

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF YIELD10
BIOSCIENCE, INC OF WOBURN,
MA**

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* **PETITION TO IMMEDIATELY**
* **SUSPEND GRAIN BUYER’S LICENSE;**
* **PETITION TO IMPOSE CIVIL**
* **PENALTY**
*
* **GW24-001**

COMES NOW, Staff of the South Dakota Public Utilities Commission (Commission), pursuant to SDCL 49-45-16, SDCL 49-45-25, and SDCL 49-45-26, and Petitions the Commission to immediately suspend the grain buyer license of Yield10 Bioscience, Inc (Yield10 or Company), and impose civil penalties as requested hereinafter. In support of its Petition, Staff asserts as follows:

1. Yield10 is a Delaware Corporation in good standing with the South Dakota Secretary of State.
2. Yield10 is located in Woburn, MA.
3. Yield10 holds a Class A grain buyer license.
4. Yield10 holds a grain buyer bond in the amount of \$50,000.
5. Yield10 is not a licensed warehouse. Therefore, SDCL Chapter 49-43 is not implicated in this matter.
6. On or about February 28, 2024, during a routine review of quarterly financials, Staff became aware that Yield10 was operating with insufficient working capital and negative equity.
7. The quarterly financials submitted by Yield10 showed a significant decline in financial position since the previous quarterly was submitted. See Confidential Attachments 1 and 2.
8. Upon discovering Yield10’s financial condition, Staff attempted to begin an inspection, requesting financial records from Yield10 in order to determine the current financial

condition of the company. This request was made on February 28, 2024. See Attachment 3, pages 3-4.

9. On March 6, 2024, the day that Yield10's financial information and inspection requests were due to Staff by law, Staff sent a reminder to provide the requested information. See Attachment 3, page 1.
10. Yield10 failed to provide Staff with the information requested. Instead, on March 7, 2024, Yield10 communicated to Staff they were busy and asked Staff to conduct its audit at a later date such as after April 1st. See Attachment 3, page 1. In response, Staff reiterated its need for the requested inspection information and the potential civil penalties for withholding said information. See Attachment 4.
11. On March 20, Staff had a phone call with Charles Haaser, Vice President of Finance, Chief Accounting Officer & Treasurer of Yield10. In this phone call, Yield10 indicated it would surrender its grain buyer license in South Dakota and that Yield10 had not made grain purchases in South Dakota. In a follow-up email this same afternoon, Staff requested Yield10 confirm its intent to surrender and to also confirm whether or not Yield10 has made any grain purchases in South Dakota via email as soon as possible. See Attachment 5, page 2.
12. After receiving no response, Staff contacted Yield10 once more on March 25, 2024, requesting confirmation of the statements mentioned in paragraph 11. This email also reiterated Staff's need for the requested inspection and financial information if Yield10 did not intend to surrender its license. See Attachment 5, pages 1-2.
13. On March 28, 2024, Staff attempted a phone call with Yield10 which was not answered. Staff left a voicemail and sent a final email which requested compliance by April 2, 2024, or Staff would proceed in bringing this matter to the Commission. See Attachment 5, page 1.
14. To date, Yield10 has not provided any financial documents or inspection requests to Staff nor has Yield10 surrendered its grain buyer license in South Dakota.
15. SDCL 49-45-16 provides the commission may immediately suspend the license of a grain buyer if "(4) The grain buyer refuses to submit to an inspection or cooperate with the lawful requests of a commission inspector, including requests for access to and copies of the books and records of the grain buyer".

16. Staff considers Yield10's failure to cooperate with Staff's requests for financial information and records from Yield10 as grounds for suspension pursuant to SDCL 49-45-16(4). Staff has attempted to work with Yield10 and resolve this matter amicably. However, Yield10's nonresponsive nature in this process—despite numerous pleas from Staff—leads Staff to believe suspension is necessary at this time.
17. SDCL 49-45-26 requires a grain buyer provide, within five working days of an inspector's request, all books, accounts, and electronic records relating to the transactions of the grain buyer, and provides for a civil fine, not to exceed one thousand dollars for each day requested materials are withheld, up to a maximum of twenty thousand dollars per licensing period.
18. Staff considers Yield10's failure to provide the requested financial information within five working days as grounds for a civil fine under SDCL 49-45-26. As of April 4, 2024, twenty working days have passed since the statutory deadline of March 6. According to Staff's calculations, Yield10 is eligible for the maximum penalty of \$20,000.
19. SDCL 49-45-25 states:

If during the licensing period a grain buyer becomes aware that the grain buyer is not in compliance with each financial standard, as set forth in the commission's rules, the grain buyer shall immediately notify the commission of the grain buyer's financial condition. When notification occurs, the commission shall immediately conduct an examination to determine if any grounds for suspension pursuant to § 49-45-16 have occurred.

A willful violation of this section that results in a financial loss to a grain supplier is punishable as theft under chapter 22-30A.

A willful violation that does not result in a financial loss to a grain supplier is a Class 1 misdemeanor.

The commission may assess, against an out-of-compliance grain buyer, a civil fine in an amount not to exceed one thousand dollars for each day the grain buyer has been out of compliance, up to a maximum of twenty thousand dollars per licensing period, as set forth in § 49-45-3.
20. Staff considers Yield10's failure to immediately notify the Commission of its non-compliance with South Dakota's financial standards for grain buyers as grounds for a civil fine under SDCL 49-45-25. According to Staff's analysis, Yield10 has been financially non-compliant since January 1, 2024. See Attachment 6.¹ Yield10 did not notify Staff of its non-compliance; rather, Staff became aware of said non-compliance

¹ Staff was able to find this Form 10K because Yield10 is a publicly traded company and this filing was required to be submitted to the SEC. Yield10 did not provide this document to Staff.

during its routine review of quarterly financials. For these reasons, Yield10 is eligible for the maximum penalty of \$20,000.

WHEREFORE, the Staff of the South Dakota Public Utilities Commission requests the Commission take immediate action to suspend Yield10's grain buyer license pursuant to SDCL 49-45-16. Staff respectfully requests the Commission issue a civil fine of up to \$20,000 for violations of SDCL 49-45-26, and up to \$20,000 for violations of SDCL 49-45-25. Staff's future recommendation regarding the civil fine amounts may be reduced in the event that Yield10 gives written notice of intent to surrender its grain buyer license, physically returns its license to the PUC, and confirms that either no grain purchases were made in South Dakota or Yield10's purchases have been paid in full.

Dated this 4th day of April 2024.



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