

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]

**21—92.1(203D) Mandatory participation in fund.** All grain dealers and state warehouse operators shall participate in the grain depositories and sellers indemnity fund (the fund) through the remission of the fees required in rule 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.

**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 the licensee.

**92.2(2)** An annual grain dealer/warehouse fee, remitted by the licensee, as follows:

- a. For Class 1 grain dealers, \$500.
- b. For Class 2 grain dealers, \$250.
- c. For warehouse operators:
  - (1) For intended storage of bulk grain in any quantity less than 20,000 bushels, \$42 plus \$7 for each 2,000 bushels or fraction thereof in excess of 20,000 bushels.
  - (2) For intended storage of bulk grain in any quantity not less than 20,000 bushels and not more than 50,000 bushels, \$70 plus \$4.50 for each 3,000 bushels or fraction thereof in excess of 20,000 bushels.
  - (3) For intended storage of bulk grain in any quantity not less than 50,000 bushels and not more than 70,000 bushels, \$115 plus \$4.50 for each 4,000 bushels or fraction thereof in excess of 50,000 bushels.
  - (4) For intended storage of bulk grain in any quantity not less than 70,000 bushels, \$137.50 plus \$2.75 for each 5,000 bushels or fraction thereof in excess of 70,000 bushels.

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

**21—92.3(203D) “Purchased grain”—grain on which a per-bushel fee is required to be remitted.**

**92.3(1)** “Purchased grain” means all grain which is entered in the company-owned paid position as evidenced on a grain dealer’s daily position record. However, purchased grain does not include the following:

- 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 entered into on or before the date of delivery.

**92.3(2)** Exemption for credit-sale contracts. For the purpose of the exemption of subrule 92.3(1), paragraph “c,” title is deemed to transfer by credit-sale contract if a credit-sale contract for the grain is entered into on or before the date of delivery and the per-bushel fee shall not apply. If no credit-sale contract is issued for grain delivered for sale by the date of delivery, the per-bushel fee, if any, is due when the grain is paid for and entered in the company-owned paid position as evidenced on a grain dealer’s daily position record. If a credit-sale contract is issued subsequent to the delivery date, the transaction is deemed to be a reconveyance by the grain dealer to the seller followed immediately by a transfer of title by the seller to the grain dealer by credit-sale contract, and the transaction is thereafter not a covered transaction eligible for a claim against the fund.

**92.3(3)** Record keeping on exempt purchases. To qualify for the exemption of subrule 92.3(1), paragraph “c,” the licensee must maintain adequate records to show what grain was not assessed the per-bushel fee when entered into the company-owned paid position.

This rule is intended to implement Iowa Code sections 203D.3, 203D.5 and 203D.6.

**21—92.4(203D) Due date for payment of the per-bushel fee.**

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

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

**92.4(3) Holidays.** If the due date determined under subrules 92.4(1) and 92.4(2) falls on a 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 prescribed and 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 section 203D.3.

**21—92.5(203D) Penalty for delinquent submission of per-bushel fee.**

**92.5(1) Delinquent payments defined.** In regard to the submission of the quarterly report and per-bushel fee, 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.

**92.5(2) 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(3) 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(4) 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 section 203D.3.

**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 \$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 is revoked, terminated, or canceled.

**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 section 203D.3.

[Filed emergency 5/19/86—published 6/4/86, effective 5/19/86]

[Filed emergency 7/14/86—published 7/30/86, effective 7/14/86]

[Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]

[Filed emergency 12/2/86—published 12/31/86, effective 12/2/86]

[Filed 2/6/87, Notice 12/31/86—published 2/25/87, effective 4/1/87]

[Filed emergency 9/30/87—published 10/21/87, effective 9/30/87]

[Filed emergency 7/8/88 after Notice 6/1/88—published 7/27/88, effective 7/8/88]

[Filed 10/21/05, Notice 9/14/05—published 11/23/05, effective 12/28/05]