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Requirements for Grain Dealers

State of Montana

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Requirements for Grain Dealers

STATE OF MONTANA

Current with legislation from the 2013 Regular Sess. and the 2012 general election

MCA 80-4-407

80-4-407. Reports to the department

Each person licensed under parts 5 and 6 of this chapter shall report to the department at intervals set by rule of the department on forms prepared by it. The reports must show the total weight of each kind of agricultural commodity received and shipped, the amount of outstanding warehouse receipts on that date, and a statement of the amount of agricultural commodities on hand to cover the outstanding warehouse receipts. The department may also, by rule, require special reports at any time.

MCA 80-4-408

80-4-408. Examination of books

The department is authorized, through its officials, employees, or designated agents, to examine or copy all books, records, papers, and accounts of persons licensed under parts 5 and 6 of this chapter.

MCA 80-4-409

80-4-409. Confidentiality of records

All financial statements of warehouse operators and commodity dealers required under the provisions of parts 5 and 6 of this chapter must be kept confidential by the department and are not subject to disclosure except:

- (1) upon written permission of the licensee;
- (2) in actions or administrative proceedings commenced under the provisions of parts 4 through 7 of this chapter;
- (3) when required by subpoena or court order;
- (4) when disclosed to law enforcement agencies in connection with the investigation or prosecution of criminal offenses; or
- (5) when released to a bonding company approved by the department.

MCA 80-4-410
80-4-410. Publication of reports

The department may publish the results of any investigation made. It may publish the names and addresses of persons licensed under parts 5 and 6 of this chapter, and it may also publish a list of all licenses terminated under parts 5 and 6 of this chapter and the causes therefor.

MCA 80-4-601
80-4-601. Commodity dealer license requirements--financial responsibility

- (1) A person may not engage in the business of a commodity dealer in this state without first having obtained a license issued by the department.
- (2) An application for a license to engage in business as a commodity dealer must be filed with the department and must be on a form prescribed by the department.
- (3)
 - (a) A license application must include the following:
 - (i) the name of the applicant;
 - (ii) the names of the officers and directors if the applicant is a corporation;
 - (iii) the names of the partners if the applicant is a partnership;
 - (iv) the location of the principal places of business;
 - (v) a sufficient and valid bond as specified in 80-4-604, plus the bond specified in subsection (5)(a)(i) or (5)(a)(ii) if applicable, or as specified in subsection (5)(a)(iii);
 - (vi) a complete financial statement prepared by a licensed accountant according to generally accepted accounting principles, setting forth the applicant's assets, liabilities, and equity; and
 - (vii) any other reasonable information the department finds necessary to carry out the provisions and purpose of this part.
 - (b) In determining the value of assets for the purposes of commodity dealer licensing:
 - (i) the value of the assets must be shown at original cost less depreciation, except that upon written request filed with the department, the director may allow asset valuations in accordance with a competent appraisal; and
 - (ii) credit may be given for insurable property, such as buildings, machinery, equipment, and merchandise inventory, only to the extent that the insurable property is protected against loss or damage by fire by insurance in the form of lawful policies issued by one or more insurance companies authorized to do business and subject to service of process in suits brought in this state.
- (4) Except as provided in subsection (5), in order to receive and retain a commodity dealer's license, a commodity dealer shall have and maintain:
 - (a) equity of \$50,000;
 - (b) positive working capital; and
 - (c) the bond required under 80-4-604.
- (5)
 - (a) An applicant for a commodity dealer's license:
 - (i) that meets the condition specified in subsection (4)(c) and has maintained positive equity but does not meet the condition specified in subsection (4)(a) shall provide the department with additional bonding in the amount of \$2,000 for each \$1,000 or fraction

of \$1,000 that the applicant's equity is less than \$50,000; and
(ii) that meets the condition specified in subsection (4)(c) but does not meet the condition specified in subsection (4)(b) shall provide the department with additional bonding in the amount of \$2,000 for each \$1,000 or fraction of \$1,000 that the applicant's current liabilities exceed the applicant's current assets; or
(iii) that cannot or chooses not to meet the requirements of subsections (4)(a), (4)(b), and (4)(c) may, at the applicant's discretion and with the consent of the department, provide the department with a bond in the amount of 110% of the value of commodities the applicant or dealer intends to purchase during the term of the license or 110% of the value of commodities the dealer purchased during the preceding 12 months, whichever is greater. The minimum bond is \$20,000.

(b) An applicant or commodity dealer that provides a bond under subsection (5)(a)(iii) is exempt from the bonding requirement in 80-4-604(2).

(c) If a commodity dealer posts a bond or equivalent under subsection (5)(a)(iii) and at any time has unpaid contracts that exceed 90% of the dealer's bond or equivalent, the dealer shall either pay off contracts of sufficient value or increase the bond amount so that the total value of the unpaid contracts is less than 90% of the bond or equivalent.

(6) The department shall adopt rules relating to the form and time of filing of financial statements. The department may require additional information or verification regarding the financial resources of the applicant and the applicant's ability to pay producers for agricultural commodities purchased from them.

MCA 80-4-606

80-4-606. Inspection of premises, books, and records

(1) The department may at any reasonable time inspect the premises and records of any commodity dealer used in the conduct of the commodity dealer's business. A commodity dealer shall, upon request of the director, furnish to the department at any reasonable time and place all books, accounts, records, and papers relating to agricultural commodity transactions within the state, including those pertaining to the collecting, reporting, and paying of authorized assessments pursuant to Title 80, chapter 4 or 11.

(2) A commodity dealer shall retain and maintain the records provided for in subsection (1) for a period of 5 years from the date of the transaction.

(3) If there exists good cause to believe that a person is doing business as a commodity dealer without a license, the department may inspect the books, papers, and records of the person that pertain to agricultural commodity purchases.

MCA 80-4-613

80-4-613. Records

(1) A commodity dealer shall provide evidence of delivery, such as scale tickets, for all agricultural commodities purchased from a producer.

(2) A commodity dealer shall keep daily position records or their equivalent showing purchases, deliveries, or payments to producers.