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## **Requirements for Grain Dealers**

**State of Washington**

*Auditing*

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## Requirements for Grain Dealers

### STATE OF WASHINGTON

*Current with legislation from 2014*

#### **West's RCWA 22.09.020** **22.09.020. Department authority--Rules**

The department shall administer and carry out the provisions of this chapter and rules adopted hereunder, and it has the power and authority to:

- (1) Supervise the receiving, handling, conditioning, weighing, storage, and shipping of all commodities;
- (2) Supervise the inspection and grading of commodities;
- (3) Approve or disapprove the facilities, including scales, of all warehouses;
- (4) Approve or disapprove all rates and charges for the handling, storage, and shipment of all commodities;
- (5) Investigate all complaints of fraud in the operation of any warehouse;
- (6) Examine, inspect, and audit, during ordinary business hours, any warehouse licensed under this chapter, including all commodities therein and examine, inspect, audit, or record all books, documents, and records;
- (7) Examine, inspect, and audit during ordinary business hours, all books, documents, and records, and examine, inspect, audit, or record records of any grain dealer licensed hereunder at the grain dealer's principal office or headquarters;
- (8) Inspect at reasonable times any warehouse or storage facility where commodities are received, handled, conditioned, stored, or shipped, including all commodities stored therein and all books, documents, and records in order to determine whether or not such facility should be licensed pursuant to this chapter;
- (9) Inspect at reasonable times any grain dealer's books, documents, and records in order to determine whether or not the grain dealer should be licensed under this chapter;
- (10) Administer oaths and issue subpoenas to compel the attendance of witnesses, and/or the production of books, documents, and records anywhere in the state pursuant to a hearing relative to the purpose and provisions of this chapter. Witnesses shall be entitled to fees for attendance and travel, as provided in chapter 2.40 RCW;
- (11) Adopt rules establishing inspection standards and procedures for grains and commodities;
- (12) Adopt rules regarding the identification of commodities by the use of confetti or other similar means so that such commodities may be readily identified if stolen or removed in violation of the provisions of this chapter from a warehouse or if otherwise unlawfully transported;
- (13) Adopt all the necessary rules for carrying out the purpose and provisions of this chapter. The adoption of rules under the provisions of this chapter shall be subject to the provisions of chapter 34.05 RCW, the Administrative Procedure Act. When adopting rules in respect to the provisions of this chapter, the director shall hold a public hearing and shall to the best of his or her ability consult with persons and organizations or interests who will be affected thereby, and any final rule adopted as a

result of the hearing shall be designed to promote the provisions of this chapter and shall be reasonable and necessary and based upon needs and conditions of the industry, and shall be for the purpose of promoting the well-being of the industry to be regulated and the general welfare of the people of the state.

**West's RCWA 22.09.170**

**22.09.170. Rights and duties of warehouse operator--Special disposition of commodities under written order**

If the owner of the commodity or his or her authorized agent gives or furnishes to a licensed warehouse operator a written instruction or order, and if the order is properly made a part of the warehouse operator's records and is available for departmental inspection, then the warehouse operator:

- (1) May receive the commodity for the purpose of processing or conditioning;
- (2) May receive the commodity for the purpose of shipping by the warehouse operator for the account of the depositor;
- (3) May accept an agricultural commodity delivered as seed and handle it pursuant to the terms of a contract with the depositor and the contract shall be considered written instructions pursuant to this section.

**West's RCWA 22.09.180**

**22.09.180. Rights and duties of licensees--Records, contents--Itemized charges**

- (1) The licensee shall maintain complete records at all times with respect to all agricultural commodities handled, stored, shipped, or merchandised by him or her, including commodities owned by him or her. The department shall adopt rules specifying the minimum recordkeeping requirements necessary to comply with this section.
- (2) The licensee shall maintain an itemized statement of any charges paid by the depositor.

**West's RCWA 22.09.200**

**22.09.200. Rights and duties of licensees--Reports to department**

Each licensee shall report information to the department at such times and as may be reasonably required by the department for the necessary enforcement and supervision of a sound, reasonable, and efficient commodity inspection program for the protection of depositors of commodities and for persons or agencies who deal in commodities.

**West's RCWA 22.09.340**

**22.09.340. Examination of receipts and commodities--Request--Fee--Access to bins--Records and accounts--Out-of-state offices**

- (1) Upon the request of any person or persons having an interest in a commodity stored in any public warehouse and upon payment of fifty dollars in advance by the person or persons, the department may cause the warehouse to be inspected and shall check the outstanding negotiable and nonnegotiable

warehouse receipts, and scale weight tickets that have not been superseded by negotiable or nonnegotiable warehouse receipts, with the commodities on hand and shall report the amount of receipts and scale weight tickets outstanding and the amount of storage, if any. If the cost of the examination is more than fifty dollars, the person or persons having an interest in the commodity stored in the warehouse and requesting the examination, shall pay the additional cost to the department, unless a shortage is found to exist.

(2) A warehouse shall be maintained in a manner that will provide a reasonable means of ingress and egress to the various storage bins and compartments by those persons authorized to make inspections, and an adequate facility to complete the inspections shall be provided.

(3) The property, books, records, accounts, papers, and proceedings of every such warehouse operator shall at all reasonable times be subject to inspection by the department. The warehouse operator shall maintain adequate records and systems for the filing and accounting of warehouse receipts, canceled warehouse receipts, scale weight tickets, other documents, and transactions necessary or common to the warehouse industry. Canceled warehouse receipts, copies of scale weight tickets, and other copies of documents evidencing ownership or ownership liability shall be retained by the warehouse operator for a period of at least three years from the date of deposit.

(4) Any warehouse operator whose principal office or headquarters is located outside the state of Washington shall make available, if requested, during ordinary business hours, at any of their warehouses licensed in the state of Washington, all books, documents, and records for inspection.

(5) Any grain dealer whose principal office or headquarters is located outside the state of Washington shall make available, if requested, all books, documents, and records for inspection during ordinary business hours at any facility located in the state of Washington, or if no facility in the state of Washington, then at a Washington state department of agriculture office or other mutually acceptable place.

#### **West's RCWA 22.09.345**

#### **22.09.345. Inspections--Notice, when issued--Failure to comply, penalty--Court order--Costs, expenses, attorneys' fees**

(1) The department may give written notice to the warehouse operator or grain dealer to submit to inspection, and/or furnish required reports, documents, or other requested information, under such conditions and at such time as the department may deem necessary whenever a warehouse operator or grain dealer fails to:

- (a) Submit his or her books, papers, or property to lawful inspection or audit;
- (b) Submit required reports or documents to the department by their due date; or
- (c) Furnish the department with requested information, including but not limited to correction notices.

(2) If the warehouse operator or grain dealer fails to comply with the terms of the notice within twenty-four hours from the date of its issuance, or within such further time as the department may allow, the department shall levy a fine of fifty dollars per day from the final date for compliance allowed by this section or the department. In those cases where the failure to comply continues for more than thirty days or where the director determines the failure to comply creates a threat of loss to depositors, the department may, in lieu of levying further fines petition the superior court of the county where the licensee's principal place of business in Washington is located, as shown by the license application, for an order:

- (a) Authorizing the department to seize and take possession of all books, papers, and property

of all kinds used in connection with the conduct or the operation of the warehouse operator's or grain dealer's business, and the books, papers, records, and property that pertain specifically, exclusively, and directly to that business; and

(b) Enjoining the warehouse operator or grain dealer from interfering with the department in the discharge of its duties as required by this chapter.

(3) All necessary costs and expenses, including attorneys' fees, incurred by the department in carrying out the provisions of this section may be recovered at the same time and as part of the action filed under this section.

#### **West's RCWA 22.09.381**

#### **22.09.381. Depositors' claims, processing by department**

In the event of a failure of a grain dealer or warehouse operator, the department may process the claims of depositors possessing written evidence of ownership disclosing a storage obligation or written evidence of a sale of commodities in the following manner:

(1) The department shall give notice and provide a reasonable time to depositors possessing written evidence of ownership disclosing a storage obligation or written evidence of sale of commodities to file their claims with the department.

(2) The department may investigate each claim and determine whether the claimant's commodities are under a storage obligation or whether a sale of the commodities has occurred. The department may, in writing, notify each claimant and the failed grain dealer or warehouse operator of the department's determination as to the status and amount of each claimant's claim. A claimant, failed warehouse operator, or grain dealer may request a hearing on the department's determination within twenty days of receipt of written notification, and a hearing shall be held in accordance with chapter 34.05 RCW.

(3) The department may inspect and audit the failed warehouse operator to determine whether the warehouse operator has in his or her possession sufficient quantities of commodities to cover his or her storage obligations. In the event of a shortage, the department shall determine each depositor's pro rata share of available commodities and the deficiency shall be considered as a claim of the depositor. Each type of commodity shall be treated separately for the purpose of determining shortages.

(4) The department shall determine the amount, if any, due each claimant by the surety and make demand upon the bond in the manner set forth in this chapter.

#### **West's RCWA 22.09.650**

#### **22.09.650. Remedies of department as to stations**

When a station is licensed pursuant to this chapter, the department may assert any and all the remedies provided for in this chapter, including but not limited to those remedies provided for in RCW 22.09.350. Furthermore, if inspection of that portion of the station located in the contiguous state is refused by the licensee, the department may give notice to the licensee to submit to such inspection as the department may deem necessary.

If the station refuses to comply with the terms of the notice within twenty-four hours, the director may summarily suspend the station's license pending a hearing in compliance with chapter 34.05 RCW.

**West's RCWA 22.09.830**

**22.09.830. Grain inspection revolving fund--Hop inspection fund--Grain warehouse audit account**

(1) All moneys collected as fees for weighing, grading, and inspecting commodities and all other fees collected under the provisions of this chapter, except as provided in subsections (2) and (3) of this section, shall be deposited in the grain inspection revolving fund, which is hereby established. The state treasurer is the custodian of the revolving fund. Disbursements from the revolving fund shall be on authorization of the director of the department of agriculture. The revolving fund is subject to the allotment procedure provided in chapter 43.88 RCW, but no appropriation is required for disbursements from the fund. The fund shall be used for all expenses directly incurred by the grain inspection program in carrying out the provisions of this chapter.

(2) All fees collected for the inspection, grading, and testing of hops shall be deposited into the hop inspection fund, which is hereby established, and shall be retained by the department for the purpose of inspecting, grading, and testing hops. Any moneys in any fund retained by the department on July 1, 1963, and derived from hop inspection and grading shall be deposited to this hop inspection fund. For the purposes of research which would contribute to the development of superior hop varieties and to improve hop production and harvest practices, the department may expend up to twenty percent of the moneys deposited in the hop inspection fund during the fiscal year ending June 30th immediately preceding the year in which such expenditures are to be made. No expenditures shall be made under the provisions of this subsection when the hop inspection fund is, or the director may reasonably anticipate that it will be, reduced below twenty thousand dollars as the result of such expenditure or other necessary expenditures made to carry out the inspection, grading, and testing of hops.

(3) All moneys collected by the grain warehouse audit program, including grain warehouse license fees pursuant to RCW 22.09.050 and 22.09.055, shall be deposited by the director into the grain warehouse audit account, hereby created within the agricultural local fund established in RCW 43.23.230. Moneys collected shall be used to support the grain warehouse audit program.