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Requirements for Grain Dealers

State of Wisconsin

Penalties

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Requirements for Grain Dealers

STATE OF WISCONSIN

Current through 2013

W.S.A. 126.85 **126.85. Remedial orders**

(1) General. The department may, by special order, require a contractor to remedy a violation of this chapter, a rule promulgated under this chapter, or a condition imposed under s. 126.86(1). The department may order the contractor to take specific remedial actions, including actions to remedy deficiencies or to prevent losses to persons protected under this chapter. In an order under this subsection, the department may disqualify the contractor from the fund pending compliance with the order. Except as provided in sub. (2), the department shall give the contractor notice and an opportunity for hearing before the department issues an order.

(2) Summary order. The department may issue an order under sub. (1) without prior notice or hearing if the department finds that the order is necessary to prevent a clear and imminent threat of harm to persons protected under this chapter. Conditions indicating a clear and imminent threat of harm include the following:

- (a) A contractor fails to pay producers according to this chapter or according to the contractor's contracts with producers.
- (b) A contractor fails to file replacement insurance within the time required under this chapter.
- (c) A contractor fails to file security according to this chapter, or in response to the department's demand under this chapter.
- (d) A contractor fails to pay a fund assessment when due.
- (e) A vegetable contractor fails to pay vegetable producers by January 31 for vegetables delivered by December 31 of the previous year, except as authorized in a deferred payment contract.
- (f) A grain warehouse keeper fails to return grain to depositors upon demand, as required under s. 126.34(4).
- (g) A grain warehouse keeper fails to maintain adequate grain inventory as required under s. 126.34(3), and at least one of the following applies:
 1. The amount of the deficiency exceeds 10,000 bushels or 10% of the grain warehouse keeper's obligations to depositors, whichever amount is less.
 2. The grain warehouse keeper fails to correct the deficiency within 15 days after receiving the department's written notice that a deficiency exists.
- (h) A contractor fails to file a financial statement with the department by the time or in the form required under this chapter.
- (i) A contractor fails to pay an amount owed under s. 126.73 within 60 days after the contractor receives a written demand for payment from the department or other person to whom payment is due under s. 126.73.

(3) Hearing on summary order.

- (a) A contractor named in a summary order under sub. (2) may, within 10 days after receiving the order, request a hearing on the order. The department shall hold an informal hearing as soon as possible after receiving a hearing request, but not later than 10 days after receiving the hearing request, unless the contractor waives the informal hearing or agrees to hold it at a later date. If the matter is not resolved at the informal hearing, the department shall hold a contested case hearing under ch. 227 as soon as reasonably possible.
- (b) A hearing request under par. (a) does not automatically stay a summary order. The department may stay a summary order pending hearing.

W.S.A. 126.86
126.86. License actions

- (1) General.** The department may for cause deny, suspend, revoke, or impose conditions on a contractor's license, as provided in s. 93.06(7) and (8). Cause may include any of the following:
 - (a) The contractor fails to comply with this chapter or a rule promulgated under this chapter.
 - (b) The contractor fails to comply with an order that the department issues under this chapter.
 - (c) The contractor fails to provide relevant information that the department requests under this chapter or falsifies information provided to the department.
 - (d) The contractor fails to file a financial statement, security, fees, or assessments required under this chapter, or fails to meet other requirements for licensing.
 - (e) The contractor fails to honor contract obligations to persons who are authorized to file default claims under s. 126.70(1).
 - (f) The contractor fails to pay an amount owed under s. 126.73 within 60 days after the contractor receives a written demand for payment from the department or other person to whom payment is due under s. 126.73.
- (2) Hearing on license action; general.** Except as provided in sub. (3), the department shall give a contractor notice and an opportunity for hearing before the department suspends, revokes, or imposes conditions on a license held by the contractor.
- (3) Summary action.**
 - (a) The department may, without prior notice or hearing, summarily suspend, revoke, or impose conditions on a license held by a contractor if the department finds that any of the conditions identified in s. 126.85(2) exist or otherwise finds that summary action is necessary to prevent a clear and imminent threat of harm to persons protected under this chapter.
 - (b) A contractor who is the subject of a summary action under par. (a) may, within 10 days after receiving notice of that action, request a hearing on the action. The department shall hold an informal hearing as soon as possible after receiving a hearing request, but not later than 10 days after receiving the hearing request, unless the contractor waives the informal hearing or agrees to hold it at a later date. If the matter is not resolved at the informal hearing, the department shall hold a contested case hearing under ch. 227 as soon as reasonably possible.
 - (c) A request for hearing under par. (b) does not automatically stay a summary action under par. (a). The department may stay a summary action pending hearing.

W.S.A. 126.87
126.87. Court actions

(1) Injunction. The department may petition the circuit court for an ex parte temporary restraining order, a temporary injunction, or a permanent injunction to prevent, restrain, or enjoin any person from violating this chapter, any rule promulgated under this chapter, or any order issued under this chapter. The department may seek this remedy in addition to any other penalty or remedy provided under this chapter.

(2) Penalties.

(a) A person who violates this chapter, a rule promulgated under this chapter, or an order issued under this chapter is subject to a forfeiture of not less than \$250 nor more than \$5,000 for each violation.

(b) A person who intentionally violates this chapter, a rule promulgated under this chapter, or an order issued under this chapter may be fined not more than \$10,000 or imprisoned for not more than one year in the county jail or both.

(4) Private remedy. (a) A person whose claim is allowed under s. 126.70 may bring an action against the contractor to recover the amount of the allowed claim, less any recovery amount that the department pays to the claimant under s. 126.71. In any court action under this subsection, the claimant may recover costs including all reasonable attorney fees, notwithstanding s. 814.04(1). This subsection does not limit any other legal cause of action that the claimant may have against the contractor.

(b) A claim allowed under s. 126.70 has the same priority in an insolvency proceeding or creditor's action as a claim for wages, except as otherwise provided by federal law.

(5) Collections. The department may bring an action in court to recover any unpaid amount that a contractor owes the department under this chapter, including any unpaid fund assessment or reimbursement.