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Requirements for Grain Dealers

State of Wisconsin

Indemnity Fund

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Requirements for Grain Dealers

STATE OF WISCONSIN

Current through 2013

W.S.A. 126.05

126.05. Agricultural producer security fund

- (1) The fund is a public trust and shall be administered to secure payments to producers. Moneys deposited into the fund may be used only for the purposes of this chapter.
- (2) The department shall deposit into the fund all fees, surcharges, assessments, reimbursements, and proceeds of contingent financial backing that the department collects under this chapter. The department shall keep a record by contractor and industry, of all deposits into the fund. The department shall keep a record by industry of all payments from the fund.

W.S.A. 126.14

126.14. Contributing grain dealers; disqualification

(1) Contribution required. A grain dealer who is required to be licensed under s. 126.11(1) shall pay fund assessments under s. 126.15 unless the grain dealer is disqualified under sub. (2). A grain dealer who is voluntarily licensed under s. 126.11 may pay voluntary assessments under s. 126.15, unless the grain dealer is disqualified under sub. (2).

(2) Disqualified grain dealer.

- (a) A grain dealer who is required to file security under s. 126.16(1)(a) is disqualified from the fund until the department determines that one of the conditions in s. 126.16(8)(a)1. and 2. is satisfied.
- (b) A grain dealer is disqualified from the fund if any of the following occurs:
 1. The department denies, suspends, or revokes the grain dealer's license.
 2. The department issues an order under s. 126.85 disqualifying the grain dealer from the fund.

(3) Payments by disqualified grain dealer.

- (a) The department may not return to a disqualified grain dealer any fund assessments that the grain dealer paid as a contributing grain dealer.
- (b) A disqualified grain dealer remains liable for any unpaid fund installment under s. 126.15 that became due while the grain dealer was a contributing grain dealer. A disqualified grain dealer is not liable for any fund installment that becomes due after the grain dealer is disqualified under sub. (2).

(4) Notice to producers. A grain dealer who is disqualified from the fund shall immediately give written notice of that disqualification to all grain producers and producer agents to whom the grain dealer has unpaid contract obligations for producer grain produced in this state. The department may by rule or order specify the form and content of the notice.

(5) Disqualified grain dealer to pay cash on delivery. A grain dealer who is disqualified from the fund shall pay cash on delivery for all producer grain procured in this state.

W.S.A. 126.15

126.15. Contributing grain dealers; fund assessments

(1) General. A contributing grain dealer shall pay an annual fund assessment for each license year. Except as provided in sub. (6m), the assessment equals \$20 or the sum of the following, whichever is greater, unless the department by rule specifies a different assessment:

- (a) The grain dealer's current ratio assessment. The current ratio assessment for a license year equals the grain dealer's current ratio assessment rate under sub. (2) multiplied by the amount reported under s. 126.11(9)(a) in the grain dealer's license application for that license year.
- (b) The grain dealer's debt to equity ratio assessment. The debt to equity ratio assessment for a license year equals the grain dealer's debt to equity ratio assessment rate under sub. (4) multiplied by the amount reported under s. 126.11(9)(a) in the grain dealer's license application for that license year.
- (c) The grain dealer's deferred payment assessment. The deferred payment assessment for a license year equals the payment amount, if any, that the grain dealer reports under s. 126.11(9)(b) in the grain dealer's license application for that license year, less any amount reported under s. 126.11(9)(e)4., multiplied by the grain dealer's deferred payment assessment rate under sub. (6).

(2) Current ratio assessment rate. A grain dealer's current ratio assessment rate is calculated, at the beginning of the license year, as follows:

(a) If the grain dealer has filed an annual financial statement under s. 126.13 and that financial statement shows a current ratio of at least 1.25 to 1.0, the grain dealer's current ratio assessment rate equals the greater of zero or the current ratio assessment factor in sub. (3)(a) multiplied by the following amount:

1. Subtract one from the current ratio.
2. Divide the amount determined under subd. 1. by 3.
3. Multiply the amount determined under subd. 2. by negative one.
4. Raise the amount determined under subd. 3. to the 3rd power.
5. Subtract 0.75 from the current ratio.
6. Divide 0.65 by the amount determined under subd. 5.
7. Raise the amount determined under subd. 6. to the 5th power.
8. Add the amount determined under subd. 4. to the amount determined under subd. 7.
9. Add 2 to the amount determined under subd. 8.

(b) If the grain dealer has filed an annual financial statement under s. 126.13 and that financial statement shows a current ratio of less than 1.25 to 1.0, but greater than 1.0 to 1.0, the grain dealer's current ratio assessment rate equals the current ratio assessment factor in sub. (3)(b) multiplied by the following amount:

1. Subtract one from the current ratio.
2. Divide the amount determined under subd. 1. by 3.
3. Multiply the amount determined under subd. 2. by negative one.
4. Raise the amount determined under subd. 3. to the 3rd power.
5. Subtract 0.75 from the current ratio.
6. Divide 0.65 by the amount determined under subd. 5.

7. Raise the amount determined under subd. 6. to the 5th power.
8. Add the amount determined under subd. 4. to the amount determined under subd. 7.
9. Add 2 to the amount determined under subd. 8.

(c) If the grain dealer has filed an annual financial statement under s. 126.13 and that financial statement shows a current ratio of less than or equal to 1.0 to 1.0, the grain dealer's current ratio assessment rate equals the current ratio assessment factor in sub. (3)(b) multiplied by 120.81376.

(d) Except as provided in par. (e), if the grain dealer has not filed an annual financial statement under s. 126.13, the grain dealer's current ratio assessment rate equals the current ratio assessment factor in sub. (3)(b) multiplied by 5.71235.

(e) If the grain dealer has not filed an annual financial statement under s. 126.13 and the grain dealer procures grain in this state solely as a producer agent, the grain dealer's current ratio assessment rate is 0.00025, except that, for the grain dealer's 5th or higher consecutive full license year of participation in the fund, the grain dealer's current ratio assessment rate is 0.000175.

(3) Current ratio assessment factor.

(a) A grain dealer's current ratio assessment factor under sub. (2)(a) is 0.00003 except that, for the grain dealer's 5th or higher consecutive full license year as a contributing grain dealer, the grain dealer's current ratio assessment factor is zero.

(b) A grain dealer's current ratio assessment factor under sub. (2)(b) to (d) is 0.000045 except that, for the grain dealer's 5th or higher consecutive full license year as a contributing grain dealer, the grain dealer's current ratio assessment factor is 0.000036.

(4) Debt to equity assessment rate. A grain dealer's debt to equity ratio assessment rate is calculated, at the beginning of the license year, as follows:

(a) If the grain dealer has filed an annual financial statement under s. 126.13 and that financial statement shows positive equity and a debt to equity ratio of not more than 4.0 to 1.0, the grain dealer's debt to equity ratio assessment rate equals the greater of zero or the debt to equity ratio assessment factor in sub. (5)(a) multiplied by the following amount:

1. Subtract 4 from the debt to equity ratio.
2. Divide the amount determined under subd. 1. by 3.
3. Raise the amount determined under subd. 2. to the 3rd power.
4. Subtract 1.7 from the debt to equity ratio.
5. Divide the amount determined under subd. 4. by 1.75.
6. Raise the amount determined under subd. 5. to the 7th power.
7. Add the amount determined under subd. 3. to the amount determined under subd. 6.
8. Add 2 to the amount determined under subd. 7.

(b) If the grain dealer has filed an annual financial statement under s. 126.13 and that financial statement shows a debt to equity ratio of greater than 4.0 to 1.0, but less than 5.0 to 1.0, the grain dealer's debt to equity ratio assessment rate equals the debt to equity ratio assessment factor in sub. (5)(b) multiplied by the following amount:

1. Subtract 4 from the debt to equity ratio.
2. Divide the amount determined under subd. 1. by 3.
3. Raise the amount determined under subd. 2. to the 3rd power.
4. Subtract 1.7 from the debt to equity ratio.
5. Divide the amount determined under subd. 4. by 1.75.
6. Raise the amount determined under subd. 5. to the 7th power.
7. Add the amount determined under subd. 3. to the amount determined under subd. 6.

8. Add 2 to the amount determined under subd. 7.

(c) If the grain dealer has filed an annual financial statement under s. 126.13 and that financial statement shows negative equity or a debt to equity ratio of at least 5.0 to 1.0, the grain dealer's debt to equity ratio assessment rate equals the debt to equity ratio assessment factor in sub.

(5)(b) multiplied by 86.8244.

(d) Except as provided in par. (e), if the grain dealer has not filed an annual financial statement under s. 126.13, the grain dealer's debt to equity ratio assessment rate equals the debt to equity ratio assessment factor in sub. (5)(b) multiplied by 8.77374.

(e) If the grain dealer has not filed an annual financial statement under s. 126.13 and the grain dealer procures grain in this state solely as a producer agent, the grain dealer's debt to equity ratio assessment rate is 0.00025, except that it is 0.000175 for the grain dealer's 5th or higher consecutive full license year of participation in the fund.

(5) Debt to equity ratio assessment factor.

(a) A grain dealer's debt to equity ratio assessment factor under sub. (4)(a) is 0.0000125, except that it is zero for the grain dealer's 5th or higher consecutive full license year as a contributing grain dealer.

(b) A grain dealer's debt to equity ratio assessment factor under sub. (4)(b) to (d) is 0.00001875, except that it is 0.000015 for the grain dealer's 5th or higher consecutive full license year as a contributing grain dealer.

(6) Deferred payment assessment rate. A grain dealer's deferred payment assessment rate is 0.0035, unless the department specifies a different rate by rule.

(6m) Reduced assessment for certain grain dealers filing security. If a grain dealer files security under s. 126.16(1)(c), the grain dealer's assessment is the amount determined under sub. (1) reduced by an amount determined as follows:

(a) Divide the amount of security that the grain dealer is required to file as determined under s. 126.16(3)(b) by the amount of the grain dealer's estimated default exposure, as defined in s. 126.16(1)(c)1.

(b) Multiply the amount of the assessment determined under sub. (1) by the amount determined under par. (a).

(7) Quarterly installments.

(a) A contributing grain dealer shall pay the grain dealer's annual fund assessment in equal quarterly installments that are due as follows:

1. The first installment is due on October 1 of the license year.
2. The 2nd installment is due on January 1 of the license year.
3. The 3rd installment is due on April 1 of the license year.
4. The 4th installment is due on July 1 of the license year.

(b) A contributing grain dealer may prepay any of the quarterly installments under par. (a).

(c) A contributing grain dealer who applies for an annual license after the beginning of a license year shall pay the full annual fund assessment required under this section. The grain dealer shall pay, with the first quarterly installment that becomes due after the day on which the department issues the license, all of that year's quarterly installments that became due before that day.

(d) A contributing grain dealer who fails to pay the full amount of any quarterly installment when due shall pay, in addition to that installment, a late payment penalty of \$50 or 10% of the overdue installment amount, whichever is greater.

(8) Notice of annual assessment and quarterly installments. When the department issues an annual license to a contributing grain dealer, the department shall notify the grain dealer of all of the

following:

- (a) The amount of the grain dealer's annual fund assessment under this section.
- (b) The amount of each required quarterly installment under sub. (7) and the date by which the grain dealer must pay each installment.
- (c) The penalty that applies under sub. (7)(d) if the grain dealer fails to pay any quarterly installment when due.

W.S.A. 126.88

126.88. Modifying fund assessments

(1) The department may by rule modify the fund assessments provided under s. 126.15, 126.30, or 126.60. The department shall modify fund assessments under ss. 126.15, 126.30, 126.46, and 126.60 as necessary to do all of the following:

- (a) Maintain an overall fund balance of at least \$5,000,000 , but not more than \$22,000,000 .
- (b) Maintain a fund balance attributable to grain dealers of at least \$1,000,000 , but not more than \$6,000,000 .
- (c) Maintain a fund balance attributable to grain warehouse keepers of at least \$200,000 , but not more than \$1,000,000 .
- (d) Maintain a fund balance attributable to milk contractors of at least \$3,000,000 , but not more than \$12,000,000 .
- (e) Maintain a fund balance attributable to vegetable contractors of at least \$800,000 , but not more than \$3,000,000.

(2)

- (a) If the fund balance for a portion of the fund under sub. (1)(b) to (e) falls below the minimum amount required for that portion of the fund, the department shall by rule modify the assessment rates for the type of contractor that contributes to that portion of the fund so that the assessment rates are adequate to reach and maintain the minimum balance within a reasonable time.
- (b) The department may use the procedure under s. 227.24 to promulgate a rule modifying an assessment under par. (a). In a rule promulgated under this paragraph, the department may not provide that the modification of an assessment takes effect before the beginning of the next license year. Notwithstanding s. 227.24(1)(c) and (2), a rule promulgated under this paragraph may remain in effect for not more than 24 months. Notwithstanding s. 227.24(1)(a) and (3), the department is not required to determine that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.