

The National Agricultural  
Law Center



University of Arkansas • Division of Agriculture

An Agricultural Law Research Project

## **Requirements for Grain Dealers**

**State of South Dakota**

*Licensing*

[www.NationalAgLawCenter.org](http://www.NationalAgLawCenter.org)



## Requirements for Grain Dealers

### STATE OF SOUTH DAKOTA

*Current with legislation from 2014 Regular Sess.*

#### **SDCL § 49-45-1**

##### **49-45-1. Grain buyer's license required--Violation as misdemeanor-- Injunction--Civil fine**

Before transacting the business of a grain buyer in this state, a person shall obtain a grain buyer license from the commission. A violation of this section is a Class 1 misdemeanor. Each purchase of grain without a license is a separate offense.

Operation as a grain buyer without a license may be enjoined upon complaint of the commission. In addition, the commission may assess a civil fine against an unlicensed grain buyer in the amount of one thousand dollars for each purchase of grain up to a maximum fine of twenty thousand dollars.

#### **SDCL § 49-45-3**

##### **49-45-3. Expiration, revocation, and suspension of license--Appeal**

Each license issued pursuant to § 49-45-1 expires on the next June thirtieth following the issuance of the license. The commission may at any time for cause shown revoke or suspend any grain buyer license. However, the grain buyer has the right of appeal from such decisions as provided by chapter 1-26 for the review of final decisions of the commission.

#### **SDCL § 49-45-6**

##### **49-45-6. Supervision of grain buyers--Promulgation of rules**

The commission shall supervise the business of grain buyers in this state and administer the laws relating thereto. The commission may promulgate rules, pursuant to chapter 1-26, concerning:

- (1) The form of a grain buyer's bond and application and the information required to be included for licensing;
- (2) Requirements for posting grain buyer's licenses;
- (3) Requirements and procedures for obtaining, placing, and returning grain buyer decals and replacement decals;
- (4) Notice requirements to sellers who enter into voluntary credit sale agreements;
- (5) Requirements for filing financial statements with the commission and the financial standards by which the statements are approved when considering whether to license a grain buyer;
- (6) Requirements for grain buyers to provide information to sellers regarding the statutes and rules relating to grain buyers;
- (7) Requirements and procedures for releasing bonds; and

(8) Procedures and requirements for license suspension, revocation, transfer of ownership, or insolvency by a grain buyer.

**SDCL § 49-45-7**

**49-45-7. Application for license--Contents--Issuance or denial**

An application for a grain buyer license shall be filed with the commission and shall be in a form prescribed by the commission. The application shall set forth the name of each owner or principal in the management of the business and shall contain financial information depicting the financial condition of the business at the time of application. If the applicant is a corporation, the application shall include the name of the president, secretary, and treasurer of the corporation. The application shall also include the location of the principal office or place of business and any additional places of business of the applicant. The application shall contain the affirmation statement set forth in § 22-29-9.1. The application shall be signed by the owner, managing partner, or chief executive officer of the applicant and shall be notarized.

Upon receipt of an application and sufficient bond as required by § 49-45-9, the commission may grant the license applied for or may, for good cause shown and after notice and an opportunity for hearing, deny the issuance of the license.

**SDCL § 49-45-7.1**

**49-45-7.1. Classes of grain buyer's license**

An applicant may apply for a Class A grain buyer's license or a Class B grain buyer's license. No grain buyer with a Class B grain buyer's license may purchase grain in excess of ten million dollars for the annual licensed period or enter into voluntary credit sale contracts. The commission shall require an applicant for a Class A grain buyer's license to submit a more detailed review of its financial condition than an applicant for a Class B grain buyer's license.

**SDCL § 49-45-8**

**49-45-8. Fee for license application--Waiver**

The application for a grain buyer license shall be accompanied by a fee of two hundred seventy-five dollars for each municipality or location at which the grain buyer receives grain. If the grain buyer making application for a license also holds a license to operate a public grain warehouse or is, at the same time, making application to operate a public grain warehouse under chapter 49-43, the fee imposed by this section is waived.

**SDCL § 49-45-16**

**49-45-16. Grounds for suspension of grain buyer's license--Hearing--Revocation**

The commission may immediately suspend the license of a grain buyer and the grain buyer shall surrender the license to the commission if:

- (1) The grain buyer refuses, neglects, or is unable, upon proper demand, to redeem any scale ticket issued by the grain buyer, through redelivery or cash payment;

- (2) The grain buyer refuses, neglects, or is unable to provide a bond in an amount required by the commission;
- (3) The commission has knowledge of any act of insolvency, including the filing of a petition in bankruptcy naming the grain buyer as debtor; or
- (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.

Within fifteen days the grain buyer may request a hearing pursuant to chapter 1-26 to determine if the license should be revoked. If no request is made within fifteen days, the commission shall revoke the license.

#### **SDCL § 49-45-19**

##### **49-45-19. Revocation of grain buyer license--Time to file claims--Notice**

Upon revocation, termination, or cancellation of a grain buyer license, any claim against the grain buyer arising under this chapter shall be made in writing with the commission, grain buyer and surety on the grain buyer bond within six months after receiving notice of revocation, termination, or cancellation. Failure to make a timely claim shall relieve the surety of all obligations to the claimant. However, this section may not be construed to reduce the aggregate liability of the surety to other claimants below the face amount of the bond then in effect. Upon revocation of a grain buyer license, the commission shall cause notice of the revocation to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state and shall cause notice of the revocation to be sent by certified mail to all scale ticket holders named in the audit prepared pursuant to § 49-45-18. The notice shall state the name and address of the grain buyer, the effective date of revocation, and the name and address of the surety on the grain buyer bond. The notice shall also state that any claims against the grain buyer shall be made in writing and sent by ordinary mail to the commission, the grain buyer and the surety on the grain buyer bond within six months after receiving notice of revocation. The provisions of this section do not apply if a receiver is appointed as provided in § 49-45-16 before the expiration of six months after receiving notice of revocation, termination, or cancellation of the license.

#### **SDCL § 49-45-28**

##### **49-45-28. Parent company furnishing financial statements responsible for financial obligations of licensed entity**

If an applicant for a grain buyer license that is a wholly owned subsidiary of a parent company submits the financial statements of the parent company, the parent company furnishing the financial statements is responsible for all the financial obligations incurred by the licensed entity related to the purchase and storage of grain, including any voluntary credit sale contract.