

# North Dakota Department of Agriculture

Doug Goehring, Agriculture Commissioner

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# Grain and Livestock Licensing Division

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  - Grain Inspectors
- Sue Richter and Pete Nelson
  - Part time staff assisting in starting the program



# License Types

**Public Warehouse** (260 state warehouses) - Any elevator, mill, warehouse or facility not licensed under the US Warehouse Act in which grain is received.

**Facility-Based Grain Buyer** (108 federal warehouses) – Any grain buyer who operates a facility licensed under the US Warehouse Act.

**Roving Grain Buyer** (97 licensees) – Any grain buyer who does not operate a facility where grain is received. A roving grain buyer purchases, **solicits, merchandises, or takes possession of grain** in North Dakota.



# Suggested Changes to License Types

- Simplify to three license types of grain buyer
  - Remove warehouse license
- **Facility-Based Grain Buyer**
  - Current state or federal warehouse
- **Specialty Grain or Processor Grain Buyer**
  - Specialty Grain would be considered any grain which cannot be hedged.
  - Processor would be those taking grain and substantially changing the product i.e wheat to flour, blended grain with non-grain product.
- **Roving Grain Buyer or Broker**
  - Broker defined as a person or firm who arranges a transaction between a buyer and a seller for a commission.



# Current License Fees

- License fee for a public warehouse is based on capacity. A licensee can be issued an annual or biennial license.
  - \$400 annual – maximum capacity of 200,000 bushels
  - \$550 annual – capacity of 200,001 through 500,000 bushels
  - \$650 annual – capacity of more than 500,000 bushels
- License fee for a facility-based grain buyer is \$400 annually.
- License fee for a roving grain buyer is \$300 annually.
- Late fee
  - \$100 per location / license



# Suggested Changes

- Return all licenses to annual license periods.
- Simplify fees to be consistent with all license types.
- Base fees for each location or license on the value of grain rather than volume:
  - \$400 – purchases below 1 million
  - \$800 – purchases over 1 million but less than 10 million
  - \$1,200 – purchases over 10 million



# Bond Types and Levels

- **Public Warehouse** – determined by licensee’s total physical capacity licensed in ND, the length of time the licensee has been licensed, the licensee’s annual grain purchase volume, and the licensee’s scale ticket conversion policy.

Licensed less than 7 years: \$65,000 minimum; \$2,000,000 maximum unless Commissioner determines additional bond is needed.

Licensed 7 years or more: \$50,000 minimum; \$2,000,000 maximum unless Commissioner determines additional bond is needed.

- **Facility-based grain buyer** – determined by volume of grain purchased annually in ND. \$50,000 minimum bond; \$2,000,000 maximum bond unless Commissioner determines additional bond is needed.
- **Roving grain buyer** – determined by the projected annual ND grain purchase volume. \$50,000 minimum bond; \$2,000,000 maximum bond unless Commissioner determines additional bond is needed.
- Bonds are cumulative in nature, covering non credit-sale transactions.



# Suggested Bond Changes

- **Value versus Volume**
- **Facility-Based Grain Buyer Bond**
  - Based on annual purchases
  - Use three-year rolling average calculated at renewal
  - Bond calculation based on 15% of purchases
- **Specialty or Processor Grain Buyer Bond**
  - Based on annual purchases
  - Report purchases monthly and bond adjusted as needed
  - Bond calculation based on 20% of purchases
- **Roving Grain Buyer or Brokers**
  - Based on annual solicitation, merchandise, or purchase
  - Report monthly and bond adjusted as needed
  - Bond calculation based on 20% of purchases
- **Minimum Bond \$100,000**



# Current Scale Ticket Conversion

- Every public warehouse must issue a uniform scale ticket or comparable receipt for every load of grain received.
- A warehouse must convert within 45 days
  - check
  - warehouse receipt
  - credit-sale contract
- Valid warehouse receipt contains
  - All fees assessed for storage
  - Termination date of receipt
    - Warehouse must notify receipt holder 30 days before termination or all store fees are waived.
- A warehouse is not required to receive grain for storage and must publish and post it's policy.
- A valid credit-sale contract must
  - Contain notice that is not protected from bond coverage in a clear and prominent manner
  - Signed by both parties



# Consideration for Legislature

- Reduce Conversion of Scale ticket to 20 days
  - If not converted within time frame producer forfeits bond and credit sale protection
- Have Commissioner provide warehouse receipts to elevators:
  - It would help prevent any misuse or fraudulent activity.
- Grain buyers establish custodial account
  - Maintain 20% of deferred payments in account
- Allow for electronic signature of Credit Sale Contracts



# Consideration for Legislature

- Create bond fund
- Grain Licensees pay assessment rate in **lieu of bond**.
  - Bond could be required if not meeting financial criteria.
  - Assessment rate would be
    - Net sales up to 10 million- .0005
    - Net sales 10 to 30 million- .00035
    - Net sales over 30 million - .00025
  - \$16 million cap with \$10 million assessment trigger
    - Largest insolvency to date \$8 million in claims
  - Maximum Claim 80% of \$500,000
  - Update insolvency law
    - Remove district court approval to establish trust fund
    - Grain proceeds/inventory, custodial account, bond if required, then bond fund



# Inspection Process

July 1, 2019 the program was transferred to the Agriculture Department. As a condition of licensure, an applicant shall agree to provide any financial record the Commissioner deems relevant

- The Department hired staff, completed renewal process, and completed inspector training.
- The inspection process time has been cut in half using enhanced features (EDI) of examhand software.
  - EDI Capable Software
    - Ag Vision
    - Ag Vance or SSI
    - Agris
    - Theos
    - Vertical
  - EDI is only readable by our inspection software, so all information is protected
- Monitoring working capital, accounts receivable and accounts payable aging reports.
- Working on a process to obtain background and credit reports.



# Inspection Process

- Developing stress tests and financial standards for licensees
  - Purchase less than One Million : \$200,000 net worth
  - Purchase over One Million but less than Ten million: \$500,000 net worth
  - Purchase over Ten million: \$1,000,000 net worth
  - Working capital ratio greater than 1.0
- Developed a graduated process for monitoring new licensees and existing licensee's with issues found during inspections.
  - Start on monthly inspection for first quarter of operation
  - Move to quarterly inspections until business demonstrates ability to meet criteria
- Updated the roving grain buyer and broker report to include monthly solicitations in addition to purchases.
  - Result is bond requirements for roving grain buyers and broker reflecting actual business.
- Inspections are revealing unlicensed grain buyers operating in ND.
  - The Department is sending notices to apply for a license or cease business in the State.



***Questions?***

