**Section 281.10 Right of Examination, Working Conditions** **and Examination Levels**

a) Right of Examination and Working Conditions

1) The licensee shall permit the Department to examine all warehouse facilities, records or inventory without prior notice. The licensee shall provide reasonable access to records at the location where records are maintained, or, if the records are located outside the State of Illinois, the Department may require that the records be brought to a specified location in Illinois for review by the Department. The licensee shall provide reasonable assistance as requested to perform the examination. The licensee shall reasonably remove risks or hazards that may be encountered during an examination. The licensee shall provide the necessary assistance to any authorized representative of the Department for the safe measurement and sampling of the grain inventory.

2) The licensee shall provide an acceptable work place at the location where the master books and records are maintained in order to allow any authorized representative of the Department to perform an examination.

b) Examination Levels

Pursuant to Section 1-15(2) of the Code, the Department shall examine and inspect each licensee at least once each calendar year. The Department shall perform one of three types of examination of licensees: basic examination; intermediate examination; or advanced examination. In ascertaining the level of risk present in a licensee's merchandising and trade practices, as part of the Department's determination as to which level of examination should be appropriate to a particular licensee, the Department may take into account such factors as the level of sophistication and experience of the licensee's merchandising personnel; the overall financial resources of the licensee, as an indication of ability to absorb and assume risk; the historical experience of the licensee with regard to the particular merchandising and trade practices being used; and the extent of the use of certain practices as a proportion of all merchandising and trading practices of the licensee.

1) The basic examination shall be performed when the licensee's merchandising and trade practices involve minimal market risk, including cash back-to-back contracts, traditional hedges with the Chicago Board of Trade and price later contracts.

2) The intermediate examination shall include all of those matters done as part of the basic examination and shall be performed when there is an increased amount of risk, including situations in which the licensee uses guaranteed minimum price contracts, purchases options or writes options.

3) The advanced examination shall include all those matters done as part of the intermediate examination and shall be performed when the licensee's merchandising and grain practices involve the most risk, including when the licensee has discretionary trading authority from producers, uses premium offer type contracts, or has contracts with producers that cover multiple crop years. The advanced examination shall include grain market risk evaluation, appropriate levels of risk for the licensee and adequacy of internal controls.

c) Examinations may include, but are not limited to, the following:

1) Verification of grain quality and quantity;

2) Reconciliation of records of grain transactions, including, but not limited to, random selection of a sample of customer accounts and mailing of confirmations to verify accuracy of those records;

3) Computation of current ratios as provided in the Code;

4) Checking of posting procedures for accuracy;

5) Grain market risk evaluation and appropriate levels of risk for the licensee;

6) Examination of the most recent monthly financial statements of the licensee;

7) Review and evaluation of the internal recordkeeping systems and controls of the licensee;

8) Evaluation of the long/short market risk report for accuracy, complete accounting and full disclosure;

9) Random spot checks and examination of specific contract information for each type of contracting method used by the licensee; and

10) Market risk information reported by the licensee, at the commencement of the examination, on a form prescribed by the Department. The prescribed form shall include, but is not limited to:

A) Names of key personnel and/or business associates related to grain merchandising transactions;

B) Marketing programs offered; and

C) Types of contracts.

(Source: Amended at 33 Ill. Reg. 1647, effective January 16, 2009)