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Requirements for Grain Dealers

State of South Dakota

Penalties

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Requirements for Grain Dealers

STATE OF SOUTH DAKOTA

Current with legislation from 2014 Regular Sess.

SDCL § 49-45-9

49-45-9. Bond requirements--Violation as misdemeanor--Amount

Before any grain buyer license is issued by the commission, the applicant shall file with the commission a bond conditioned to secure the faithful performance of the applicant's obligations as a grain buyer and full and unreserved compliance with the laws of this state and the rules of the commission, relating to the purchase of grain by the grain buyer. The bond is for the specific purpose of protecting persons selling grain to the grain buyer. However, the bond may not benefit any person entering into a voluntary credit sale with a grain buyer. Any person who does business as a grain buyer without a bond is guilty of a Class 1 misdemeanor. Each day a person conducts the business of a grain buyer without a bond is a separate offense.

The amount of the bond for a Class A or Class B grain buyer's license shall be based on a rolling average of the dollar amount of grain purchased by the applicant in South Dakota during the last three calendar years. For a new grain buyer, the first year's bond shall be based on projected purchases. For a grain buyer with less than three years experience as a grain buyer, the bond shall be based on the average actual purchases made by the grain buyer in all of its previous years as a grain buyer. The bond applies to all grain purchases for all of the grain buyer's business locations.

The amount of the bond for a Class A grain buyer's license is:

Dollar Amount of Grain Purchased	Bond Requirement
Less than \$2,000,001	\$50,000
\$2,000,001--\$5,000,000	\$100,000
\$5,000,001--\$10,000,000	\$150,000
\$10,000,001--\$20,000,000	\$200,000
\$20,000,001--\$30,000,000	\$250,000
\$30,000,001--\$40,000,000	\$300,000
\$40,000,001--\$55,000,000	\$350,000
\$55,000,001--\$70,000,000	\$400,000
\$70,000,001--\$85,000,000	\$450,000
\$85,000,001--\$100,000,000	\$500,000

Bond requirements are increased twenty-five thousand dollars for each additional ten million dollars in purchases above one hundred million dollars.

The amount of the bond for a Class B grain buyer's license is:

Dollar Amount of Grain Purchased	Bond Requirement
Less than \$2,000,001	\$50,000
\$2,000,001-- \$5,000,000	\$100,000
\$5,000,001--\$10,000,000	\$150,000

The grain buyer may stipulate to a higher bond amount requested by the commission or may post additional security in another form.

SDCL § 49-45-13.1

49-45-13.1. Memorandum of adjustments--Civil fine for failure to comply

Upon completing an inspection, an inspector may issue a memorandum of adjustments. The commission may assess a civil fine in the amount of two hundred dollars for failure to comply with the memorandum of adjustments within thirty days. After thirty days, each day that the memorandum goes uncorrected may be considered a separate offense.

SDCL § 49-45-14

49-45-14. Reports by buyers--Public inspection not permitted--Violation as misdemeanor

Every grain buyer licensed in this state shall, at such times as the commission requires, furnish the commission on forms prepared by the commission, reports showing the facts and information required by the commission. The reports are not for public inspection, but the commission may, upon request, furnish the total of the figures shown on such reports if the figures requested are for not less than four grain buyers. The commission may also require that a grain buyer provide any other documents and information regarding the business of the grain buyer. None of the documents and information obtained through the licensing and inspection processes are subject to public inspection. A violation of this section is a Class 1 misdemeanor.

SDCL § 49-45-22

49-45-22. Class A license requirements--Violation as misdemeanor

A grain buyer with a Class A license shall keep all company owned grain in the grain buyer's possession insured at current market value of the grain against loss by fire, windstorm, and extended coverage risks. The grain buyer shall furnish the commission with proof of the insurance when the grain buyer applies for a license. A violation of this section is a Class 1 misdemeanor.

SDCL § 49-45-25

49-45-25. Notice to commission of grain buyer's noncompliant financial condition--Violation as felony or misdemeanor--Civil fine

If at any time 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 a Class 6 felony. A willful violation that does not result in a financial loss to a grain supplier is a Class 1 misdemeanor.

In addition, the commission may assess a civil fine against an out of compliance grain buyer 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.

SDCL § 49-45-26

49-45-26. Time and place for providing requested records--Violation as misdemeanor--Civil fine

A grain buyer, whether licensed or unlicensed, who purchases grain within the state shall have the ability to provide all of the books, accounts, and electronic records relating to the transactions of the grain buyer, either within or without the state, upon request or within five working days of the request. Any requested materials shall be provided to the inspector at a licensed location within the state or at the offices of the commission. A willful violation of this section is a Class 1 misdemeanor. In addition, the commission may assess a civil fine in an amount not to exceed one thousand dollars for each day requested materials are withheld up to a maximum of twenty thousand dollars.

SDCL § 49-45-27

49-45-27. Owner, manager, or chief executive officer responsible for violation is subject to criminal penalty

The owner, manager, or chief executive officer of a grain buyer, or any other person in a managerial position, who is responsible for any violation of this chapter by a grain buyer is subject to any criminal penalty that applies to a grain buyer under the provisions of this chapter.