

FORM 5, BFM 50.10

(NOTE: A copy of this form may be obtained from the Bureau of Finance and Management. If your rules have a negative fiscal impact on a local government, such as a county or a school district, you must direct the Bureau of Finance and Management to send a copy of its fiscal note to the organizations listed in SDCL 1-26-4.2.)

ADMINISTRATIVE PROCEDURES ACT FISCAL NOTE Prepared by Submitting Agency

	CODE	NAME
DEPARTMENT	26	Public Utilities Commission
DIVISION	22 and 55	Grain Warehouse and Pipeline Safety
PROGRAM		

PROPOSED RULES: 20:10:11:03, 20:10:11:04, 20:10:11:04.01, 20:10:11:06, 20:10:11:07, 20:10:11:08, 20:10:11:09, 20:10:11:09.01, 20:10:11:11, 20:10:11:12, 20:10:11:13, 20:10:11:18, 20:10:12:05, 20:10:12:08, 20:10:12:09, 20:10:12:10, 20:10:12:11, 20:10:12:12, 20:10:12:13, 20:10:12:14, 20:10:12:16, 20:10:12:17, 20:10:31:04 and 20:10:31:05

Hearing Date: July 14, 2008

FISCAL IMPACT STATEMENT:

Brief description of fiscal impact; These rules have minimal impact to all entities. See attached explanation..

FISCAL NOTE SUMMARY:

List state agencies of local governmental subdivisions affected.

COST INCREASES (DECREASES)

State Agencies:	First-Year Impact	Continuous-Yearly Impact
	0	0
TOTAL	0	0
Local Subdivisions:		
	0	0
TOTAL	0	0
Small Business Increases (Decreases)		
TOTAL	0	0

REVENUE INCREASES (DECREASES)

Revenue Increases (Decreases) State, Local & Small Business:		
	0	0
TOTAL	0	0

APPROVED *Sandy Hanson* DATE 6/17/08
Signature Department Secretary or Board or Commission Chairman

ATTACH: Copy of proposed rules; separate sections for: 1) explanation of rules effect, i.e. what procedures, schedules, activities, etc. will change with its adoption 2) statistics used, and their source, 3) assumptions that were made to arrive at fiscal impact, 4) computations that were made, and 5) small business impact statement

EXPLANATION OF RULES EFFECT AND FISCAL IMPACT

The Commission is proposing to repeal 20:10:11:03 which sets forth the bond requirements for a public storage warehouse licensee. The law has been changed to no longer require public storage warehouses to be licensed so no bond is required. The change to 20:10:11:06, a rule that addresses surety bonds, deletes the reference to 20:10:11:03, the rule being repealed. For 20:10:11:07 and 20:10:11:08, the only changes are the addition of the word "grain" before "warehouse licensee."

Fiscal Impact: Fiscal impact is unlikely. These changes are being made in recognition of the repeal of licensing of public storage warehouses. Public storage warehouses will not be required to post a bond or provide the Commission with proof of insurance but the public storage warehouses will still be required to have the goods insured.

ARSD 20:10:11:04 lists the bond form requirements for warehouses. The revisions delete the requirement for a South Dakota resident agent to sign the grain warehouse bond and change the reference from "dealer's to "buyer's. The change to 20:10:11:04.01 deletes the requirement for a resident agent signature on a rider or additional bond.

Fiscal Impact: No fiscal impact. The deletion of the resident agent signature is because such signatures are no longer required. The change to "buyer's" is to be consistent with the current law which changed "grain dealers" to "grain buyers."

ARSD 20:10:11:09 sets forth notification requirements for when a license is revoked or suspended or when there is knowledge of insolvency. The Commission added in references to open storage scale ticket holders and grain bank depositors. The changes to 20:10:11:09.01, a rule which requires notice of transfers in ownership, also adds in references to open storage scale ticket holders and grain bank depositors. The changes make the rule consistent with recent changes to the law.

Fiscal Impact: No fiscal impact. Notice was already being given to open storage and grain bank depositors.

ARSD 20:10:11:11 lists requirements for warehouse receipts. The revisions delete requirements regarding the ordering of additional warehouse receipts.

Fiscal Impact: No fiscal impact. The requirements for the ordering of additional warehouse receipts no longer conform to current industry practices.

For 20:10:11:12, the changes require information on a scale ticket stating the disposition of the grain. Another change removes the requirement that scale tickets be converted to a uniform warehouse receipt, cash, check or other grain purchase contract within 30 days.

Fiscal Impact: No fiscal impact. The changes are consistent with recent statutory changes and clarify how grain is classified.

The changes to 20:10:11:13 allow a temporary public grain storage unit to have a fly ash base, delete the requirement that the base must be at least one foot above the terrain, modify the requirement regarding air flow, add a requirement that an operator must notify the Commission prior to storing grain in a new storage unit, and provide flexibility regarding the inspection of new temporary storage.

Fiscal Impact: No fiscal impact. The changes provide more flexibility regarding the specifications for temporary grain storage units but do not necessarily increase or decrease costs.

ARSD 20:10:11:18 is a new rule that allows a warehouse operator to request a waiver of a rule.

Fiscal Impact: No fiscal impact. The proposed rule would allow the Commission the ability to grant a waiver if it finds the waiver would not be detrimental to depositors and would be in the public interest.

ARSD 20:10:12:05 sets forth the bond form requirements for grain buyers. All references to "dealers" are changed to "buyers." In addition, the requirement to obtain the signature of a South Dakota resident agent is deleted. For 20:10:12:08, 20:10:12:09, 20:10:12:10, 20:10:12:11, and 20:10:12:12, the only revisions are the changes from "dealer" to "buyer." ARSD 20:10:12:13 sets forth the notice requirements for voluntary credit sales. The revisions replace "dealer" with "buyer" and deletes the requirement that the voluntary credit sale contract contain the date of delivery of the grain.

Fiscal Impact: No fiscal impact. The deletion of the date of delivery is because grain is generally delivered over a period of several days rather than on a single day. The changes regarding an agent's signature and change to grain "buyer" make the rules consistent with the law.

ARSD 20:10:12:14 contains the requirements for financial statements that must be submitted by an applicant for a grain buyer's license. The changes set forth the requirements for class A and class B licenses and the conditions under which the Commission may require a second financial statement.

Fiscal Impact: Fiscal impact is unlikely. The changes are necessary to comply with recent statutory changes which set forth new classifications for licenses and new requirements for financial statements. Although a class A grain buyer must now submit a financial statement at the review or audit level or a detailed financial statement prepared by a grain commission or management firm, it is the Commission's understanding that these types of financial statements are generally already required from the bonding companies.

ARSD 20:10:12:16 is a new rule which provides that a grain buyer must post information regarding its license and how to contact the Commission.

Fiscal Impact: No fiscal impact. Grain buyers were already required to post information by statute.

ARSD 20:10:12:17 is a new rule that allows a grain buyer to request a wavier of a rule.

Fiscal Impact: No fiscal impact. The proposed rule would allow the Commission the ability to grant a waiver if it finds the waiver would not be detrimental to grain sellers and is in the public interest.

The revisions to 20:10:31:04 and 20:10:31:05 change the assessment of charges on pipeline operators from quarterly to annually.

Fiscal Impact: No fiscal impact. The changes just make the rules consistent with the law regarding assessments and current practices.