

CHAPTER 94
CLAIMS AGAINST THE GRAIN DEPOSITORS
AND SELLERS INDEMNITY FUND

[Prior to 7/27/88, 21—Ch 64]

21—94.1(203D) Definitions.

“*Covered transaction*” means a transaction in which the claimant is a seller who transferred title to the grain to the grain dealer other than by credit-sale contract within six months of the incurrence date, or in which the claimant is a depositor who delivered the grain to the warehouse operator.

“*Credit-sale contract*” means a contract for the sale of grain pursuant to which the sale price is to be paid more than 30 days after the delivery of the grain to the buyer, or a contract which is titled as a credit-sale contract, including but not limited to those contracts commonly referred to as deferred-payment contracts, deferred-pricing contracts, and price-later contracts.

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

“*Depositor*” means a person who deposits grain in a state warehouse for storage, handling, or shipment, or who is the owner or legal holder of an outstanding state warehouse receipt, or who is lawfully entitled to possession of the grain.

“*Grain dealer*” shall mean a grain dealer licensed pursuant to Iowa Code section 203.3.

“*Licensed warehouse*” means a warehouse, the operation for which the department has issued a license in accordance with Iowa Code section 203C.6.

“*Seller*” means a person who sells grain which the person has produced or caused to be produced to a licensed grain dealer, but excludes a person who executes a credit-sale contract as a seller.

“*Warehouse operator*” means a licensed warehouse operator pursuant to Iowa Code section 203C.6.

“*Warehouse receipt*” means a warehouse receipt issued for bulk grain in accordance with Iowa Code chapter 203C.

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21—94.2(203D) By whom claims can be made. Claims shall be made only by a depositor or seller. Claims shall derive from a covered transaction. A claim shall not be made on grain which was initially eligible as a covered transaction but became not covered as a result of a new credit-sale contract transaction.

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21—94.3(203D) Procedure for filing claims. In regard to claims by a depositor or seller arising against a grain dealer or warehouse operator, a claim against the grain depositors and sellers indemnity fund may be filed with the Grain Warehouse Bureau (the bureau), Iowa Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319. The bureau shall create and provide a claim form. Use of the claim form shall be the exclusive manner of filing a claim against the fund. The claim shall include the following information:

1. The name and address of the grain dealer or warehouse operator against whom the claim arose;
2. The name, address, telephone number, and social security or tax identification number of the person making the claim;
3. The type and amount of grain involved;
4. The type of transaction involved;
5. Evidence of ownership;
6. Documentation of a demand on the obligation and a failure to honor the demand; and
7. A notarized signature by each person making the claim.

21—94.4(203D) Time limitations. A claim against the fund may be made for a covered transaction when either of the following incurrence dates occurs:

1. The expiration, revocation or cancellation of the license of a grain dealer or warehouse operator;
- or
2. The filing of a petition in bankruptcy by a grain dealer or warehouse operator.

A claim shall be filed within a claim period that begins on an incurrence date and ends 120 days after that incurrence date. A claim is not timely unless it is postmarked or delivered within 120 days after the incurrence.

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21—94.5(203D) Claims by depositors where bureau is receiver. In regard to claims by depositors arising against a warehouse operator whose license has expired or has been revoked or canceled and who has not filed a petition for bankruptcy and where the bureau has been appointed by the court as the receiver of the grain assets of the warehouse, a claim properly filed with the bureau as receiver within 120 days of the license expiration, revocation or cancellation also is deemed to be a properly filed claim against the fund.

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21—94.6(203D) Notice of claims. Within 30 days of the receipt of a claim, the bureau shall send notice of the claim to each member of the board.

21—94.7(203D) Report by bureau. When adequate information is available, the bureau shall make a report to the board of claims ready for determination, which report shall note the gross and net amount of each claim and the bureau's recommendations as to the validity and value of each claim. The bureau may report the claims ready for determination either as a class of listed claims relating to an identified licensee or individually, as may be appropriate.

21—94.8(203D) Determination of claims. The board shall review the report submitted by the bureau and may request additional information on a claim. The board shall determine the amount of the loss and the amount the claimant is validly entitled to from the fund within 90 days after the submission of the report to the board, unless the board finds good cause to delay the determination. "Good cause" includes the need for additional information on a claim. Notice of the board's determination shall be sent to each claimant by ordinary mail. The notice of the determination shall indicate the date when it is sent.

21—94.9(203D) Appeal from determination.

94.9(1) Time limit for filing. A claimant whose claim has been determined by the board may appeal the determination by filing an appeal with the board within 20 days of the date the notice of the determination was sent. Appeals shall include a statement as to the amount the appellant is contesting and as to the basis for appeal. The board's determination becomes final if there is no timely appeal.

94.9(2) Board action on appeals. Upon the timely filing of an appeal, the board shall schedule an evidentiary hearing or an opportunity for oral argument before the board on the appeal. The hearing or argument shall be scheduled no sooner than 15 days after notice of the hearing or oral argument is sent to the appellant by ordinary mail. If an evidentiary hearing is scheduled, the appellant may appear and submit evidence concerning the claim. The bureau may also appear and submit evidence. If the appellant fails to appear, the board may proceed in the appellant's absence. If a hearing or oral argument is held, the board shall prepare a written decision. The appellant shall be sent a copy of the board's decision by ordinary mail. The decision shall indicate the date when it is sent.

94.9(3) Rehearing. If a hearing was held on the appeal, the appellant may request a rehearing within 20 days of the date when the decision is sent. The request is deemed to have been denied unless the board grants the request within 20 days after the board's receipt of the request.

94.9(4) Exclusive remedy. The procedure provided by this rule is the exclusive administrative remedy in regard to the board's determinations as to the validity and amount of claims.

21—94.10(203D) Payment of valid claims—conflicting interests.

94.10(1) Subrogation and payment. If the board has validated all or part of a claim, the board shall authorize the chairperson or the chairperson's designee to facilitate payment from the fund to the claimant in the determined amount upon the claimant's execution of a subrogation of the fund to the rights of the

claimant and of an agreement to hold the fund harmless as against competing claims to the determined amount.

94.10(2) *Time limitation on claims.* A claim shall expire five years after the board determines a claim is payable if the claimant has failed to execute and return the subrogation and hold-harmless documents required by subrule 94.10(1). The fund is not liable for payment of expired claims.

94.10(3) *Joint payments and interpleader for conflicting claims.* If the board determines that a valid claim is subject to an interest by more than one depositor or seller, the board may order joint payment. If priority of interests in the validated claim is at issue, the board may bring an equitable action of interpleader against the conflicting parties pursuant to Iowa Rule of Civil Procedure 1.251, and may order the deposit of the determined amount with the court pursuant to Iowa Rule of Civil Procedure 1.253.

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These rules are intended to implement Iowa Code section 203D.6.

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