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Requirements for Grain Dealers

State of Wisconsin

Licensing

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Requirements for Grain Dealers

STATE OF WISCONSIN

Current through 2013

W.S.A. 126.11 126.11. Grain dealers; licensing

- (1) License required.** Except as provided in sub. (2), no grain dealer may procure producer grain in this state without a current annual license from the department.
- (2) Exempt grain dealers.** The following grain dealers are not required to hold a license under this section, but may volunteer to be licensed:
- (a) A grain dealer who pays cash on delivery for all producer grain.
 - (b) A grain dealer who buys producer grain solely for the grain dealer's own use as feed or seed and who spends less than \$400,000 per license year for that grain.
- (2m) License terms.** A license under this section expires on the August 31 following its issuance. No person may transfer or assign a license issued under this section.
- (3) License application.** A grain dealer shall apply for an annual license under this section in writing, on a form provided by the department. An applicant shall provide all of the following:
- (a) The applicant's legal name and any trade name under which the applicant proposes to operate as a grain dealer.
 - (b) A statement of whether the applicant is an individual, corporation, partnership, cooperative, unincorporated cooperative association, limited liability company, trust, or other legal entity. If the applicant is a corporation, a cooperative, or an association, the applicant shall identify each officer of the corporation or cooperative. If the applicant is a partnership, the applicant shall identify each partner.
 - (c) The mailing address of the applicant's primary business location and the name of a responsible individual who may be contacted at that location.
 - (d) The street address of each business location from which the applicant operates in this state as a grain dealer and the name of a responsible individual who may be contacted at each location that is staffed.
 - (e) All license fees and surcharges required under sub. (4).
 - (f) The sworn and notarized statement required under sub. (9).
 - (g) A financial statement if required under s. 126.13(1) and not yet filed.
 - (h) Other relevant information required by the department.
- (4) License fees and surcharges.** A grain dealer applying for an annual license under this section shall pay the following fees and surcharges in the amounts that the department specifies by rule:
- (a) A nonrefundable basic license fee.
 - (b) A supplementary license fee based on the volume of grain reported by the grain dealer under sub. (9)(d), less any credit provided under sub. (6).
 - (c) A supplementary license fee for each truck, in excess of one truck, that the grain dealer uses to haul grain in this state.

(d) A license surcharge if the grain dealer files a financial statement under s. 126.13(1) that is not an audited financial statement.

(e) A license surcharge if the department determines that, within 365 days before submitting the license application, the applicant operated as a grain dealer without a license in violation of sub. (1). The applicant shall also pay any license fees, license surcharges, and fund assessments that are still due for any license year in which the applicant violated sub. (1).

(f) A license surcharge if during the preceding 12 months the applicant failed to file an annual financial statement required under s. 126.13(1)(b) by the deadline specified in s. 126.13(1)(c).

(g) A license surcharge if a renewal applicant fails to renew a license by the license expiration date of August 31. This paragraph does not apply to a grain dealer who is exempt under sub. (2) and is voluntarily licensed.

(4m) Effect of payment of surcharge. Payment under sub. (4)(e) does not relieve the applicant of any other civil or criminal liability that results from the violation of sub. (1), but does not constitute evidence of any law violation.

(5) License for part of year; fees. A person who applies for an annual grain dealer license after the beginning of a license year shall pay the full annual fee amounts required under sub. (4).

(6) Fee credits. If the balance in the fund contributed by grain dealers exceeds \$2,000,000 on May 31 of any license year, the department shall credit 50% of the excess amount against license fees charged under sub. (4)(b) to contributing grain dealers who file timely license renewal applications for the next license year. The department shall credit each contributing grain dealer on a prorated basis, in proportion to the total fees that the grain dealer paid under sub. (4)(b) for the 4 preceding license years as a contributing grain dealer.

(7) Fee statement. The department shall provide, with each license application form, a written statement of all license fees and surcharges required under sub. (4) or the formula for determining them. The department shall specify any fee credit for which the applicant may qualify under sub. (6).

(8) No license without full payment. The department may not issue an annual license under sub. (1) until the applicant pays all license fees and surcharges identified in the department's statement under sub. (7). The department shall refund a fee or surcharge paid under protest if upon review the department determines that the fee or surcharge is not applicable.

(9) Sworn and notarized statement. As part of a license application under sub. (3), an applicant shall provide a sworn and notarized statement, signed by the applicant or an officer of the applicant, that reports all of the following:

(a) The total amount that the applicant paid, during the applicant's last completed fiscal year, for producer grain procured in this state, less the total amount reported under par. (e)3., if any.

If the applicant has not yet operated as a grain dealer in this state, the applicant shall estimate the amount that the applicant will pay during the applicant's first complete fiscal year for producer grain procured in this state, less the total amount reported under par. (e)3., if any.

(b) The amount of the payments under par. (a) made under deferred payment contracts.

(c) Whether the applicant has had any obligations under deferred payment contracts, for grain procured in this state, at any time since the beginning of the applicant's last completed fiscal year.

(d) The total number of bushels of producer grain that the applicant procured in this state during the applicant's last completed fiscal year. If the applicant has not yet operated as a grain dealer in this state, the applicant shall estimate the total number of bushels of producer grain that the applicant will procure in this state during the applicant's first complete fiscal year.

(e) All of the following information related to each grain producer or producer agent that under s. 126.70(1)(b) has permanently waived eligibility to file a default claim against the applicant:

1. A copy of the written waiver that the grain producer or producer agent filed under s. 126.70(1)(c).
2. The total number of bushels of producer grain that the applicant procured in this state from that grain producer or producer agent during the applicant's last completed fiscal year. If the applicant has not yet operated as a grain dealer in this state, the applicant shall estimate the total number of bushels of producer grain that the applicant will procure in this state from that grain producer or producer agent during the applicant's first complete fiscal year.
3. The total amount that the applicant paid during the applicant's last completed fiscal year for producer grain that the applicant procured in this state from that grain producer or producer agent. If the applicant has not yet operated as a grain dealer in this state, the applicant shall estimate the total amount that the applicant will pay during the applicant's first complete fiscal year for producer grain that the applicant will procure in this state from that producer or producer agent.
4. The amount of payments under subd. 3. made under deferred payment contracts.

(10) Action granting or denying application. The department shall grant or deny an application under sub. (3) within 30 days after the department receives a complete application. If the department denies a license application, the department shall give the applicant a written notice stating the reason for the denial.

(11) License displayed. A grain dealer licensed under sub. (1) shall prominently display a copy of that license at the following locations:

- (a) On each truck that the grain dealer uses to haul grain in this state.
- (b) At each business location from which the grain dealer operates in this state.