

901:7-2-01

License, examination and renewal fees.

(A) All renewal licenses shall be issued for a twelve-month period and shall expire annually on the date which corresponds with the alphabetical listing of the county in which the licensee's main facility is located. ~~Applications for licensure shall expire as follows:~~

(1) Richland county to Wyandot county on September thirtieth.

(2) Adams county to Erie county on December thirty-first.

(3) Fairfield county to Logan county on March thirty-first.

(4) Lorain county to Putnam county on June thirtieth.

(B) A new license may be issued for an initial period of not less than six months or more than eighteen months so as to expire with the corresponding county in which the main facility is located. The fee for a license issued for a period other than one year shall be proportionate to the fee for a one-year license.

(C) In addition to the application fee set forth in division (B) of section 926.05 of the Revised Code, the following examination fee shall also be remitted with the application for licensure:

Storage Capacity	Examination fee
To 10,000 bu.	\$ 50.00
10,001 to 150,000 bu.	\$ 100.00
150,001 to 250,000 bu.	\$ 200.00
250,001 to 500,000 bu.	\$ 300.00
500,001 to 750,00 bu.	\$ 400.00
750,001 to 1,000,000 bu.	\$ 500.00
1,000,001 to 1,200,000 bu.	\$ 600.00
1,200,001 to 1,500,000 bu.	\$ 700.00
1,500,001 to 2,000,000 bu.	\$ 800.00
2,000,001 to 2,500,000 bu.	\$ 900.00
2,500,001 to 5,000,000 bu.	\$1,000.00

5,000,001 to 7,500,000 bu.	\$1,100.00
7,500,001 to 10,000,000 bu.	\$1,200.00

Over ten million bushels:

- (1) One thousand two hundred dollars plus ~~thirty~~fifty dollars per million bushels above ten million bushels or fraction thereof.

The fees quoted in paragraph (A) of this rule shall include the total commodity storage capacity of all facilities operated by the licensed handler as defined in the above rate schedule.

- (D) If the application to license is for a facility to be added to one already licensed, the capacity of the new facility shall be added to the existing capacity of the license for the purpose of determining the new examination fee. The total fee due shall be the difference in fee between the old and new examination fees plus the application fee established in division (B) of section 926.05 of the Revised Code. If the license is issued for a period other than one year, the total fee shall be proportionate to the fee for a one-year license as provided for in division (D) of section 926.05 of the Revised Code.
- (E) The fee established under this rule shall be deposited into the commodity handler regulatory fund created in section 926.19 of the Revised Code.

*** DRAFT - NOT YET FILED ***

901:7-2-02

Annual commodity statement.

Every ~~applicant for a handlers license or renewal of a~~licensed handlers license handler shall submit with ~~their~~the handler's annual financial statement a schedule ~~of the~~for each agricultural ~~commodities~~commodity handled during ~~the twelve months immediately preceding the closing date of his financial statement~~the stated fiscal year. ~~The~~Each schedule shall list all corn, soybeans, or wheat received in bushels~~each type of agricultural commodity handled and show the number of bushels handled by type.~~

901:7-2-03

Scale weight ticket format.

(A) Scale weight tickets, other than those approved for use by persons licensed under the United States Warehouse Act, which are used to weigh agricultural commodities handled shall contain only the following:

- (1) The tickets shall be serially numbered and ~~must~~ be used in numerical order;
- (2) The name of the licensed handler and location of warehouse;
- (3) Inclusion of the telephone number, hours of operation, and/or facility address is acceptable;
- (4) Date the commodity is weighed;
- (5) Designation that the commodity is inbound or outbound at the handler's warehouse;
- (6) Name of the depositor (inbound), or consignee (outbound);
- (7) Name of the commodity;
- (8) The gross, tare, and net weight of the commodity and adjustments due to quality factors, if applicable;
- (9) The marketing transaction type;
- (10) Vehicle driver on or off the scale at the time of weighing;
- (11) The ticket shall be initialed or signed by the commodity tester; and
- (12) The ticket may be initialed or signed by the driver.

(B) Tickets for agricultural commodities that are handled but not physically delivered into the licensed handler's warehouse shall contain only the following:

- (1) The tickets shall be a separate series serially numbered and be used in numerical order;
- (2) The name of the licensed handler and liable location;
- (3) Date the commodity is delivered;

(4) Date of entry into the licensed handler's records;

(5) Name of the depositor;

(6) Name of the consignee and location where delivered;

(7) The serial number of original delivery ticket;

(8) Name of the commodity;

(9) The gross, tare, and net weight of the commodity and adjustments due to quality factors, if applicable;

(10) The marketing transaction type between the depositor and licensed handler;

(11) The marketing transaction type between the licensed handler and consignee;

(12) The initials of the person completing the ticket; and

(13) "Warning to Seller: You may have no recourse from the Ohio Agricultural Commodity Depositors' Fund if you did not submit tickets within five days of delivery, demand payment within fifteen days after the last delivery of a contract, enter into a contract with specific pricing terms, or possess a deferred payment agreement with specified payment terms."

(C) Depositors shall submit original delivery tickets and the licensed handler shall issue a direct-delivery ticket within five days of delivery.

~~(B)~~(D) One copy of each scale weight ticket shall be retained by the licensed handler as permanent record. Electronic copies are permitted after the original copy has been reviewed and examined by Ohio department of agriculture.

~~(E)~~(E) A copy of a scale weight ticket that is used in weighing agricultural commodities or other products that is voided shall be retained as part of the permanent record of the licensed handler.

*** DRAFT - TO BE RESCINDED ***

901:7-2-04

Suspension of license.

- (A) When the license of an agricultural commodity handler has been suspended by the director of agriculture for a violation of Chapter 926. of the Revised Code, the director shall notify the handler of the restrictions which are imposed upon him in the handling of agricultural commodities during the period of suspension.

- (B) Upon written request to the director of agriculture within thirty days after receiving notice of suspension, a handler shall be afforded a hearing in accordance with Chapter 119. of the Revised Code.

901:7-2-05

Suitability and safety of warehouses for inspection and handling agricultural commodities.

(A) In determining the suitability of warehouses for the storing, shipping, and conditioning of agricultural commodities the director of agriculture shall consider:

- (1) The physical condition of the warehouse and ~~its~~the warehouse's ability to withstand weather conditions which may cause deterioration of the agricultural commodities stored therein;
- (2) Whether the warehouse has handling equipment sufficient to transfer commodities into and out of the warehouse and to maintain quality of the commodity while in storage;
- (3) Whether the warehouse has scales of sufficient capacity and dimensions to efficiently and accurately weigh commodities into and out of the warehouse. Receiving and shipping scales shall be tested and sealed at least once annually by one of the following; Ohio department of agriculture weights and measures division, county weights and measures division, or state of Ohio registered service person or company.

(B) If the director finds that a warehouse is unsuitable for the storing of commodities, ~~he~~the director shall notify the handler of the requirements necessary to make the warehouse suitable.

(C) If the director finds that a warehouse, bin, or any area of a warehouse is unsafe, only the ~~area(s)~~areas the inspector can safely inspect will be approved and included in the inventory of that inspection. Any area found to be unsafe will not be counted and will not be included in the inventory. The owner of the facility will be notified of the action necessary to make the warehouse safe for examination.

(1) Fixed ladders; if the total length of the climb on a fixed ladder equals or exceeds twenty-four feet up to one hundred fifty feet, the ladder must be equipped with a cage or well and multiple ladder sections. Each ladder section not to exceed fifty feet in length. The ladder sections must be offset from adjacent sections and landing platforms must be provided at maximum intervals of fifty feet.

(2) Fixed ladder cage or well exception; If the fixed ladder equals or exceeds twenty-four feet up to one hundred fifty feet and the ladder is equipped with occupational safety and health administration (OSHA) approved ladder safety systems or personal fall arrest systems.

(3) Guardrail systems; adequate guardrail systems shall be installed on all silos or bins where walking away from the ladder or manlift is required for physical

measurement. Adequate guardrail systems shall be installed on all catwalks used for access to bin measurement.

901:7-2-06

Additional warehouse examinations.

(A) Additional examinations shall occur for any of the following reasons:

- (1) ~~The issuance of a W-70;~~ A violation notice issued for ~~errors~~ violations other than inventory reduction or unsigned delayed price agreements; ~~or;~~
- (2) Failure to comply with a ~~W-70~~ previously issued violation notice; ~~or;~~
- (3) ~~Insufficient~~ A violation notice was issued for insufficient assets to cover delayed price obligations; ~~insufficient~~
- (4) A violation notice was issued for insufficient grain inventories to cover grain bailment obligations; ~~or.~~
- ~~(4)~~ (5) Financial The annual financial statement indicates total assets do not equal or exceed total liabilities; failure to meet the applicable net worth requirement set forth in Chapter 926. of the Revised Code; ~~or~~
- ~~(5)~~ (6) Financial The annual financial statement indicates current assets do not equal or exceed current liabilities; ~~or;~~
- ~~(6)~~ (7) Incomplete A violation notice issued for incomplete, inadequate or non-current records or inventory; or
- ~~(7)~~ (8) Unsafe warehouse conditions The necessary staff not present or available to allow for an examination to be conducted.

(B) If the director or ~~his~~ the director's designated representative ~~is unable to conduct or complete an examination~~ performs additional examinations for any reason listed in paragraph (A) of this rule, the licensed handler may be charged as follows:

- (1) The hourly salary of the examiner times the number of hours required to complete the examination including; meals, lodging, and mileage, and;
- (2) Such additional necessary incidental expenses as may be approved by the director of agriculture.

*** DRAFT - TO BE RESCINDED ***

901:7-2-07

Handler's remittance of the per-bushel fee.

- (A) The per-bushel fee to be remitted under section 926.16 of the Revised Code by agricultural commodity handlers to the director of agriculture shall be submitted with a form to be supplied by the director. The form shall summarize the commodities subject to the per-bushel fee that have been handled by the licensed handler for the period covered by the form. A separate form shall be completed for each facility operated by the handler.

- (B) The forms shall be forwarded to the director reflecting each quarterly period ending March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year. The assessment due on commodities subject to the fee for each period shall be included with the form and made payable to the Ohio department of agriculture. The report for each reporting period shall be forwarded to the director not later than thirty days after the close of the period.

901:7-2-08

Asset valuation.

The following assets shall not be included or considered as assets for calculating the net worth and/or in determining if current assets exceed current liabilities of a licensee:

- (A) Goodwill;
- (B) Customer lists;
- (C) Non-competition clauses; ~~or~~
- (D) Trade names~~;~~
- (E) Receivables other than trade receivables arising in the ordinary course of the handlers business due from any director, officer, manager~~,~~ or employee of the handler~~;~~
- (F) Receivables due from any related party or business of the handler~~;~~~~;~~ or
- (G) Accounts receivables that are past due over one hundred eighty days. A schedule must be provided with the annual financial statement filing.

901:7-2-09

Delayed price agreements, form and contents.

- (A) Licensed handlers who purchase agricultural commodities under delayed price agreements shall do so on the form provided by the department and attached hereto as appendix A to this rule. The original agreement shall be maintained by the handler. The agreements can be converted to electronic copies for storage once Ohio department of agriculture has reviewed, examined, and recorded the original agreement. The electronic copies must be produced and viewable if requested by Ohio department of agriculture.

- (B) One agreement may cover one or more agricultural commodities delivered by a depositor.

- (C) A log of applicable charges shall be retained by the licensed handler as specified in divisions (A) and (B) of section 926.11 of the Revised Code.

901:7-2-10

Agricultural commodity tester training.

- (A) A training course in agricultural commodity testing and grading shall meet the following standards ~~in order~~ to qualify ~~its participants for exemption from examination~~ for renewal of ~~their~~an agricultural commodity tester ~~certificates~~certificate:
- (1) ~~The~~Three hour minimum training course ~~shall contain not less than three hours of classroom~~to include instruction and training ~~which shall include the actual~~on testing and grading of corn, wheat, and soybeans;
 - (2) The USDA "Inspecting Grain Practical Procedures for Grain Handlers," ~~February 2009~~September 2016 edition shall be used for all instruction and training;
 - (3) Instruction ~~and hands on training~~ shall ~~cover the following testing procedures~~include:
 - (a) ~~Drawing and dividing the sample~~How to draw representative samples;
 - (b) How to divide samples;
 - (b)(c) ~~Determining~~How to determine the test weight of the ~~commodity~~sample;
 - (e)(d) ~~Determining~~How to determine the moisture in the ~~commodity~~sample;
 - (d)(e) ~~Determining~~How to determine and pick ~~all types of~~ damaged kernels in the sample; and
 - (e)(f) ~~Determining~~How to determine the amount of foreign material ~~and/or or~~ dockage in the sample;
 - (f) ~~Using testing equipment; divider, gram scales, moisture meter, sieves, and sample.~~
 - (4) Current events and new technology relative to grain grading or testing may be considered as part of the three hour training course if pre-approved by the director.
 - (4)(5) Instructors shall ~~either have~~hold a current Ohio agricultural commodity tester certificate issued by the director of agriculture or be currently ~~approved~~licensed by the U.S. department of agriculture federal grain

inspection service, ~~packers and stockyard administration~~, to test and grade agricultural commodities.

- (B) ~~An agricultural commodity tester who, during the year prior to the expiration date of his certificate, completes a~~Upon completion of an approved training course, the instructor approved by the director of agriculture shall submit~~provide~~ to the director ~~an individual verification of attendance certificate for each attendee, supplied by the director, signed by the sponsor of the training course certifying that the tester has completed the training course.~~ The verification of attendance certificate shall include the attendee's name, address, company, date of the training, and signature of the instructor.

901:7-2-11

Application for commodity tester certificate.

- (A) Application for a new or renewal certificate as an agricultural commodity tester shall be made on the form supplied by the director and shall be accompanied by an application fee of twenty-five dollars and proof of training or successful completion of the ~~written~~ test. All new applicants and all applicants that have let their certificate expire are required to successfully complete the test before applying for certification.
- (B) Successful completion of the ~~written~~ test is a score of eighty percent or higher. Any score under eighty percent is considered failure of the ~~written~~ test will require the applicant to attend an approved training course prior to retaking the ~~written~~ test. After ~~the—successful~~ completion of the approved training course, the ~~application~~applicant must successfully complete the ~~written~~ test with a score of ~~eight~~eighty percent ~~of~~or higher.
- (C) Certification as an agricultural commodity tester shall be valid for a period of no less than thirty-six months unless canceled or revoked. All certificates expire on September thirtieth. The applicant is given the remaining days left in the application year up to September thirtieth plus thirty-six months. If a certificate has expired, the thirty-six month period for the renewal certificate will begin the day after the expiration date.
- (D) The handler may be fined \$50.00 for every person found performing quality tests on commodities without a valid commodity tester certificate.

901:7-2-12

Buyers exempt from licensing.

- (A) Any person whose ~~annual purchases~~ purchase of all agricultural commodities does not exceed thirty thousand bushels ~~annually~~ and ~~who is exempt from the requirement to license as an agricultural commodity handler as~~ does not participate in agricultural commodity handling as defined in division (C) of section 926.01 of the Revised Code ~~is exempt from licensing as an agricultural commodity handler.~~ shall notify the ~~The~~ director of agriculture may examine any records of any person claiming exemption at any reasonable time to verify exemption compliance ~~of his exempt status and shall file an annual report with the director on a license exemption form provided by the director. The annual period for the report shall be from the first of July of each year to the thirtieth of June of the following year and shall be filed with the director not later than the thirty first of August of each year. The person shall not be subject to the per bushel fee required under section 926.16 of the Revised Code. If, during the period of exemption from licensing, the person's purchases of agricultural commodities exceeds one hundred thousand bushels, the person shall immediately notify the director and comply with licensing requirements including remitting the per bushel fee required under section 926.16 of the Revised Code.~~
- (B) A producer who sells an agricultural commodity to a person who is exempt from the requirement to license as an agricultural commodity handler as defined in division (C) of section 926.01 of the Revised Code is not eligible to file a claim under section 926.18 of the Revised Code for any loss or damage ~~he~~ the producer may sustain from the sale of commodities to persons exempt from licensing.
- ~~(C) A buyer of agricultural commodities who is exempt from the requirement to license as an agricultural commodity handler shall notify any person from whom he purchases a commodity that he is exempt from the requirement to license and that the seller is not eligible to file a claim as stated in paragraph (B) of this rule.~~