

South Dakota Public Utilities Commission

Grain FAQ

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What does the Public Utilities Commission Grain Warehouse Program regulate?

The Public Utilities Commission Grain Warehouse Program has authority to regulate certain grain buyers and public grain warehouses operating in South Dakota. The PUC does not have authority to regulate grain specifically identified for an intended use like planting for reproduction, feeding livestock or other uses that do not fall under the definition of a grain buyer or public grain warehouse.

What does this regulation entail?

The PUC Grain Warehouse Program staff reviews applications for grain warehouses and grain buyers to determine whether the applicant meets the minimum financial standards established in statute and to ensure the applicant has the bond required by statute. PUC staff reviews the financials of licensed grain warehouses and grain buyers periodically throughout the year to determine whether the licensee's financials are in compliance with the statutory requirements. PUC staff also reviews scale tickets and receipts. Staff has the authority to investigate licensed grain buyers and public grain warehouses and initiate proceedings to suspend or revoke a license and to collect on a licensee's bond if necessary.

Does the PUC regulate all transactions between producers and grain buyers?

The PUC does not regulate all transactions between producers and grain buyers. For example, the PUC does not regulate the terms of grain purchase contracts. These transactions are private contracts and the PUC does not have authority in state law to regulate these. Additionally, a licensed grain buyer's bond does not cover losses incurred under a voluntary credit sale.

What is a grain buyer?

Under SDCL 49-45-1.1 (3), a grain buyer is any person who purchases grain for the purpose of reselling the unprocessed grain or who purchases three hundred thousand dollars worth or more of grain directly from producers in a calendar year. Nothing in this chapter applies to the isolated resale of grain by a producer who does not hold himself or herself out as engaging in the business of reselling grain.

What is a public grain warehouse?

Under SDCL 49-43-1.1 (5) a public grain warehouse is any public warehouse where grain, as defined in subdivision 49-45-1.1(2), is received for storage for hire.

What is a grain broker?

New legislation went into effect July 1, 2022, redefining a grain broker, also known as a grain originator or roving grain buyer, as a person who is involved in the negotiation of a grain transaction in this state and:

- (a) Is compensated for that involvement by at least one party to the transaction; and
- (b) Does not take title to the grain that is subject to the transaction.

Does the PUC regulate grain brokers?

A grain broker, as defined above, does not fit the definition of a grain buyer and therefore, does not require a grain buyer's license at this time. The PUC does not review a grain broker's financial information, and there is no state requirement that a grain broker must carry a bond.

What is a voluntary credit sale?

Under SDCL 49-45-1.1 (5), a voluntary credit sale is a sale of grain or seeds pursuant to which the sale price is to be paid more than 30 days after the delivery or release of the grain for sale, including those contracts commonly referred to as deferred-payment contracts, deferred-pricing contracts and price-later contracts.

How can producers protect themselves when making grain transactions?

Always get transaction information in writing, via a contract, scale ticket, receipt, etc. This is essential if there is a no or slow payment or a loss. Maintain these records at least until the transaction is fully

complete. Always review the written agreement to ensure the details and information accurately reflect the transaction. This is especially important if the details are discussed verbally or a third-party broker is involved. Know what type of transaction you are entering before finalizing the transaction. Get this information in writing and have your attorney review the details of the transaction, especially if you are entering into a new type of transaction or working with a new person or entity. Ask and verify whether the entity with which you plan to enter a transaction is licensed with the PUC and is bonded. Licensing information can change from year-to-year, and is subject to change mid-year.

When should I expect payment for my grain?

Under SDCL 49-45-10. A grain buyer shall pay the purchase price to the owner or the owner's agent for grain upon delivery or demand of the owner or agent unless payment is to be made in accordance with the terms of a voluntary credit sale that complies with the requirements of this chapter and rules promulgated thereto. Full payment of any cash purchase shall be made by the grain buyer within thirty days of final delivery.

Contact the PUC

Contact the PUC staff if you have questions or concerns about an entity's licensing status or which transactions the PUC has authority to regulate, and also if you do not receive timely payment, whether the entity is licensed or not. The PUC staff may be able to assist you in securing your payment. You can reach the PUC by calling 605-773-3201 or emailing PUC@state.sd.us.