

FORM 14

SMALL BUSINESS IMPACT STATEMENT FORM

See SDCL 1-26-2.1

(NOTE: This form must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules. A small business is defined as any business with 25 or fewer full-time employees. When a set of rules is proposed, a general summary shall be provided; each proposed rule amendment shall also be explained thoroughly. In the case of a large set of proposed rules which all have a single purpose and impact, one explanation is sufficient. The law makes it clear that agencies or commissions shall use readily available information and existing resources to prepare the impact statement.)

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:
 - Direct impact *(please complete remainder of form)*
 - Indirect impact *(please provide a brief explanation, then sign, date, and submit form. Questions 2 through 8 do not need to be answered)*
 - No impact *(please provide a brief explanation, sign, date, and submit form - Questions 2 through 8 do not need to be answered)*

2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:

The effect of the proposed revisions regarding grain warehouses are as follows: (1) allows online monthly grain reports (20:10:11:01); (2) slight revision regarding release of bond language (20:10:11:04.02); (3) posted notice to all locations when a warehouse license is suspended or revoked (20:10:11:10); (4) added protections when electronic warehouse receipts are used to prevent duplicate receipts and to require authorized handling of receipts (20:10:11:12.1 and 20:10:11:12.2); (5) allows license applicants to rely on additional financial reporting standards, requires cash flow statements if already prepared, and revises, updates, and clarifies financial statement requirements (20:10:11:14); (6) requires assets to exceed liabilities (20:10:11:15); and (7) revisions to "general authority" and "law implemented" to reflect statutory changes (20:10:11:01; 20:10:11:04.02; 20:10:11:10; 20:10:11:14; 20:10:11:15; 20:10:11:16; and 20:10:11:17).

The effect of the proposed revisions regarding grain buyers are as follows: (1) requires all locations to be listed on bonds (20:10:12:05); (2) clarifies how and when a grain buyer may provide additional bonds (20:10:12:05.01); (3) clarifies when a bond may be released (20:10:12:05.02); (4) repeals rules relating to decals for grain buyer vehicles as decals are no longer required by statute (20:10:12:10 through 20:10:12:12); (5) allows voluntary credit sale grain contracts to be enforceable under certain circumstances if not signed by both parties (20:10:12:13); (6) allows license applicants to rely on additional financial reporting standards, requires cash flow statements if already prepared, and revises, updates, and clarifies financial statement requirements (20:10:12:14); (7) requires an applicant for a class A grain buyer license to show a specified positive net worth and

requires assets to exceed liabilities for all grain buyer license applicants (20:10:12:15); (8) sets forth notice requirements when a grain buyer license is suspended or revoked (20:10:12:18); and (9) requires a grain buyer to give notice of the transfer of ownership of a grain buyer's grain receiving facility (20:10:12:19).

3. What is the basis for the enactment of the rule(s)?

Required to meet changes in federal law

Required to meet changes in state law

Required solely due to changes in date (i.e. must be changed annually)

Other: Some of the changes relate to changes in state law. Other changes are being made to strengthen, update, and clarify grain buyer and grain warehouse rules.

4. Why is the rule(s) needed?

As noted above, some of the changes are needed to comply with and reflect changes to state law, including the repeal of certain laws and the transfer of laws to a different chapter. The changes to 20:10:12:13 respond to a circuit court decision regarding the interpretation of that rule. Other changes are needed to clarify, update, and strengthen grain buyer and warehouse regulation.

5. What small businesses or types of small businesses would be subject to the rule?

These rules apply to public grain warehouses and grain buyers.

6. Estimate the number of small businesses that would be subject to the rule.

1-99 100-499 500-999 1,000-4,999 More than 5,000

Unknown - please explain _____

7. Are small businesses required to file or maintain any reports or records under this rule?

Yes No

Some of the revisions reflect existing reports or records but they do not create new reports or records. For 20:10:11:14 and 20:10:12:14, a grain buyer or warehouse operator must now submit a copy of its statement of cash flows, but that is only if the statement has already been prepared.

a. If "yes," how many reports must a small business submit to the state on an annual basis?

If a statement of cash flows has already been prepared, the revisions to 20:10:11:14 and 20:10:12:14 require a grain buyer or warehouse operator to submit a copy of the statement with its annual application for a license.

b. If "yes," how much ongoing recordkeeping within the business is necessary?

The revisions only require the submission of the statement of cash flows if it has already been prepared. Therefore, these revisions do not require a new ongoing recordkeeping requirement but just the submission with an applicant's request for a license.

c. If "yes," what type of professional skills would be necessary to prepare the reports or records?

- The average owner of a small business should be able to complete the reports and/or records with no assistance
- It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
- It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
- It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
- Other As only the submission of an already prepared document is required, the revisions to the rules do not require the preparation of a report or record but just the submission if it already exists.
- Unknown - please explain _____

8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?

No - please explain

The proposed rules are designed to balance the interests of the small businesses that operate as warehouses and grain buyers with the interests of the producers that do business with these warehouse operators and grain buyers without imposing unnecessary regulations.

Yes - please explain _____

7-1-13
Dated


Authorized Signature

Public Utilities Commission
Name of Agency