

Chapter 40-30
Dealers in Agricultural Products

General Provisions
Chapter 40-30-1

40-30-1.01 DEFINITIONS

The following words or terms shall have the meaning set forth herein when used in these rules and regulations.

- (1) "Act" means the laws relating to Dealers in Agricultural Products, Article I of O.C.G.A. 2-9.
- (2) The term "Commissioner" as used in these regulations means the Georgia Commissioner of Agriculture or his designated agent.
- (3) The term "Director" shall mean the officer who has been lawfully commissioned, appointed and delegated the authority by the Commissioner to administer the Act.
- (4) "Agricultural products" includes fruits, vegetables, pecans, and cotton but does not include dairy products, tobacco, grains, eggs, and other basic farm crops.
- (5) "Dealer in agricultural products" means any person, association, itinerant dealer, partnership, or corporation engaged in the business of buying, receiving, selling, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of any agricultural products purchased from the producer or his or her agent or representative or received on consignment from the producer or his or her agent or representative or received to be handled on a net return basis from the producer. The term "dealer in agricultural products" also includes any person buying, selling, processing, or shelling pecan nuts, including any and every kind and variety of pecan nuts.
- (6) "Producer" means any producer of agricultural products.

40-30-1-.02 APPLICABILITY OF RULES

- (1) These rules shall apply to any dealer in agricultural products who comes within the terms of the Act to engage in such business in the State of Georgia.
- (2) These rules shall not apply to:
 - (a) Farmers or groups of farmers in the sale of agricultural products grown by themselves
 - (b) Persons who buy for cash, paying at the time of purchases in United States currency, certified check, cashier's check, electronic transfer of funds, wire transfer of fund, or the equivalent; or
 - (c) Holders of food sales establishment licenses issues pursuant to Article 2 of Chapter 2 of Title 26 of the Official Code of Georgia, "Georgia Food Act," who conduct no business at the wholesale level and who have fewer than ten (10) employees.

40-30-1-.03 RECORD KEEPING

Any and all ledgers, books of accounts, memoranda, and other documents which relate to dealer in agricultural products transactions shall be kept and made available for examination by the Commissioner at the place or places of business of the dealer in agricultural products applicant or licensee.

Licensing **Chapter 40-30-2**

40-30-2-.01 ELIGIBILITY

Every dealer in agricultural products as defined herein, prior to transacting business within the State of Georgia, shall come under the provisions of the Act by complying with the provisions of the Act and the rules and regulations thereunder. Upon such compliance, any person may be issued a license to operate as Dealer in Agricultural Products, as provided in such license, unless such license is refused by the Commissioner as provided in O.C.G.A. §2-9-7.

40-30-2-.02 REQUIREMENTS

(1) To qualify for a Dealer in Agricultural Products license, each applicant must submit or provide:

(a) the complete application for a Dealer in Agricultural Products license on a form furnished by the Commissioner which shall state:

- (i) The kind or kinds of agricultural products the applicant proposes to handle;
- (ii) The full name or title of the applicant or, if the applicant is an association or partnership, the name of each member of such association or partnership or, if the applicant is a corporation, the name of each officer of the corporation;
- (iii) The names of the local agent or agents of the applicant, if any; and
- (iv) The municipalities within which places of business of the applicant will be located, together with the street or mailing address of each such place of business.

(b) a dealer in agricultural products bond, the requirements of which are provided in the Act and rules and regulations thereunder;

(c) an affidavit executed by the licensee, proposed licensee, or chief executive officer if the licensee or proposed licensee is a business, certifying under penalties of perjury that the dealer in agricultural products bond accurately reflects the amount equal to the maximum amount of products purchased from or sold for Georgia producers or estimated to be purchased or sold in any month by the applicant or licensee; and

(d) an annual licensing fee.

(2) All Dealer in Agricultural Products licenses must be renewed annually. Applications for the annual renewal of license and annual licensing fees must be submitted to the Director at least thirty (30) days prior to the license's expiration each year.

(3) For license renewal, proof of existence and amount of the surety bond held by the licensee must be submitted annually to the Director at least thirty (30) days prior to the license's expiration each year.

40-30-2-.03 FEES

- (1) An annual licensing fee shall be required before a Dealer in Agricultural Products license is issued or renewed.
- (2) The license fee for a dealer in agricultural products shall be based upon the amount of the agricultural dealer's surety bond furnished by each dealer pursuant to the requirements of the Act and rules and regulations thereunder as follows:
 - (a) For bonds in the amount of \$10,000.00 to \$90,000.00, the license fee is \$50;
 - (b) For bonds in the amount of \$90,000.01 to \$230,000.00, the license fee is \$75; and
 - (c) For bonds in the amount of \$230,000.01 to \$500,000.00, the license fee is \$100.

Bonding Chapter 40-30-3

40-30-3-.01 DEALER BOND

- (1) Before any Dealer in Agricultural Products license is issued, the applicant shall make and deliver to the Commissioner a surety bond executed by a surety corporation authorized to transact business in this state and approved by the Commissioner.
- (2) The surety bond shall be upon a form prescribed or approved by the Commissioner and shall be conditioned to secure the faithful accounting for and payment to producers or their agents or representatives of the proceeds of all agricultural products handled or sold by such dealer.
- (4) Whenever the Commissioner shall determine that a previously approved bond has for any cause become insufficient, the Commissioner may require an additional bond or bonds to be given.
- (5) Unless the additional bond or bonds are given within the time fixed by written demand therefor, or if the bond of a dealer is canceled, the license of such person shall be immediately revoked by operation of law without notice or hearing and such person shall be ineligible to reapply for such license for a period of four years after such revocation.
- (6) In lieu of a surety bond, the Commissioner may accept a cash bond, which shall in all respects be subject to the same claims and actions as would exist against a surety bond.

40-30-3-.02 AMOUNT OF BOND

- (1) The surety bond required pursuant to the Act and the rules and regulations therein shall be in an amount equal to the maximum amount of products purchased from or sold for Georgia producers or estimated to be purchased or sold in any month by the dealer in agricultural products.
- (2) The minimum amount of such bond shall be \$10,000.00 and the maximum amount of such bond shall be \$230,000.00, except in the case of pecans for which the maximum amount of such bond shall be \$500,000.00.
- (3) In the event the maximum amount of products purchased from or sold for Georgia producers or estimated to be purchased or sold in any month by the dealer in agricultural products is less than \$10,000.00, the required bond shall be in the amount of \$10,000.00.
- (4) In the event the maximum amount of products purchased from or sold for Georgia producers or estimated to be purchased or sold in any month by the dealer in agricultural products is greater than \$230,000.00, the required bond shall be in the amount of \$230,000.00.
- (5) In the case of pecans only, in the event the maximum amount of products purchased from or sold for Georgia producers or estimated to be purchased or sold in any month by the dealer in agricultural products is greater than \$500,000.00, said dealer shall provide a bond in the amount of \$500,000.00.