation of license
- E. Referral to Prosecuting Attorney