

ARTICLE 20:10

PUBLIC UTILITIES

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CHAPTER 20:10:11

PUBLIC GRAIN WAREHOUSES

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20:10:11:03. Form of public storage warehouse licensee's bond.~~The Public Utilities Commission shall furnish the public storage warehouse licensee's bond form required by SDCL 49-42-5.1 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 warehouse(s);~~
- ~~(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, 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 license, a recitation that the bond amounts are separate and not in the aggregate for both bonds~~

Repealed.

Source: 12 SDR 85, retroactively effective July 1, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 13 SDR 40, effective October 14, 1986; 24 SDR 190, effective July 15, 1998.

~~**General Authority:** SDCL 49-42-1.2(2).~~

~~**Law Implemented:** SDCL 49-42-5.1, 49-42A-4.~~

20:10:11:04. Form of public grain warehouse licensee's bond. The Public Utilities Commission shall furnish the public grain warehouse licensee's bond form required by ~~SDCL 49-42-5.1~~ 49-43-4.3 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 warehouse(s);
- (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; 13 SDR 40, effective October 14, 1986; 24 SDR 190, effective July 15, 1998.

General Authority: SDCL ~~49-42-1.2(3)~~ 49-43-4.1(2).

Law Implemented: SDCL ~~49-42-5.1~~, 49-43-4.2, 49-43-4.3, 49-43-5.3.

20:10:11:04.01. Form of public grain warehouse licensee's additional bond.

If a public grain warehouse licensee furnishes an additional bond so that the total bond is equal to one-half of the local market value of grain the warehouse licensee is storing, the additional bond may be an increase rider executed by the corporate surety who issued the original bond filed with the commission or an additional bond executed by a second bondsperson or insurer.

An increase rider or additional bond shall be in substantially the same form as required by § 20:10:11:04 for original bonds. It shall state the name and location of the warehouse licensee's facilities covered by the bond ~~and contain the signature of a resident agent.~~

At a minimum, the increase rider or additional bond shall cover defaults occurring during the period beginning 30 days before a monthly grain report showing need for a bond increase is filed with the commission and ending when the total amount of grain

stored in the warehouse decreases so that the original bond covers one-half of the local market value of the stored grain.

Source: 13 SDR 40, effective October 14, 1986; 24 SDR 190, effective July 15, 1998.

General Authority: SDCL ~~49-42-1.2(3)~~ 49-43-4.1(2).

Law Implemented: SDCL ~~49-42-5.1, 49-42A-4~~ 49-43-4.2, 49-43-4.3, 49-43-5.3

20:10:11:06. Form of acknowledgement. The surety bonds set forth in §§ ~~20:10:11:03~~ and 20:10:11:04 shall be acknowledged by the principal and the corporate surety before a notary public. The surety shall attach a valid power of attorney.

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 ~~49-42-1.2(2)(3)~~ 49-43-4.1(2).

Law Implemented: SDCL ~~49-42-5.1~~ 49-43-4.2, 49-43-4.3, 49-43-5.3.

20:10:11:07. Corporate surety bond required. The public grain warehouse licensee'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; 24 SDR 190, effective July 15, 1998.

General Authority: SDCL ~~49-42-1.2(2)~~ 49-43-4.1(2).

Law Implemented: SDCL ~~49-42-5.1~~ 49-43-4.2, 49-43-4.3, 49-43-5.3.

20:10:11:08. Posting of license required. The license granted to a public grain warehouse licensee shall be posted for public view in a conspicuous place in the grain warehouse licensee's place of business at all times.

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 ~~49-42-1.2(5)~~ 49-43-4.1(4).

Law Implemented: SDCL ~~49-42-5.1~~ 49-43-4.2, 49-43-4.3, 49-43-5.3.

20:10:11:09. License revocation, ~~transfer of ownership~~, suspension, or insolvency -- Notice to receipt holders and surety. Following the revocation or suspension of a public grain warehouse license, the commission shall notify each outstanding warehouse receipt holder, each open storage scale ticket holder, each grain bank depositor, and the surety named in the public grain warehouse licensee's bond of the license revocation or suspension. The commission may recommend that receipt holders, open storage scale ticket holders, and grain bank depositors remove all stored grain from the warehouse by a designated date. No grain may thereafter be removed or released from storage without prior commission authorization. If the commission has knowledge of any acts of insolvency by a public grain warehouse licensee, including the filing of a petition in bankruptcy naming the warehouse licensee as debtor, the commission shall notify the surety named in the warehouse licensee's bond of such acts. Notices required by this section shall be by first class mail.

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 ~~49-42-1.2(6)~~ 49-43-4.1(5).

Law Implemented: SDCL ~~49-42-2.1, 49-42-6~~ 49-43-5.6, 49-43-5.8.

20:10:11:09.01. Pending transfer of ownership – Notice to receipt holders and surety. At least 30 days before the transfer of ownership of a public grain warehouse licensed by the commission, the warehouse licensee shall notify, in writing, each outstanding warehouse receipt holder, each open storage scale ticket holder, each grain bank depositor and surety named in the public grain warehouse bond of the pending transfer of ownership. A public grain warehouse licensee which transfers ownership of a public grain warehouse licensed by the commission shall notify the commission of the pending transfer seven days before notifying outstanding warehouse receipt holders and the surety named in the public grain warehouse bond.

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

General Authority: SDCL ~~49-42-1.2(6)~~ 49-43-4.1(5).

Law Implemented: SDCL ~~49-42-5.1~~ 49-43-4.2, 49-43-4.3, 49-43-4.4.

20:10:11:11. Requirements for warehouse receipts. Grain warehouse receipts ~~which are ordered by a public grain warehouse licensee~~ shall be in a form approved by the commission. ~~If a public grain warehouse licensee orders additional warehouse receipt forms, the warehouse licensee shall complete and submit to the commission an affidavit which contains the following information: the name and license number of the grain warehouse; the numbers of warehouse receipts ordered; a statement that the warehouse receipts named above are the only receipts in the possession of and issued by the grain warehouse; and the name of the warehouse receipt printer. The public grain warehouse~~

~~licensee shall attach a copy of its warehouse receipt form to the affidavit. A copy of the affidavit required by this section shall be provided by the commission.~~

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 ~~49-42-1.2(7)~~ 49-43-4.1(6).

Law Implemented: SDCL ~~49-42-1.2~~, 49-43-2.1.

20:10:11:12. Issuance of warehouse receipts and scale tickets. Any warehouse receipts issued by a public grain warehouse licensee shall be numbered consecutively. Receipts bearing the same number may not be issued by the same public grain warehouse during any one year. When issuing warehouse receipts, the original receipt shall be given to the owner of grain deposited for storage, and at least one copy of the receipt shall be retained by the public grain warehouse licensee as a part of its records. Upon receipt of grain, each public grain warehouse licensee shall by conspicuous language indicate in writing on each scale ticket if the grain received is to be stored on a warehouse receipt, placed in open storage, or sold. The grain warehouse licensee shall clearly mark in writing on each scale ticket whether the grain ~~or seeds~~ received ~~are~~ is to be stored or sold. If no indication is made on the scale ticket at the time of delivery the grain shall be considered placed in open storage. Each scale ticket issued by any public grain warehouse licensee shall also conspicuously bear the following language: This scale ticket ~~is not a storage ticket and~~ is not negotiable. ~~The scale ticket should be presented to the issuing public grain warehouse licensee within 30 days of the date of issue for conversion to a uniform warehouse receipt, cash, check, or other grain purchase contract.~~

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 ~~49-42-1.2(7)~~ 49-43-4.1(6).

Law Implemented: SDCL ~~49-42-1.2~~, 49-43-2.1.

20:10:11:13. Specifications for temporary public grain storage units. A

temporary public grain storage unit is defined as a public grain warehouse which does not have a roof, permanent foundation, or sidewalls which are permanently attached to the foundation. Each temporary public grain storage unit must be bonded and licensed and must meet the following specifications:

(1) Each temporary storage unit must contain aeration equipment;

(2) Each temporary storage unit must have an asphalt, concrete, ~~or~~-compacted limestone, or fly ash base which meets the following minimum specifications:

(a) Any base must be of such depth and compaction as to permit trucks or other heavy equipment used in loading or unloading to move over the base without breaking, cracking, sinking in, or chipping the base;

(b) The depth of a limestone base must be at least 4 inches;

(c) The slope of any base must be sufficient to allow for proper drainage from the center to the edge of the base; and

(d) Drainage away from the base must be provided to prevent any water from standing or backing up underneath the grain; and

~~(e) The base must be at least one foot above the surrounding terrain;~~

(3) The grain stored within a temporary storage unit must maintain a peak, angle, or arc which will provide drainage from the top over the sidewalls so that no pockets of water form on top of the grain;

(4) The temporary storage unit must be covered with a cover strong enough to resist tearing under normal use and weather conditions and to allow a person to walk on the cover without penetrating it;

(5) Covered storage must ~~have inlets or perforated tubing over the top of the grain~~ be constructed in such a way as to provide for air flow through the grain; and

(6) All temporary storage units must have rigid self-supporting sidewalls; ~~and~~

(7) A warehouse operator must maintain a separate record of all grain stored in a temporary storage unit and must account for that grain in the daily position record; and

(8) A warehouse operator shall notify the commission prior to storing grain in a newly constructed temporary storage unit.

The commission ~~shall~~ may inspect finished construction of all new temporary public grain storage units before grain is stored in the unit. The warehouse licensee must remedy any specifications that are not in compliance with this rule before grain is stored within the unit.

A warehouse licensee who is in violation of the specifications in this section will be ordered by the commission to comply.

Source: 14 SDR 62, effective October 28, 1987; 24 SDR 190, effective July 15, 1998; 33 SDR 43, effective September 18, 2006.

General Authority: SDCL ~~49-42-1.2(8)~~ 49-43-4.1(7).

Law Implemented: ~~SDCL 49-42-1.2, 49-42-2.1, 49-42-5.1, 49-42-6, 49-42-15.1, 49-42-25, 49-43-5.1, 49-43-5.3.~~

20:10:11:18 Request for waiver. A licensed grain warehouse operator 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 depositors and is in the public interest.

Source:

General Authority: SDCL 49-43-4.1(1) through (9).

Law Implemented: SDCL 49-43-1, 49-43-4.2, 49-43,4.3, 49-43-4.4, 49-43-5.1, 49-43-5.3.