

CHAPTER 90
STATE LICENSED WAREHOUSES
AND WAREHOUSE OPERATORS
[Prior to 7/30/86, Commerce Commission [250], Ch 12]
[Prior to 7/27/88, 21—Ch 60]

21—90.1(203C) Application of rules. These rules are subject to such changes and modifications as the department of agriculture and land stewardship may from time to time deem advisable and to such exceptions as may be considered just and reasonable in individual cases.

This rule is intended to implement Iowa Code section 203C.5

21—90.2(203C) Definitions. For rules of the department of agriculture and land stewardship, the following definitions apply:

“*Bureau*” means the grain warehouse bureau of the department of agriculture and land stewardship;

“*Department*” means the Iowa department of agriculture and land stewardship;

“*Received*” means the earlier of the following:

1. The date a state warehouse examiner acknowledges receipt.
2. The date stamped “received” in the warehouse bureau.
3. The date postmarked, if the item is properly addressed to the Warehouse Bureau of the Iowa Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319.

21—90.3(203C) Types of products to be warehoused. Products to be warehoused shall be divided into two general types or classes as follows:

90.3(1) “Bulk grain” means grain that is not contained in sacks.

90.3(2) Agricultural and farm consumable products other than bulk grain. Such products include products suitable for storage in quantity, canned agricultural products and products used in producing other agricultural products. For the purpose of storage, grain processed for seed purposes shall be classed as an agricultural product other than bulk grain.

This rule is intended to implement Iowa Code section 203C.1

21—90.4(203C) Application for license. Application to operate a licensed warehouse under the Iowa warehouse law (Iowa Code chapter 203C) shall be made to the bureau on forms prescribed for that purpose by the bureau. Forms are available from the bureau upon request. All information required by Iowa Code section 203C.7 shall be furnished. The bureau may require the applicant to file updated information if the information on the application is no longer current. The insurance certificate, financial statement, and background information on managers and persons applying for the license shall be on file prior to a license being issued. The bureau chief may require an inspection of the proposed facilities prior to the issuance of a warehouse license.

This rule is intended to implement Iowa Code sections 203C.6 and 203C.7.

21—90.5(203C) Warehouse license. A warehouse license shall specify the type and quantity of products which may be stored in a licensed warehouse. Separate class licenses bearing the same number may be issued to the same business entity authorizing the storage of bulk grain under one license and the storage of products other than bulk grain under the other license (Class II warehouse). The separate licenses may be for the same facilities provided the warehouse or warehouses described in the application are suitable for the safe storage of the products intended to be stored.

90.5(1) Warehouse license nontransferable. Warehouse licenses are not transferable between different legal entities. Warehouse licenses may be amended to cover a name change of the same legal entity. The license holder shall give the bureau chief notice of a proposed name change and, if applicable, a copy of the articles of incorporation changing the name.

90.5(2) The license shall be surrendered to the bureau chief immediately upon termination, cancellation or revocation of such license.

This rule is intended to implement Iowa Code sections 203C.2, 203C.7, 203C.9 and 203C.16.

21—90.6(203C) Posting of license and fee receipts. The warehouse license including warehouse diagram, and fee receipts for the current license period, shall be posted in a conspicuous location in the place of business at all times. A copy of the license shall be posted in each location where grain is delivered or weighed. Upon receipt of an amended license, the warehouse operator shall immediately post the amended license and remove the old license.

This rule is intended to implement Iowa Code section 203C.34.

21—90.7(203C) Renewal, termination and reinstatement of license—payment of license fee.

90.7(1) The bureau shall send to each licensed warehouse operator written notice that application and license fee for annual renewal of the warehouse license shall be received in accordance with Iowa Code section 203C.37. Failure to receive the application and fee by the bureau by the date due shall cause the license to terminate. A license that has been so terminated may be reinstated within 30 days of the date of termination conditioned on the applicant meeting all statutory requirements and receipt by the bureau of the following within the 30-day time period:

- a. Completed application,
- b. License fee,
- c. The reinstatement fee prescribed in Iowa Code section 203C.33.

90.7(2) Fees for license periods of less than one-year duration shall be prorated on a month-to-month basis. License periods of less than one-year duration shall be applicable only under the following circumstances:

- a. When an application for a new license is filed.
- b. When the fiscal year of a license holder is changed.

This rule is intended to implement Iowa Code sections 203C.33 and 203C.37.

21—90.8(203C) Financial statements. To obtain a warehouse license, an applicant shall submit a financial statement. The financial statement shall have been prepared within three months from the date of filing and in conformity with the applicable requirements as to annual financial statements.

A new business entity, which is in the process of transferring funds into the business name, filing for a license may file a pro forma balance sheet prepared by a certified public accountant licensed in this state in lieu of a current financial statement. Within one month after the issuance of a license by the bureau, the bureau shall receive a financial statement which complies with 90.8(1), either paragraph “a” or “b.”

90.8(1) Financial statement requirements. Financial statements filed pursuant to this rule shall comply with either of the following:

a. Be accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. The bureau may accept a qualification in an opinion that is unavoidable by any audit procedure. Opinions that are qualified because of the limited audit procedure or because the scope of an audit is limited shall not be accepted by the bureau.

b. Be accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant.

90.8(2) Sole proprietorship financial statements. Individuals licensed as sole proprietorships shall file a financial statement which conforms with the provisions of subrules 90.8(1) and 90.8(3) on the proprietorship business. The individual shall also file a personal statement of financial condition which conforms with the provisions of subrules 90.8(1) and 90.8(3). The personal statement of financial condition shall also disclose the historical cost basis for assets as provided in Iowa Code section 203.3.

90.8(3) Filing date of statements. All licensees shall prepare a financial statement at the close of their designated fiscal year and shall file the statement and the bureau's financial information form with the bureau not later than three months thereafter. This statement shall be prepared in accordance with generally accepted accounting principles. This financial statement shall contain a minimum of a balance sheet, statement of income, statement of cash flow, and accompanying footnotes. The bureau shall send a written statement to all licensees during the month after the close of the licensees' fiscal year notifying them that their financial statement is due three months after the close of their fiscal year.

90.8(4) Additional disclosures required in the financial statement. The following information shall be separately disclosed in the financial statement:

- a. Dollar amount of total grain sales.
- b. Depreciation expense.
- c. Interest expense.
- d. Related party transactions.
- e. Outstanding bushels and dollars of each type of credit-sale contract:

Advances made shall be disclosed for each type of contract.

f. A reconciliation of differences in the grain obligations as shown in the financial statement and the daily position record.

g. Number of bushels of grain purchased under each grain dealer's license. For purposes of this subrule, purchases shall mean all grain which the grain dealer has obtained title to during the grain dealer's fiscal year.

90.8(5) Filing extension. An extension of one month may be granted for the filing of financial statements by the bureau chief upon receipt of the following:

a. A letter from the warehouse operator's certified public accountant stating the reason for filing the extension request and that work has been done on preparing a financial statement.

b. An affidavit from the warehouse operator stating the warehouse operator meets the financial responsibility requirements of Iowa Code section 203C.6, or that the licensee shall file additional bond in an amount to cover any net worth deficiency as provided in section 203C.6, based upon the licensed certified public accountant's best estimate of the licensee's financial position.

c. Warehouse operators who file false affidavits under this rule may be prosecuted under Iowa Code section 203C.36.

Subrule 90.8(5) does not apply to the filing of monthly financial statements.

90.8(6) Asset valuation. The licensee may submit a written request for asset valuation to the bureau. Before an appraisal will be accepted by the bureau, the licensee shall show a positive net worth. The written request shall be accompanied by the appraisal and shall have been prepared by a licensed appraiser in this state and shall list the appraiser's credentials. All appraisals are subject to approval by the bureau chief. The bureau chief shall notify the licensee within five working days if the appraisal is unacceptable.

Any approved valuation may be used in any financial statements prepared by or for the licensee in accordance with 90.8(1).

90.8(7) Appraisals. Competent appraisals on file with the bureau shall be valid for use in determining asset value for a maximum period of three years. Thereafter, a new appraisal for asset valuation shall be required and shall be used for a like period of time. In the event the certified public accountant expresses doubt as to the licensee's ability to continue as a going concern, the bureau shall not allow an appraisal to be used to meet net worth requirements.

All assets included in the appraisal shall be depreciated by the bureau using the following schedule:

- a. Buildings and attached equipment — 15 years.
- b. Rolling stock (trucks) — 5 years.
- c. Equipment — 5 years.

90.8(8) Assets allowed in meeting financial requirements.

a. Corporations and partnerships. When determining the net worth requirements for corporations and partnerships, related party assets that require financial disclosure per financial accounting standards shall be disallowed. These assets shall be excluded unless the licensee can show the department sufficient documentation why these assets should be allowed.

b. Sole proprietors. When determining the net worth requirements for sole proprietors, related party assets shall be excluded unless the licensee can show the department sufficient documentation why these assets should be included.

Only that part of the value of an asset which is subject to execution shall be allowed by the bureau in determining net worth. When a liability associated with an exempt asset (whether the asset is included or not) exceeds the original cost (or fair market value after an appraisal approved by the bureau), such excess shall be shown as a liability with appropriate footnotes to the financial statement. Applicants or licensed warehouse operators shall complete the bureau's financial information form regarding this matter and submit the form with the financial statements.

90.8(9) Net worth deficiency monthly financial statements. All licensees who have a net worth deficiency and who have filed additional bond shall file monthly financial statements with the bureau by the end of the next month until their net worth meets the requirements of Iowa Code section 203C.6 for a minimum of three consecutive months. These financial statements shall contain a minimum of a balance sheet and statement of income.

90.8(10) Good cause financial statement. The bureau chief may require a licensee to file a financial statement which complies with 90.8(1) "b" within 45 days of notification by the bureau if one of the following conditions exists:

- a. Quantity shortage.
- b. Quality shortage.
- c. Insufficient funds check(s).
- d. Record-keeping violations.
- e. Other documented evidence which indicates the licensee's financial condition has deteriorated since the filing of the licensee's last financial statement.
- f. A high risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator based on a statistical model provided in Iowa Code section 203C.40.

90.8(11) Additional information. The bureau chief may require an applicant or licensee to provide the bureau with any other information reasonably related to the business of a warehouse operator and work papers supporting the financial statements.

90.8(12) Penalty for failure to timely supply financial statements. The department may suspend the license of any warehouse operator who fails to provide the required financial statements within the time limits prescribed by these rules.

This rule is intended to implement Iowa Code sections 203C.1, 203C.6 and 203C.7.

21—90.9(203C) Bonds and irrevocable letters of credit. Bonds filed with the bureau shall be on forms prescribed by the bureau. Irrevocable letters of credit filed with the bureau shall be on the form prescribed by the bureau. Bonds and irrevocable letters of credit shall be written so as to provide funds to protect depositors having storage in the facilities of the warehouse as described in the particular warehouse license issued to the warehouse operator.

90.9(1) *Agricultural products other than bulk grain.* The amount of bond or irrevocable letter of credit to be filed in connection with the storage of agricultural and farm consumable products other than bulk grain shall be determined in accordance with the provisions of Iowa Code section 203C.13. When the net worth of a licensee is less than required by Iowa Code section 203C.13, the licensee may increase the bond or file an irrevocable letter of credit with the bureau to cover the net worth deficiency as provided by Iowa Code section 203C.13.

90.9(2) *Inadequate net worth—storage of bulk grain.* When the net worth of a licensee authorized to store bulk grain is less than required by Iowa Code section 203C.6, the licensee may file a bond or an irrevocable letter of credit with the bureau to cover the net worth deficiency as provided by Iowa Code section 203C.6.

90.9(3) *Amount of bond or irrevocable letter of credit as department may require.* The bureau chief may require a bond or an irrevocable letter of credit to be filed in an amount determined by the department in addition to the minimum amount as provided by Iowa Code section 203C.13 and in addition to an amount to cover the net worth deficiency as provided by Iowa Code section 203C.6 for any of the following reasons:

- a. Quality deficiency in stored grain,
- b. Quantity deficiency in stored grain,
- c. Use of temporary storage facilities by licensee,
- d. Documented evidence of the excessive use of lost warehouse receipt release forms by the licensee.

90.9(4) *Minimum amount of indemnification.* The amount of bond, additional bond, or irrevocable letter of credit prescribed under subrule 90.9(1), 90.9(2) or 90.9(3) is the minimum amount that shall be accepted by the bureau. A bond or irrevocable letter of credit in a higher amount may be filed if the warehouse operator deems it advisable in the operation of the warehouse business.

90.9(5) *Quality and quantity deficiency bonds.* Quality and quantity deficiency bonds shall be for a minimum of 45 days.

90.9(6) *Replacement bond or irrevocable letter of credit.* The bureau shall include information and forms for filing the required replacement bond or irrevocable letter of credit with the written notice, unless the bond or irrevocable letter of credit is no longer necessary. If replacement bond or irrevocable letter of credit is not on file with the bureau within 60 days of receipt of the notice of cancellation, the department shall automatically suspend the warehouse license and cause the licensed warehouse to be inspected by the bureau. If a replacement bond or irrevocable letter of credit is not received within 30 days of the suspension of the license, the department shall automatically revoke the warehouse license and commence an examination of the licensee. When failure to file a replacement bond or irrevocable letter of credit causes revocation of the warehouse license, the bureau chief shall give notice of such revocation to each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage.

90.9(7) *Cancellation of bond or irrevocable letter of credit.* The cancellation notice shall be forwarded to the bureau by the issuer by certified mail. Said notice shall be in accordance with the provisions of the bond or irrevocable letter of credit. The time period for notice of cancellation stated in the bond or irrevocable letter of credit commences the date the bureau takes physical possession of the notice. The bureau shall send written acknowledgment of the cancellation of the bond or irrevocable letter of credit to the issuer and the principal.

This rule is intended to implement Iowa Code sections 203C.6, 203C.11, 203C.12 and 203C.13.

21—90.10(203C) Insurance. Each warehouse operator licensed by the department shall keep fully insured, for its current market value, against loss by fire, inherent explosion or windstorm, all agricultural products in storage in the warehouse and all agricultural products which have been deposited temporarily in the warehouse pending storage or for purposes other than storage. Such insurance shall be carried in an insurance company or companies authorized to do business in this state and shall be provided by and carried in the name of the warehouse operator. Each policy providing such coverage must have attached thereto an Iowa warehouse endorsement form as prescribed by the department. An insurance policy may include more than one station as defined in Iowa Code subsection 203C.1(14). A station may be insured by more than one policy.

90.10(1) Certificate of insurance. As evidence of such insurance coverage having been provided, a certificate of insurance form as prescribed by the department shall be filed with the department.

a. Not more than one policy shall be included on one certificate of insurance.

b. Where one policy provides coverage for two or more licenses or stations and coverage is provided separately at each location, a separate certificate of insurance shall be executed for each license or station shown on the policy. Each certificate shall show the total amount of insurance provided by the policy for the license or stations for which the certificate is provided.

c. Where one policy provides coverage for two or more licenses or stations and coverage is provided on a blanket basis at all locations, one certificate of insurance shall be executed for the policy. The certificate shall show the amount of insurance provided by the policy.

90.10(2) When the department receives notice from an insurance company that it has canceled the insurance of a licensed warehouse, the department shall automatically suspend the warehouse license if replacement insurance is not received by the department within 75 days of receipt of the notice of cancellation. The department shall cause an inspection of the licensed warehouse immediately at the end of the 75-day period. If replacement insurance is not filed within another 10 days following suspension, the warehouse license shall be automatically revoked. When a license is revoked, the department shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of the revocation. The department shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the 30th day following the revocation. The notice shall be sent by ordinary mail to the last-known address of each person having grain in storage as provided in this subrule.

90.10(3) When the insurance of a licensed warehouse is expiring, the department shall send the warehouse operator a reminder letter 30 days prior to the effective date of the expiration. The department shall automatically suspend the warehouse license if replacement insurance is not received by the department within 15 days prior to the expiration date. The department shall cause an inspection of the licensed warehouse immediately at the end of the 15-day period. If replacement insurance is not filed within another 10 days following suspension, the warehouse license shall be automatically revoked. When a license is revoked, the department shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage that the license has been revoked. The department shall further notify each receipt holder and all persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the 30th day following the revocation. The notice shall be sent by ordinary mail to the last-known address of each person having grain in storage as provided in this subrule.

This rule is intended to implement Iowa Code section 203C.15.

21—90.11(203C) Notice to the warehouse bureau.

90.11(1) The bureau shall be notified by the licensee prior to:

- a. Change of ownership of a warehouse.
- b. Change in name or business address of a warehouse.
- c. The use of additional storage facilities which are not covered under the warehouse license.
- d. The use of any facility under warehouse license for storage of a product other than that for which it is licensed.
- e. The changing of the licensee's fiscal year.
- f. Using any bin or facility which has had a structural change.
- g. The ceasing of operations.
- h. Any change in management.

90.11(2) The bureau shall be notified by the licensee within 24 hours after the licensee knows or should have known any of the following:

- a. Loss or damage to stored products or to licensed storage facilities.
- b. Licensee's net worth falling below the amount required by Iowa Code section 203C.6 and if the amount of the deficiency is not covered by a net worth deficiency bond as required by Iowa Code section 203C.6.
- c. Any quality or quantity deficiency of grain.

90.11(3) The bureau shall be notified by the licensee within ten days after the licensee knows or should have known any of the following:

- a. Termination of a lease on storage facilities, or the leasing of a facility under license to any other person.
- b. The death of an individual or any member of a partnership operating a warehouse.

This rule is intended to implement Iowa Code sections 203C.2, 203C.6, 203C.8 and 203C.9.

21—90.12(203C) Issuance of warehouse receipts. A warehouse receipt shall be issued no later than the close of the next business day following demand by the depositor or depositor's agent or, in absence of such demand, the warehouse receipt shall be issued within six months from date of deposit in the warehouse, unless the warehouse operator is in possession of a signed and dated statement from the depositor that the depositor does not want a warehouse receipt to be issued. Such waiver shall apply only to grain deposited in the warehouse prior to the date of the waiver. If a depositor signs a statement that no warehouse receipt need be issued, such grain shall then be deemed as open storage and shall remain a warehouse obligation. A copy of said statement shall be maintained in the warehouse operator's records.

The original (white copy) warehouse receipt shall be given to the depositor upon demand. The depositor's copy (green) shall be given to the depositor upon issuance of the warehouse receipt. The warehouse operator's copy (yellow) shall be maintained by the warehouse operator in numerical order. The department's copy (pink) shall be filed with the bureau within seven days of issuance of the receipt.

90.12(1) *Unpriced grain deemed held for storage after 30 days.* Any grain received at any warehouse for which the actual sale price is not fixed and documented on the warehouse operator's records or payment made on the 30th day shall be construed to be grain held for storage within the meaning of the warehouse law. The 30-day provision is applicable only when there has been no commitment for storage by the depositor or the warehouse operator fails to have a policy posted in a conspicuous location in the place of business. Grain shall be construed as storage at any time less than 30 days if the receiving warehouse operator has a policy specifying when such grain shall be construed as storage. Such policy shall be posted at all times in a conspicuous location in the place of business. Warehouse receipts shall be issued in accordance with the provisions of Iowa Code section 203C.18.

Grain held in storage after the 30th day or after the time period less than 30 days in accordance with the warehouse operator's posted policy for which warehouse receipts have not been issued shall be deemed as open storage. The warehouse operator's tariff charges shall apply to open storage from date of deposit the same as warehouse receipted storage. Open storage shall be considered as a storage obligation.

90.12(2) *Information on warehouse receipts.* Not more than one product, or grade, or value of product, shall be shown on a warehouse receipt. All grade factors pertinent to determining grade shall be shown on warehouse receipts issued for bulk grain and any other information pertinent to the product, stored under warehouse receipt, should clearly be stated under the heading "Remarks." The warehouse operator, in the inspection of the grain upon delivery, shall perform a sufficient amount of sampling of the grain to ensure a representative application of the grade factors to the grain. All warehouse receipts issued shall designate the person the receipt is issued to and whether it is issued negotiable or nonnegotiable.

a. All warehouse receipts shall be issued on an accurate and complete basis. All applicable areas shall be filled in. The following errors shall be cause to cancel and reissue the warehouse receipt:

- (1) Illegible changes or appearance of change in overall amount,
- (2) Change in the type of grain,
- (3) Changing the warehouse receipt from negotiable to nonnegotiable or vice versa.

b. Any alterations not directly prohibited shall be made by strike-throughs and replacement. No correction fluid shall be used.

All copies shall be altered identically.

90.12(3) *Restrictions on the issuance of warehouse receipts.* Collateral receipts cannot be issued for grain represented by credit-sale contract except for the percentage of bushels paid for through advances to sellers on grain purchased by credit-sale contract. The amount and percentage of advances shall be shown on the face of the credit-sale contract or on a listing which identifies the contracts and the amount of the advances.

This rule is intended to implement Iowa Code sections 203C.17 and 203C.18.

21—90.13(203C) Cancellation of warehouse receipts. Upon delivery of the product represented by a warehouse receipt, the original receipt shall be marked "canceled," signed or initialed, and dated upon the face thereof by the warehouse operator or an authorized agent. The warehouse operator shall then retain possession of the warehouse receipt in a separate numerical order and shall present the receipt to be canceled with the department's stamp at the time of any inspection or examination of the warehouse records. Cancellation shall mean that the obligation is removed from the bureau's records. The warehouse operator shall, upon request of the bureau, forward any such warehouse receipts to the bureau's office to be canceled with the department's stamp.

Any negotiable receipts which have been used as collateral by the licensee shall have a release date and signature on the reverse side by the lender indicating when the receipt was released before the bureau shall stamp the receipt "canceled" with the department's stamp.

90.13(1) *Partial delivery of negotiable warehouse receipted commodity.* If only a portion of the product represented by a negotiable warehouse receipt is delivered, such warehouse receipt shall be signed or initialed, dated and marked "canceled" by the warehouse operator or an authorized agent upon the face thereof. A new warehouse receipt shall be issued covering the balance of the product remaining in storage at the time the original warehouse receipt is canceled.

90.13(2) *Voided receipts.* Original warehouse receipts voided by the warehouse operator for any reason shall be so marked, signed or initialed, and dated and held to be stamped with the department's cancellation stamp in the same manner as any other warehouse receipt. The department's copy (pink) of such voided warehouse receipt shall be forwarded to the bureau.

90.13(3) Warehouse receipt cancellation procedure.

- a. The warehouse operator shall have the original warehouse receipt in possession.
- b. The warehouse operator shall mark the face of the warehouse receipt "canceled," sign or initial and date it.
- c. Grain purchased from a warehouse receipt shall be recorded on a document numbered at the time of printing which contains the following information:
 - (1) Seller's name,
 - (2) Warehouse receipt number,
 - (3) Number of bushels,
 - (4) Price,
 - (5) Items deducted from gross proceeds,
 - (6) Net value,
 - (7) Check number, invoice reference, or credit-sale contract reference number,
 - (8) One copy of the document shall be maintained by the licensee for inspection, and one copy shall be given to the seller.

90.13(4) Surrender of warehouse receipts on cancellation, termination, or revocation of license. When a warehouse license is canceled, terminated, suspended or revoked, all unused warehouse receipts under such license shall be surrendered to the bureau.

The bureau shall notify the warehouse operator that all outstanding warehouse receipts shall be returned to the bureau's office no later than 120 days from the date of cancellation, termination, or revocation of the license.

90.13(5) Purchase or return of grain, replacement receipt issued, or cancellation of outstanding receipts, upon cancellation, termination, or revocation of warehouse license. When a warehouse license is canceled, terminated, or revoked, all stored grain shall be either purchased and payment made, or returned within 30 days to the holders of warehouse receipts or unpriced scale tickets, except when the warehouse is continuing operation under new ownership or when storage obligations are assumed by another licensee. Upon completion of delivery to the receipt holder or the reissuance of the receipt under a new license, the warehouse operator shall immediately mark "canceled," sign or initial and date such receipt on the face of the original copy, and forward such receipt to the bureau's office to be stamped with the department's cancellation stamp. When the storage obligations are assumed by a new licensee from a warehouse that has had its license canceled, terminated, or revoked, replacement warehouse receipts shall be issued.

90.13(6) Delivery conditioned upon return of outstanding warehouse receipt. No product represented by an outstanding warehouse receipt shall be delivered until the original outstanding warehouse receipt is returned to the warehouse operator. The receipt shall be held by such warehouse operator as an open warehouse receipt until such delivery is completed. If periodic partial delivery is made against a nonnegotiable warehouse receipt, such delivery shall be documented on the back side of the original warehouse receipt or other method of documentation approved by the department showing the net balance in store. Original nonnegotiable warehouse receipts may be maintained in alphabetical or numerical order. If partial delivery is made against a negotiable warehouse receipt, such warehouse receipt shall be canceled and a replacement warehouse receipt issued for the balance in store. Such replacement warehouse receipt shall show under the "Remarks" section that the replacement receipt is the balance of the canceled warehouse receipt number.

90.13(7) *Cancellation of warehouse receipt conditioned on removal from storage, purchase and payment, reissuance of receipt, or execution of a credit-sale contract.* No warehouse receipt shall be canceled by the warehouse operator unless:

- a. The product represented by the receipt has been removed from storage,
- b. The product has been purchased and payment made,
- c. A replacement receipt is issued at the time the receipt is canceled, or
- d. The product represented by the receipt is purchased and a credit-sale contract is properly executed.

This rule is intended to implement Iowa Code sections 203C.16, 203C.17, 203C.18, 203C.34 and 203C.35.

21—90.14(203C) Lost or destroyed receipt. If a warehouse receipt is lost or destroyed, three methods shall be used in canceling the receipt. The following procedures shall be adhered to:

90.14(1) If the depositor or warehouse receipt holder has lost the receipt and is either selling all of the grain to the warehouse operator or removing all of the grain from storage, a Lost Warehouse Receipt Release shall be used. It shall be completed in duplicate and signed by the receipt holder. This form shall be notarized. Both copies shall be retained in the warehouse records in lieu of the original copy of the receipt.

90.14(2) If the depositor has lost a warehouse receipt and needs a duplicate warehouse receipt, the depositor shall obtain a bond made in favor of the warehouse operator in accordance with the provisions of Iowa Code section 554.7601 (Uniform Commercial Code). This bond shall be in the amount of at least double the market value of the commodity at the time of posting the bond. A copy of the bond shall also be filed with the bureau. Upon issuance of a duplicate receipt, it shall be so marked in the space provided under Remarks “Duplicate of lost warehouse receipt No.____,” inserting the lost receipt number in that space. The bond shall be in the warehouse operator’s possession prior to the issuance of a duplicate receipt.

90.14(3) If a warehouse receipt has been lost or destroyed by the warehouse operator, the warehouse operator shall prepare an affidavit in duplicate, signed before a notary public, stating to the effect that the warehouse receipt was lost or destroyed on or about (date). It shall also state that after a diligent search was made, the warehouse receipt cannot be found and that no obligation is due any person under that warehouse receipt. It shall be further stated in the affidavit that if the lost receipt is found, it shall be forwarded immediately to the bureau for cancellation. If a depositor’s name is on record under the warehouse receipt, a statement shall also be obtained from the depositor that the depositor has either been paid for the grain or has received the grain which had been stored under warehouse receipt No.____ and has no further claim against said receipt. This statement shall be prepared in duplicate. The documents shall be held in lieu of the original copy of the warehouse receipt.

This rule is intended to implement Iowa Code section 203C.19.

21—90.15(203C) Form of warehouse receipt. Warehouse receipt forms shall be of a size 7 inches in width by 8¼ inches in length and shall be printed in not less than quadruplicate for bulk grain and not less than triplicate for agricultural products other than bulk grain. The original receipt shall be white in color and the weight of the paper used shall not be less than 20-pound base. The department’s copy of the receipt shall be pink in color and the weight of the paper used shall not be less than 16-pound base. The warehouse operator’s copy shall be yellow in color and shall not be less than 16-pound base. The owner’s copy shall be green in color and shall not be less than 16-pound base.

Receipts issued for bulk grain and receipts issued for agricultural and farm consumable products other than bulk grain shall be in a form prescribed by the department.

The bureau shall have control over the printing of warehouse receipts.

This rule is intended to implement Iowa Code sections 203C.2 and 203C.18.

21—90.16(203C) Tariffs. Each warehouse operator, at the time of making application for a warehouse license, shall file two copies of a tariff with the bureau. The tariff shall be on a form prescribed by the bureau, which forms shall be furnished to the applicant upon request. The tariff shall contain rates to be charged for storage, receiving, and loadout of stored products. After being properly numbered and dated by the bureau, one copy of the tariff shall be returned to the licensee for posting in a conspicuous location. A copy of the tariff shall be posted in each location where grain is weighed and delivered.

90.16(1) Application of tariff. The tariff rates applicable to stored products shall be those as contained in the tariff on file with the bureau at the time the product was received for storage. The tariff rates shall be applicable on an annual basis from date of deposit. If a tariff is amended, the charges shall be applied in accordance with 90.16(2). Tariff charges shall cease upon cancellation, termination, or revocation of a warehouse license. Tariff charges shall continue in accordance with the rates as filed by the successor warehouse operator. In determining the applicable rates to be applied under the successor warehouse operator's tariff, the date of deposit under the new tariff shall be the actual date of deposit. No charges shall apply to grain held for less than 30 days and for which no warehouse receipt has been issued unless the warehouse operator has a posted policy which provides for a lesser time period.

90.16(2) Amending tariff. Tariffs may be amended by the licensed warehouse operator by filing a new tariff with the bureau. The amended tariff shall contain rates as specified by the warehouse operator. The previous tariff shall be posted and continue to apply on all products received prior to the effective date of the amended tariff until the anniversary date of deposit unless the new tariff is lower, in which case the amended tariff shall go into effect immediately. The amended tariff shall apply to any products received after the effective date of the amendment and on any products stored under the previous tariff commencing on the anniversary date of the storage period. The effective date of the amended tariff will be the date received by the bureau or a specified later date.

This rule is intended to implement Iowa Code sections 203C.2, 203C.7, 203C.27 and 203C.28.

21—90.17(203C) Records. A warehouse operator shall maintain complete and sufficient records to show all deposits, purchases, sales, storage obligations and loadouts of the warehouse.

90.17(1) Maintaining warehouse receipts. The original (white) copy of outstanding warehouse receipts and the original copy of canceled warehouse receipts shall be maintained in separate numerical sequences.

90.17(2) Daily position record. The daily position record shall summarize one month's activity in a format approved by the bureau. The daily position record shall indicate at least the increases and decreases and ending balances on a daily basis for total stocks, open storage, warehouse received, company-owned unpaid, company-owned paid, and ending balance of total company-owned. The daily position record shall reflect the obligations in the appropriate columns.

A separate daily position record shall be maintained for each kind and class of grain in licensed facilities.

All daily entries to the daily position record shall reflect transactions made through that day's close of business unless another time of day is elected by the licensee and applied by the licensee on a consistent basis.

90.17(3) Multiple locations. If the licensee operates multiple locations under one license, the branch locations may have a separate series of the following documents:

- a. Scale tickets,
- b. Settlement sheets,
- c. Credit-sale contracts,
- d. Warehouse receipts, and
- e. Checks.

However, upon issuance, the warehouse operator's copy (yellow) of all warehouse receipts and credit-sale contracts shall be returned to the main location.

90.17(4) Inspection. For the purpose of inspection, the hours of 8 a.m. to 5 p.m., except Saturday, Sunday and holidays, shall be considered as ordinary business hours. All financial records, grain records and payment records shall be available for inspection by the bureau during ordinary business hours and any other time specified by the bureau in writing. All records shall be made available within the state of Iowa upon request.

90.17(5) Retention of records. All records shall be kept for a period of not less than six years. Such records shall be kept for the stated time period even if a license has been canceled.

90.17(6) Grade factors on scale tickets. All grade factors for determining the quality and grade of grain in accordance with the Official U.S. Standards for Grain shall be documented on scale tickets or supplemental records at time of deposit.

This rule is intended to implement Iowa Code sections 203C.2, 203C.17, and 203C.35.

21—90.18(203C) Adjustment of records.

90.18(1) Adjustment of records for operational shrink. A consistent operational shrink shall be taken on a monthly basis and the warehouse records documented accordingly.

90.18(2) Other record adjustments. Any reduction of record obligation shall be justified. Upward adjustments of record obligation shall be made only upon department approval or request. An upward adjustment may be made to the records at any time a total weigh-up for a particular kind of grain is made and all records of the weigh-up maintained for verification. The licensee may make upward adjustments for rail and barge shipments based upon actual unloaded weights when the origin weights were estimated. A warehouse operator may voluntarily adjust the records at the time of examination when the measured inventory exceeds the record obligation in an amount in excess of 1½ percent. However, if the soybean daily position record is maintained in net bushels, when the measured inventory exceeds the record obligation in an amount in excess of 5 percent, the warehouse operator may voluntarily adjust the records at the time of examination. All adjustments shall be readily identifiable in the daily position record.

Unless the delivered weight is adjusted for and reflects dry bushels, all adjustments for moisture shall be shown in the adjustment column. A computer-generated scale ticket listing showing gross weights and net weights will satisfy the requirements of this rule.

This rule is intended to implement Iowa Code sections 203C.2 and 203C.35.

21—90.19(203C) Scale weight ticket and settlement sheets.

90.19(1) Unless the warehouse operator utilizes a computer system which sequentially numbers and prints scale weight tickets, every licensed warehouse operator shall have prenumbered scale tickets. All scale tickets shall show a minimum of:

- a. The warehouse operator's name and location;
- b. Date;
- c. Depositor's name;
- d. Gross weight, tare weight, and delivered weight;
- e. Type of product or commodity;
- f. Indication of whether product or commodity is being received or loaded out.

A copy of all such tickets shall be maintained in numerical sequence as part of the records. It shall be the responsibility of the licensee to provide a list of all scale tickets used at each location. Any scale ticket used in pricing grain for the purpose of sale to the warehouse operator shall have the price shown on all copies of such ticket if priced at time of delivery.

90.19(2) Unless the warehouse operator utilizes a computer system which sequentially numbers and prints settlement sheets, every licensed warehouse operator shall have prenumbered settlement sheets. All settlement sheets shall show a minimum of:

- a. The warehouse operator's name and location;
- b. Seller's name and address;
- c. Date of deliveries;
- d. Scale ticket numbers;
- e. Price per bushel;
- f. Date, amount of payment, and check number;
- g. If deferred payment, deferred pricing or other credit-sale contract.

A copy of all such settlement sheets shall be maintained in numerical or alphabetical order. A copy of the settlement sheet shall be given to the depositor upon demand or upon the issuance of a warehouse receipt. Any settlement sheet used in the pricing of grain for the purpose of sale to the warehouse operator shall have the price shown on all copies of such settlement sheet. Deliveries and settlement transactions shall be posted to the settlement sheet on a daily basis unless a computer system is utilized which can generate a scale ticket summary sheet for each depositor.

This rule is intended to implement Iowa Code sections 203C.2 and 203C.35.

21—90.20(203C) Shrinkage. A person who, in connection with the receipt of grain for storage, processing, or sale, adjusts the scale weight of the grain to compensate for the moisture content of the grain; or to compensate for losses to be incurred during the handling, processing, or storage of grain shall do so in accordance with provisions of Iowa Code section 203C.25.

21—90.21(203C) Grain monthly statements. A grain statement shall be prepared at the close of business at the end of each calendar month and filed with the bureau by the tenth of the month following. This grain statement shall be on a form prescribed by the bureau, which shall be furnished to the warehouse operator upon request. A grain statement shall be filed for each calendar month regardless of whether or not the warehouse operator has products in storage.

This rule is intended to implement Iowa Code section 203C.2.

21—90.22(203C) Grain stored in another warehouse. Upon approval of the bureau, a licensed warehouse operator may store grain in another licensed warehouse located in the state of Iowa.

90.22(1) Upon receipt of a written request from a licensed warehouse operator to store a specified amount of grain in another warehouse and confirmation of compliance with Iowa Code section 203C.6, the bureau shall issue an amended license to the warehouse operator. Such amended license shall show the number of bushels which the warehouse operator is authorized to store in another warehouse. The warehouse operator shall not store grain in another warehouse prior to the issuance of the amended warehouse license.

90.22(2) The number of bushels of grain to be stored in another warehouse shall be added to the warehouse operator's gross capacity. The warehouse operator must have sufficient net worth to cover the gross capacity or provide a deficiency bond or irrevocable letter of credit as provided for in Iowa Code section 203C.6. The net worth requirements of Iowa Code section 203C.6 shall not apply to transfers of grain between warehouses licensed by the same entity.

90.22(3) A warehouse operator who stores grain in another warehouse shall obtain a nonnegotiable warehouse receipt for the grain stored. Such receipt shall clearly show as the name of depositor "Held in Trust for the Depositors of (name of original receiving warehouse)". Such warehouse receipt shall be on an official form as specified in 90.15(203C) or an official United States Department of Agriculture authorized bonded warehouse receipt as provided for in the United States Warehouse Act.

90.22(4) Grain stored in another warehouse under the provisions of this rule shall be reflected in the total stocks section and the appropriate obligations section of the warehouse operator's daily position record.

90.22(5) Grain shipped to another warehouse operator under the provisions of this rule shall be documented on scale tickets. The warehouse operator shall either clearly indicate “forwarded grain” on the scale ticket or maintain a supplementary record of such shipments. The warehouse operator shall at all times maintain a record of the amount of grain stored in another elevator.

90.22(6) Warehouse operators shall disclose the amount of each type of grain stored in another warehouse on the monthly statements filed pursuant to rule 90.21(203C).

90.22(7) A licensed warehouse operator shall not accept grain for storage from another licensed warehouse operator while such warehouse operator has grain stored elsewhere under the provisions of this rule.

21—90.23(203C) Warehouse operator’s obligation and storage. A warehouse operator shall at all times maintain sufficient quality and quantity of stored products in the warehouse to cover the obligations as examination of the records shall indicate. If, at the time of an examination, a shortage is determined, a warehouse operator shall purchase and make actual payment in the manner approved by the bureau for a sufficient quantity and quality of the commodity to fully cover the shortage by the end of the second business day, excluding weekends or holidays, unless the bureau chief receives within the same time period a confirmation from a surety company or financial institution for 100 percent bonding of the deficiency. Any shortage secured by 100 percent bonding within the allotted time period shall be covered in full within 30 days from the discovery of the shortage.

A licensed warehouse operator who does not have a sufficient quantity or quality of grain to satisfy the warehouse operator’s obligation based on an examination by the department shall not purchase grain on credit-sale contract to correct the shortage of grain.

The department may suspend the license of any licensee with a shortage who is unable to satisfy any of the above requirements.

This rule is intended to implement Iowa Code sections 203C.1 and 203C.17.

21—90.24(203C) Storing of products. Bulk grain in storage shall be stored in such a manner that the amount of grain in the storage facility can be readily determined. The warehouse operator shall be required to level the grain before completion of the examination if the amount of bulk grain in a storage facility cannot be readily measured by the examiner. A product other than bulk grain shall be stored in such a manner that it can be readily inspected and the amount and kind thereof determined. Such maintenance, conditioning, care, or surveillance shall be given to stored products as is required to maintain the quality, grade, and safe storage of the products. Nothing shall be placed or stored in a licensed facility that will in any way contaminate the stored products or cause any degrading of grade or value. Storage facilities shall not be overfilled. There shall be sufficient overhead air space to allow the examiner to readily determine the quality and quantity of the grain and to provide adequate ventilation. The bureau chief may require the installation of overhead ventilation fans in facilities when in the bureau chief’s judgment such fans are needed to preserve the quality of stored products. The bureau chief may require the installation of aeration equipment in storage facilities when it is deemed necessary to preserve the quality of stored products.

90.24(1) *Storage of contaminating products or more than one type of agricultural product.* Facilities may be licensed for both bulk grain and agricultural products other than bulk grain; however, if products of a contaminating nature are stored in the facility, the facility shall be removed from the license for any other agricultural products. If more than one type of an agricultural product is being stored in a facility, proper measures shall be implemented to keep such products from intermingling.

90.24(2) *Stored products in licensed facilities.* All stored products shall be maintained in licensed facilities.

This rule is intended to implement Iowa Code sections 203C.2, 203C.8 and 203C.16.

21—90.25(203C) Facilities. No facility shall be considered suitable for the storage of bulk grain unless the warehouse has the necessary equipment such as: grain leg, portable augers or vacuators for handling, receiving, and loading out of grain.

90.25(1) No unlicensed facility shall be connected to a licensed facility unless prior approval is obtained from the bureau.

90.25(2) All licensees shall have an approved scale for inbound deliveries made by depositors. This rule is intended to implement Iowa Code sections 203C.2 and 203C.8.

21—90.26(203C) Maintenance of storage facilities. All licensed storage facilities shall be maintained in such manner as to be suitable for the proper and safe storage of the particular product or products to be stored therein. Safe and adequate means of ingress and egress to the various storage units and grounds of the warehouse complex shall be provided and maintained by the warehouse operator. Sufficient louvers, outlets, overhead ventilation fans, aeration ducts and fans, or any combination of these shall be maintained in each storage facility to prevent deterioration or spoilage and maintain proper and safe storage of stored products.

90.26(1) Inspection safety specifications for ladders and lifts on storage units. Storage units having entrances over 20 feet above ground or floor level shall be equipped with a fixed ladder or a safe and adequate lift. Storage units having entrance over 60 feet to a maximum of 100 feet above ground or floor level shall be equipped with safe and adequate lift, an attached circular or spiral stairway or an alternating tower-type stairway. Any storage units having entrance in excess of 100 feet from ground or floor level shall be equipped with an adequate electric lift. Catwalks or walkways may be provided in lieu of ladders or lifts between facilities.

Rungs on fixed ladders shall be spaced not to exceed 1-foot centers and there shall be sufficient space between ladder rung and face of the structure to permit a safe foothold. Permanent fixed ladders more than 24 feet in height shall have a safety cage which shall commence not less than 7 feet or more than 8 feet from ground level. Any facilities approved with a safety cable and belt hookup prior to September 1, 1992, shall continue to be approved provided they are maintained in a safe working order.

90.26(2) Catwalks, walkways, landing platforms and stairs. Catwalks, walkways and landing platforms shall be equipped with a top rail 42 inches from the floor and a middle rail. Catwalks, walkways and landing platforms constructed after September 1, 1992, must also be equipped with toeboards which are at least 4 inches in height and which are not more than 1/4 inch from the floor. Stairways shall be equipped with handles which are not more than 34 inches nor less than 30 inches in height and of similar construction as catwalk or walkway rails.

Catwalks, walkways, landing platforms, stairways, lifts and ladders shall be kept clean and free of grain and other matter which might endanger the safety of persons using them.

90.26(3) Removal of facilities from warehouse license. Any storage facility which fails to meet these requirements shall be called to the attention of the warehouse operator. Failure of the warehouse operator to place such facility in a suitable condition within a reasonable length of time shall result in said facility being eliminated from coverage from the warehouse license in accordance with the provisions of Iowa Code section 203C.8. Any facility found which has deteriorated to a point that it is unsuitable for storage shall be immediately removed from the warehouse license in accordance with the provisions of section 203C.8, until such time that it shall meet requirements and has been reinspected.

This rule is intended to implement Iowa Code sections 203C.2 and 203C.8.

21—90.27(203C) Temporary storage facilities. Temporary grain storage facilities may, in the discretion of the department, be approved and licensed on the following basis:

90.27(1) Licenses for temporary storage facilities may be issued at any time but shall be effective for the storage of grain only from August 1 to May 1 of the following year. Temporary storage facility licenses shall terminate each May 1 unless a temporary storage facility licensee requests and obtains an extension. Additional extensions up to 90 days in length may be requested. Each extension shall be requested 45 days prior to the expiration of the original licensing period or extension then in effect.

90.27(2) An extension to the original licensing period of a temporary storage facility or an additional extension may only be granted if all of the following requirements are satisfied:

a. The licensee has requested an original extension or an additional extension no later than 45 days prior to the expiration of the licensing period or extension then in effect.

b. The bureau shall have completed an examination of the licensee's temporary storage facility.

c. The licensee shall have paid the bureau for the cost of the examination of its temporary storage facility. The payment shall include the labor costs, the equipment cost, the sampling cost and any additional costs incurred by the bureau in examining a licensee's temporary storage facilities. Payment shall be made and received by the bureau before any extension may be granted.

90.27(3) The warehouse operator shall either purchase the grain stored in the temporary storage facilities or remove the grain from the temporary storage facility prior to May 1 or prior to the expiration of a granted extension.

90.27(4) The licensing period for a temporary storage facility may be extended beyond August 1. However, the extension of a licensing period for a temporary storage facility shall not result in the granting of a new August 1 to May 1 licensing period. As a result, a licensee shall be required to request additional extensions at least 45 days prior to the expiration of the extension then in effect.

90.27(5) All temporary storage facilities shall comply with the following specifications:

a. Each storage unit shall contain aeration equipment sufficient to provide at least .13 cubic feet of air per bushel per minute.

b. Each storage unit shall have an asphalt base, concrete base, pozzolanic base, or a compacted limestone base which meets the following minimum specifications:

(1) Base shall be of a depth and compaction to permit trucks or other equipment, used in loading or unloading the pad, to move around over the base without breaking through or unduly scuffing the surface.

(2) Depth of limestone top shall not be less than four inches.

(3) The slope from the center of the base shall not be less than one-fourth inch per linear foot to edge of base.

(4) Adequate drainage away from the base shall be provided to prevent any water from standing or backing up under the grain. Base shall be at least six inches above surrounding area.

c. Each storage unit shall contain electrical temperature sensing units sufficient to detect hot spots for the prevention of grain spoilage.

d. Angle of repose of stored grain shall be maintained to provide sufficient drainage.

e. The storage unit shall be covered. The cover shall be of sufficient strength to resist tearing under normal expected conditions and to allow a person to walk on the cover without penetrating it. Covered units shall have sufficient inlets or perforated tubing over the top of the stored grain to provide adequate air flow through the grain.

f. All storage units shall have rigid sidewalls, which shall not exceed 12 feet in height. Rectangular facilities shall be no more than 100 feet in width and circular facilities shall be no more than 100 feet in diameter.

90.27(6) All temporary storage facilities shall be licensed before any products to be stored are placed in them.

90.27(7) Temporary licensed storage capacity may not exceed 30 percent of permanent licensed storage capacity.

90.27(8) All temporary storage facilities which the department has waived in subrule 90.27(1) shall continue to meet all of the other requirements of rule 90.27(203C). The chief may require the filing of additional bond or irrevocable letter of credit in an amount to be determined by the department for the temporary facility before the waiver of subrule 90.27(1) is granted.

90.27(9) The bureau chief or examiner shall issue written notice to the licensed warehouse operator for any temporary storage facility which no longer meets these requirements. Failure of the warehouse operator to place the facility in a suitable condition within a reasonable length of time shall result in the facility being eliminated from coverage from the warehouse license. Any facility found which has deteriorated to the point that it is unsuitable for storage shall be immediately removed from the warehouse license until the time that it meets the requirements and has been reinspected.

90.27(10) Corn containing more than 14 percent moisture or soybeans containing more than 13 percent moisture shall not be stored in temporary facilities.

90.27(11) Corn and soybeans which do not grade No. 2 or better using the Official U.S. Standards for Grain shall not be stored in a temporary storage facility.

This rule is intended to implement Iowa Code sections 203C.2, 203C.7, 203C.8, 203C.12, 203C.16, and 203C.18.

21—90.28(203C) Prioritization of inspections of warehouse operators. Warehouse operators with a probability of failure factor greater than 40 percent, as calculated by the statistical model, shall be examined at least twice in a 12-month period.

This rule is intended to implement Iowa Code sections 203C.2 and 203C.40.

21—90.29(203C) Department of agriculture and land stewardship enforcement procedures.

The bureau shall follow a step-by-step enforcement policy to ensure consistent compliance with and application of these rules. The department recognizes that violations of certain rules may have more serious ramifications and thus the enforcement of those rules requires stricter policies. The enforcement policies apply to any violation of these rules unless enforcement provisions are specifically addressed in a particular rule or subrule.

90.29(1) If it is necessary to establish proof of a Code or rule violation, a special investigation of the licensee shall be conducted by the bureau of the department. The bureau may contact the licensed warehouse operator, the warehouse operator's employees, or any other interested party to gain information for its investigation. The bureau, in its investigation of a licensee, may cause a special examination to occur if evidence of at least one of the following conditions is present:

- a. Insufficient funds check.
- b. Stalled payment for grain.
- c. Quantity deficiency.
- d. Quality deficiency.

The expense of such special examination shall be based on actual costs incurred by the bureau and may be assessed to the licensee. The costs shall include the labor, equipment, sampling and any additional costs incurred by the bureau. Payment shall be made as directed by the bureau.

90.29(2) Upon establishment by an examiner or the bureau of a rule violation, the bureau shall consider the following elements in determining the proper period of time within which to require a licensee to comply with the rules:

- a. Gravity of the offense.
- b. Likelihood of depositor loss.
- c. Length of time within which a reasonable licensee in a similar circumstance should be able to comply with the rule.

90.29(3) The chief may file an information against the licensee for any violation of these rules. The bureau chief shall consider the following factors in exercising statutory discretion to file an information:

- a. Likelihood of depositor loss.
- b. Gravity of the offense.
- c. Licensee's intent to violate the rule.
- d. Licensee's record of Code or rule violations.
- e. Number of violations in the particular report.

90.29(4) The bureau chief may cause charges to be filed against the licensee for any violation of these rules. The bureau chief shall consider the following factors in exercising statutory discretion to file charges:

- a. Likelihood of depositor loss.
- b. Gravity of the offense.
- c. Licensee's intent to violate the rule.
- d. Licensee's record of rule violations.

This rule is intended to implement Iowa Code sections 203C.2, 203C.10 and 203C.36.

21—90.30(203C) Review proceedings. A warehouse licensee or applicant may file a formal written complaint with the department if the licensee or applicant contests any finding or decision of the bureau chief.

Any such complaints shall be resolved in contested case proceedings conducted pursuant to the applicable provisions of 21—Chapter 2.

21—90.31(203C) Emergency storage space. Emergency storage space (ground pile) may, in the discretion of the department, be approved and licensed on the following basis:

90.31(1) Licenses for emergency storage space shall be effective for the storage of corn only from August 2, 1999, to January 31, 2000.

90.31(2) The warehouse operator shall either purchase the grain stored in the emergency storage space or remove the corn from the emergency storage space prior to February 1, 2000. Any corn remaining in such space after this date will not be included in grain inventory measurements made by the department, and such corn may not be used to cover storage obligations.

90.31(3) Before any corn can be placed in the emergency storage space, the department shall receive either an irrevocable letter of credit or a surety bond in the amount of \$2 for each bushel to be placed in emergency storage space. The irrevocable letter of credit or surety bond will expire on April 1, 2000. The irrevocable letter of credit or surety bond filed with the department under this rule shall not be canceled by the issuer on less than 45 days' notice by certified mail to the department and the licensee. When the department receives notice from an issuer that it has canceled the irrevocable letter of credit or surety bond, the department shall automatically suspend the license if a replacement irrevocable letter of credit or surety bond is not received by the department within 30 days of the issuance of the notice of cancellation. If a replacement irrevocable letter of credit or surety bond is not filed within another 10 days following the suspension, the grain dealer license shall be automatically revoked.

90.31(4) All emergency storage space shall have an asphalt base, concrete base, or a compacted limestone base which meets the following minimum specifications.

a. Base shall be of a depth and compaction to permit trucks or other equipment, used in loading or unloading the pad, to move around over the base without breaking through or unduly scuffing the surface.

b. Depth of limestone top shall be not less than four inches.

c. The slope from the center of the base shall not be less than one-fourth inch per linear foot to edge of base.

d. Adequate drainage away from the base shall be provided to prevent any water from standing or backing up under the grain.

90.31(5) All emergency storage space shall be licensed before any corn to be stored is placed in it.

90.31(6) Emergency licensed storage space may not exceed 30 percent of permanent licensed storage capacity.

90.31(7) A separate daily position record shall be maintained on all corn placed in the emergency licensed storage space.

90.31(8) Corn containing more than 15 percent moisture shall not be stored in emergency storage space.

90.31(9) Corn which does not grade No. 2 or better using the Official Grade Standards shall not be stored in emergency storage space.

90.31(10) The bureau chief or examiner shall issue written notice to the licensed warehouse operator for any emergency storage space which no longer meets these requirements. Failure of the warehouse operator to place the emergency storage space in a suitable condition within a reasonable length of time shall result in the emergency storage space being eliminated from coverage from the warehouse license.

90.31(11) This rule shall terminate on April 1, 2000.

This rule is intended to implement Iowa Code sections 203C.2, 203C.7, 203C.8, 203C.12, 203C.16, and 203C.18.

These rules are intended to implement Iowa Code chapter 203C.

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