

**251.375 Forward pricing contracts -- Requirements governing -- Administrative regulations.**

- (1) No licensee shall enter into forward pricing contracts without first attaining approval from the department to enter into these contracts. A licensee entering into forward pricing contracts shall keep any records and ledgers the department deems necessary to document the licensee's obligations.
- (2) A licensee that has entered into a forward pricing contract shall make a copy available for inspection by the department or the board upon request.
- (3) Forward pricing contracts shall be in writing.
- (4) The board, in conjunction with the department, shall promulgate administrative regulations setting forth the minimum information that shall be included in any forward pricing contract entered into by a licensee.
- (5) By the tenth day of each month, any licensee that has entered into a forward pricing contract shall submit to the department a report accurately reflecting its position on the last day of the previous month.
- (6) A licensee which has entered into one (1) or more forward pricing contracts shall maintain at least eighty percent (80%) of the value of the licensee's unpaid obligations for all grain purchased under forward pricing contracts, using one (1) or more of the following:
  - (a) Grain maintained in storage in the licensee's warehouse or other storage facilities;
  - (b) Rights to grain as evidenced by a warehouse receipt or scale ticket for storage of the grain under an agreement with another warehouse approved by a representative of the department; or
  - (c) Proceeds from the sale of grain as evidenced by one (1) or more of the following:
    1. Funds held in a separate account, designated for the benefit of unpaid sellers of grain that was delivered under forward pricing contracts, in a state or federally licensed financial institution or a lending agency of the Farm Credit Administration;
    2. Short-term investments held in time accounts, designated for the benefit of unpaid sellers of grain that was delivered under forward pricing contracts, in a state or federally licensed financial institution or a lending agency of the Farm Credit Administration; or
    3. Other evidence of unencumbered security or assets acceptable to the department, including but not limited to an irrevocable letter of credit or surety bond.
- (7) If the department or the board determines that a licensee does not have sufficient net worth to satisfy the indebtedness, the department shall prohibit the transfer or disbursement of any grain, property, or assets except for the satisfaction of unpaid obligations for grain that was delivered under forward pricing contracts. Disbursements of payments to sellers shall be made on a pro rata basis of the value

of the remaining grain.

**Effective:** August 1, 2019

**History:** Created 2019 Ky. Acts ch. 88, sec. 11, effective August 1, 2019.