



State Regulation of Grain Sales & Storage

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In order to protect growers and prevent failure of entities, many states regulate grain warehouses and grain dealers. In most states, a “grain dealer” is a person or entity involved in buying, receiving or exchanging grain from the grower. Generally speaking, an interaction with a grain dealer involves a transfer of ownership (title) to that dealer.

On the other hand, warehouses are normally involved in the storage of grain. Under most states’ definitions, ownership is maintained by the grower, rather than being transferred to the warehouse. Depending on the entity with whom the warehouse is licensed, a warehouse can be regulated by either state or federal governments. Federally, this would fall under the United States Warehouse Act, which is enforced by the Farm Service Agency.¹

¹ For more information on federal licensing of grain warehouses, visit the FSA website:
<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=coop&topic=was-ua>

In order for grain dealers and grain warehouses to operate within their boundaries, many states have enacted various requirements. The requirements vary greatly from state to state and include requirements and penalties such as licensing, bonding, auditing, statutory liens and civil or criminal sanctions. As of December 31, 2014, thirty-four states have some form of regulations addressing the operation of grain dealers, while thirty states have similar regulations for warehouses.

Licensing

This is one of the most common forms of state regulation. For states with this statutory requirement, the warehouse or grain dealer must obtain a license from the state before beginning operations. In order to obtain this license, many states also mandate an auditing process, fees, financial statements or other requirements.

**Statutory Licensing
Requirements**
Grain Dealers = 31 States
Warehouses = 29 States

Bonding

Various states require that a warehouse file some amount of a bond with the state that can be drawn upon in case of a default. The amount of the bond varies among the states and is typically either a per bushel rate or a set amount.

**Statutory Bonding
Requirements**
Grain Dealers = 30 States
Warehouses = 26 States

Auditing

This provision allows representatives of the state government to examine records, warehouses, reports, inventory, financial statements and other various areas of the entity to ensure that the grain dealer or warehouse is operating properly.

**Statutory Auditing
Requirements**
Grain Dealers = 31 States
Warehouses = 28 States

Prompt Payment

These provisions, in place in about twenty percent of the country, help ensure that growers will be paid within a certain period of time after delivery of the grain.

**Prompt Payment
Requirements**
Grain Dealers = 13 States
Warehouses = 10 States

Indemnity Fund

In this statutory scheme, money is paid into an indemnity/general fund. Depending on the state, the entity charged with paying the fee may be the producer, the warehouse, the grain dealer or some combination of the three. Eligibility to claim funds varies among states, but typically occurs when payment is not made for delivered grain, or if the grain dealer or warehouse becomes insolvent.

**Statutory Indemnity Fund
Requirements**
Grain Dealers = 11 States
Warehouses = 13 States

Failure/Liquidation

In some states, when an entity is discovered to be insolvent the state will take charge of the property, liquidate, and collect grain assets. These

**Requirements for Failure
or Liquidation**
Grain Dealers = 11 States
Warehouses = 19 States

assets are then typically deposited into a trust from which growers may file claims to collect losses.

Penalties

Many states have penalties- civil, criminal, or both- that may be levied against grain dealers or warehouses violating provisions of the state code. These penalties can range from a small fine up to and including imprisonment.

Civil or Criminal Penalty Provisions

Grain Dealers = 31 States
Warehouses = 29 States

No Requirements

As described in the pages above, many states have chosen to pass laws regulating grain dealers and grain warehouses. However, many others have not. In these remaining states, warehouses may be licensed on the federal level, or they may not be licensed at all. As there are no federal requirements for grain dealers, unless the state chooses to regulate, no requirements are in place.

No State Regulatory Authority

Grain Dealers = 16 States
Warehouses = 20 States

For more information about statutory requirements relevant to grain dealers and warehouses, the National Agricultural Law Center has compiled a guide listing specific citations for each of the requirements listed above. That guide is freely available at <http://nationalaglawcenter.org/state-compilations/grainsalesstorage/>.