

CHAPTER 92
PARTICIPATION IN GRAIN INDEMNITY FUND

[Prior to 7/30/86, Commerce Commission (250), Ch 14]

[Prior to 7/27/88, 21—Ch 62]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

21—92.1(203D) Mandatory participation in fund. All grain dealers and warehouse operators shall participate in the grain depositors and sellers indemnity fund (the fund) through the remission of the fees required in rule 21—92.2(203D). Failure to participate shall result in license suspension or revocation. As used in this chapter, “grain dealer” shall mean a licensed grain dealer pursuant to Iowa Code section 203.3 and “warehouse operator” shall mean a licensed warehouse operator pursuant to Iowa Code section 203C.6. “Licensee” shall mean either a licensed grain dealer or a licensed warehouse operator.

[ARC 9388B, IAB 2/23/11, effective 3/30/11]

21—92.2(203D) Required fees. Until the amounts are amended or waived by the grain indemnity fund board pursuant to Iowa Code section 203D.5, in accordance with Iowa Code chapter 17A, fees shall be assessed as follows:

92.2(1) A per-bushel fee on all purchased grain, in an amount of one-quarter cent per bushel, remitted by grain dealers. However, if the grain dealer provides documentation satisfactory to the department, the following transactions shall be excluded from the per-bushel fee:

- a. Grain purchased from the United States government or any of its subdivisions or agencies.
- b. Grain purchased from a person licensed as a grain dealer in any jurisdiction.
- c. Grain purchased under a credit-sale contract.
- d. Grain entered in the company-owned paid position as a cancellation of a collateral warehouse receipt.
- e. Grain entered in the company-owned paid position as an intracompany location transfer.

92.2(2) An annual participation fee, remitted by licensees, as follows:

a. For grain dealers, a participation fee of fourteen thousandths of a cent per bushel on all purchased grain entered into the company-owned paid position during the grain dealer’s last fiscal year. However, a grain dealer shall pay a minimum participation fee of \$50. If the grain dealer provides documentation satisfactory to the department, the following transactions shall be excluded from the participation fee:

- (1) Grain purchased from the United States government or any of its subdivisions or agencies.
- (2) Grain purchased from a person licensed as a grain dealer in any jurisdiction.
- (3) Grain purchased under a credit-sale contract.
- (4) Grain entered in the company-owned paid position as a cancellation of a collateral warehouse receipt.
- (5) Grain entered in the company-owned paid position as an intracompany location transfer.

b. For warehouse operators, a participation fee of fourteen thousandths of a cent per bushel of bulk grain storage capacity, or \$500, whichever is less. However, a warehouse operator shall pay a minimum participation fee of \$50.

92.2(3) A grain dealer may pass on the cost of a per-bushel fee paid in accordance with 92.2(1) to the grain sellers by an itemized discount on the grain dealer’s settlement sheet.

This rule is intended to implement Iowa Code sections 203D.3, 203D.3A and 203D.5.

[ARC 9388B, IAB 2/23/11, effective 3/30/11; ARC 2105C, IAB 8/19/15, effective 9/23/15]

21—92.3(203D) New license applicants. Persons applying for a new grain dealer license or warehouse operator license shall pay a full annual participation fee in accordance with Iowa Code sections 203D.3A and 203D.5. This payment shall be made without regard to whether or not the grain indemnity fund board has otherwise waived or adjusted the per-bushel or participation fees for licenses. Payment of the fees shall be made before a new license is issued. A participation fee paid by an applicant shall be refunded if the license is not issued by the department. A participation fee paid by a grain dealer applicant shall be recalculated by the end of the first state fiscal quarter after completion of the grain dealer’s first year of

operation. The grain dealer participation fee shall be recalculated based upon all actual purchased grain entered into the company-owned paid position in the dealer's first year of operation. However, redemptions of collateral warehouse receipts entered in the company-owned paid position shall not be considered as a purchase. Underpayments shall be paid by the licensee in accordance with rule 21—92.4(203D), and overpayments shall be refunded by the department.

This rule is intended to implement Iowa Code sections 203D.3A and 203D.5.

[ARC 9388B, IAB 2/23/11, effective 3/30/11]

21—92.4(203D) Due date for payment of the per-bushel and participation fees.

92.4(1) Quarterly payments. The per-bushel fee and the participation fee installment payment established in Iowa Code section 203D.3A, as adjusted by rule 21—92.2(203D), and the quarterly report are due, except as provided in subrule 92.4(2), on the fifteenth day of the fiscal month succeeding the fiscal quarter in which the fee accrued. The fiscal quarters are as follows: July 1 through September 30; October 1 through December 31; January 1 through March 31; and April 1 through June 30.

92.4(2) Payments for licensees out of business. If a grain dealer or warehouse operator license has expired or is revoked or canceled during the term of a fiscal quarter, the quarterly report and per-bushel fee for that quarter are due 15 days after the date of license expiration, revocation, or cancellation.

92.4(3) Holidays. If the due date determined under subrules 92.4(1) and 92.4(2) falls on a Saturday, Sunday, a legal holiday as provided in Iowa Code section 4.1(34), or a Monday following a Sunday which is a named legal holiday, the due date is the following day.

92.4(4) Forms and payment. The quarterly report shall be submitted on forms or in a format prescribed by the bureau. Required forms shall be provided by the grain warehouse bureau. The amount of the per-bushel fee, as calculated in the quarterly report, shall accompany the report. Checks shall be made payable to the Iowa Department of Agriculture and Land Stewardship (abbreviated as IDALS).

92.4(5) "Receiving" defined. The quarterly report and the per-bushel fee must be received on or by the due date to avoid penalty. For the purpose of this chapter, "received" means the earliest of the following:

- a. The date a state warehouse examiner acknowledges receipt;
- b. The date on which the report is stamped "received" in the warehouse bureau; or
- c. The date on which the report is postmarked, if the item is properly addressed to the Grain Warehouse Bureau, Iowa Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code sections 203D.3 and 203D.3A.

[ARC 9388B, IAB 2/23/11, effective 3/30/11]

21—92.5(203D) Penalty for delinquent submission of per-bushel and participation fees.

92.5(1) Delinquent payments defined. In regard to the submission of the quarterly report, per-bushel fee and the participation fee installment payment, the licensee is deemed to be delinquent if any of the following apply:

- a. The quarterly report and payment of the per-bushel fee due are not received on or before the due date.
- b. The quarterly report and partial payment of the per-bushel fee due are received on or before the due date, but the underpayment exceeds the margin of error, which for this rule is the greater of \$10 or 10 percent of the per-bushel fee due as determined by the warehouse bureau.
- c. The quarterly report and partial payment of the per-bushel fee due are received on or before the due date, and the underpayment is within the margin of error provided, but the amount of the underpayment has not been received on or before the tenth day after the licensee is notified of the underpayment.
- d. The participation fee installment payment is not received on or before the due date.

92.5(2) Penalty amount. The amount of penalty for a delinquent submission is the lesser of the amount of the deficiency or \$10 per day for each day after the due date for the quarter in question, through the earlier of the date the underpayment is received or the date the licensee's license has expired or has been revoked or canceled. However, a delinquent payment is subject to a minimum penalty amount of \$10.

92.5(3) *Penalty when no assessment is due.* If the licensee is delinquent because the quarterly report is not received until after the due date, but no per-bushel fee was due for that quarter, there is a one-day penalty of \$10.

92.5(4) *License suspension and revocation for failure to pay.* If the delinquency is not cured within 30 days after the due date, the grain dealer's or warehouse operator's license shall be suspended. If the delinquency is not cured within 30 days after suspension, the license shall be revoked.

92.5(5) *Overpayments.* If, upon review of the quarterly report, the grain warehouse bureau determines that there has been an overpayment of \$1 or more, the bureau shall issue a credit to the licensee which may be applied against the amount of assessment due in succeeding quarters. Overpayments of less than \$1 are negated.

This rule is intended to implement Iowa Code sections 203D.3 and 203D.3A.

[ARC 9388B, IAB 2/23/11, effective 3/30/11]

21—92.6(203D) Penalty for delinquent payment of per-bushel fee discovered during examination.

92.6(1) *Delinquent payments defined.* In regard to an underpayment discovered during the performance of an examination, the licensee is deemed to be delinquent if any of the following apply:

a. The underpayment for any quarter exceeds the margin of error, which for this rule is the greater of \$100 or 50 percent of the per-bushel fee due for the quarter in question, as determined by the grain warehouse bureau.

b. The underpayment is within the margin of error provided, but the amount of the underpayment has not been received on or before the fifth day after the licensee is notified of the underpayment in the examiner's written report.

92.6(2) *Negated amounts.* Underpayments of less than \$1 are negated and do not constitute delinquency.

92.6(3) *Penalty amount.* If the licensee is delinquent, the penalty is the lesser of the amount of the deficiency or \$10 per day for each day after the due date for the quarter in question, through the earlier of the date the underpayment is received or the date the licensee's license has expired or has been revoked or canceled. However, a delinquent payment is subject to a minimum penalty amount of \$10.

92.6(4) *License suspension and revocation for failure to pay.* If the underpayment is not received within 30 days after the date of the examiner's report, the grain dealer's or warehouse operator's license shall be suspended. If the underpayment is not received within 30 days after suspension, the license shall be revoked.

92.6(5) *Overpayments.* If, during the performance of any examination, the warehouse bureau determines that there has been an overpayment of \$1 or more, the warehouse bureau shall issue a credit to the licensee which may be applied against the amount of assessment due in succeeding quarters. Overpayments of less than \$1 are negated.

This rule is intended to implement Iowa Code sections 203D.3 and 203D.3A.

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