

CHAPTER 20:10:12
GRAIN DEALERS-BUYERS

Section

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20:10:12:05. Form of grain ~~dealer's~~ buyer's bond. The Public Utilities

Commission shall furnish the grain ~~dealer's~~ buyer's bond form required by SDCL 49-45-9 and the bond form shall contain the following:

- (1) Name and address of the principal;
- (2) Name and address of the surety;
- (3) Purpose of the bond;
- (4) Location of the ~~dealer~~ buyer;
- (5) Starting and ending date of the license for which the bond is given;

- (6) Amount of the bond;
- (7) Bond obligation;
- (8) Signatures of the principal; and the surety, ~~and the South Dakota resident agent;~~
- (9) Acknowledgements;
- (10) Statutory authority for the bond; and
- (11) If the bond is for both a grain warehouseman's and a grain ~~dealer's~~ buyer's license, a recitation that the bond amounts are separate and not in the aggregate for both bonds.

Source: 12 SDR 85, retroactively effective July 1, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 190, effective July 15, 1998.

General Authority: SDCL 49-45-6(1).

Law Implemented: SDCL 49-45-9.

20:10:12:08. Corporate surety required. The grain ~~dealer's~~ buyer's bond filed with the commission shall be provided by a corporate surety company authorized to do business in the state of South Dakota.

Source: 12 SDR 85, retroactively effective July 1, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL ~~49-45-6~~ 49-45-6(1).

Law Implemented: SDCL 49-45-9.

20:10:12:09. Posting of license required. Grain ~~dealers~~ buyers which operate a grain warehouse building shall post the grain ~~dealer's~~ buyer's license issued by the commission in a conspicuous location in the warehouse building.

Source: 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL ~~49-45-6~~ 49-45-6(2).

Law Implemented: SDCL 49-45-1, ~~49-45-6~~ 49-45-6(2).

20:10:12:10. Placement of grain ~~dealer~~ buyer decals. Decals required by SDCL 49-45-12 shall be affixed to the lower left inside corner of a truck windshield.

Source: 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL ~~49-45-6~~ 49-45-6(3).

Law Implemented: SDCL 49-45-12.

20:10:12:11. Replacement decals. A grain ~~dealer~~ buyer may obtain a replacement decal by filing a written request for a decal with the commission. The written request shall specify the vehicle license number and vehicle identification number for which the replacement decal is needed.

Source: 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL ~~49-45-6~~ 49-45-6(3).

Law Implemented: SDCL 49-45-12.

20:10:12:12. Return of decals required after license revocation. Following the suspension or revocation of a grain dealer's buyer's license, all decals issued by the commission pursuant to SDCL 49-45-12 shall be immediately removed from all trucks operated by the grain dealer buyer and returned to the commission.

Source: 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL ~~49-45-6~~ 49-45-6(3).

Law Implemented: SDCL 49-45-3, 49-45-12.

20:10:12:13. Notice required to credit seller of grain. The terms of a voluntary credit sale of grain shall contain the following statement: "This contract is not protected by South Dakota statutory bond coverages." This statement shall be printed in red or bold type immediately above the seller's signature line.

In addition to this statement, each voluntary credit sale contract shall include the following:

- (1) Name of the grain dealer ~~who is the~~ buyer;
- (2) Name of the seller;
- (3) Amount and type of grain;
- (4) Grade of the grain;
- ~~(5) Date of delivery of the grain;~~
- ~~(6)~~(5) Method of pricing;
- ~~(7)~~(6) Service charges or other fees;
- ~~(8)~~(7) Advances against the contract;
- ~~(9)~~(8) A statement that title to the grain passes to buyer upon delivery; and

(10)(9) Signature and date of signature for both the seller and buyer immediately preceded by statement required in this section.

Source: 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 190, effective July 15, 1998.

General Authority: SDCL 49-45-6(4), 49-45-11.

Law Implemented: SDCL 49-45-11.

20:10:12:14. Financial statement requirements. Each applicant for a public grain ~~dealer's~~ buyer's license shall submit a financial statement for the most recently completed year of operation. ~~The statement shall be prepared by a certified public accountant, independent public accountant, a grain commission or management firm, or other individual skilled in the preparation of financial statements in accordance with generally accepted accounting principles.~~ The financial statement may not be prepared by the applicant or an employee of the applicant, and if the applicant is a partnership or corporation, by an officer, shareholder, partner, or an employee of the partnership or corporation. ~~The commission may require the applicant to submit a second financial statement prepared by a certified public accountant at the compilation, review, or audit level if the commission determines that the first financial statement submitted is incomplete or otherwise unsatisfactory.~~

Applicants for a class A grain buyer license shall submit a financial statement prepared by a certified public accountant at the review, or audit level, or a detailed financial statement that is prepared by an approved grain commission or management firm in accordance with generally accepted accounting principles.

Applicants for a class B grain buyer license shall submit a financial statement prepared by a certified public accountant, independent public accountant, a grain commission or management firm, or other individual skilled in the preparation of financial statements in accordance with generally accepted accounting principles.

If the commission determines that the first financial statement submitted is incomplete or otherwise unsatisfactory, the commission may require the applicant to submit a second financial statement prepared by a certified public accountant at the compilation, review, or audit level.

The financial statement must include a balance sheet and statement of profit and loss. ~~If the applicant's accountant has prepared~~ a statement of retained earnings, a statement of changes in financial position, ~~and or~~ notes and disclosures to the financial statement have been prepared, those items must also be submitted.

The financial statement must be prepared in accordance with generally accepted accounting principles. Depreciable assets must be shown at original cost minus accumulated depreciation unless the applicant is an individual and generally accepted accounting principles allow the valuation of depreciable assets at the lower of cost or fair market value.

If the valuation of any assets are listed at fair market value, those valuations shall be established by a person experienced in making assessments of the fair market value of fixed assets. Each valuation must be accompanied by a statement signed by the person who establishes the values stating that such person:

- (1) Has no interest in the property;
- (2) Is not an employee of the applicant; and
- (3) Has no personal bias with respect to the parties involved.

Source: 24 SDR 190, effective July 15, 1998.

General Authority: SDCL 49-45-6(5).

Law Implemented: SDCL 49-45-7, 49-45-7.1.

20:10:12:16. Notice of license and regulation by the commission . A grain buyer shall keep posted at all times in a conspicuous place in its facility, a printed notice that it is a bonded grain buyer licensed and regulated by the South Dakota Public Utilities Commission. This notice shall also include the address, phone number, and web site address of the Public Utilities Commission.

Source:

General Authority: SDCL 49-45-6(6).

Law Implemented: SDCL 49-45-6(6)b.

20:10:12:17. Request for waiver of rule. A licensed grain buyer may request a waiver of any rule in this chapter. The commission may grant a waiver if it finds that the waiver would not be detrimental to grain sellers and is in the public interest.

Source:

General Authority: SDCL 49-45-6(1) through (6).

Law Implemented: SDCL 49-45-1, 49-45-7.