

**21—91.17(203) Requirements for licensees authorized to issue credit-sale contracts.**

**91.17(1) *Financial statements—audit or bond or irrevocable letter of credit.*** A grain dealer shall not purchase grain by a credit-sale contract until the licensee complies with paragraph “a” or “b.” If the grain dealer elects to be authorized to issue credit-sale contracts under paragraph “b,” the grain dealer shall also comply with rule 21—91.8(203).

*a.* Financial statements filed pursuant to this rule shall 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. A sole proprietor who desires to be authorized to issue credit-sale contracts shall file a financial statement on the proprietorship business which is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state, and shall file a personal financial statement which conforms with the provisions of subrule 91.8(3).

*b.* The grain dealer bond or irrevocable letter of credit filed pursuant to this rule shall be in the amount of \$100,000 payable to the department. Bonds or irrevocable letters of credit shall be on the forms prescribed and furnished by the bureau.

**91.17(2) *Credit-sale contract net worth requirements.*** When the grain dealer’s net worth falls below the amount required by Iowa Code section 203.15(4), the grain dealer shall immediately cease purchasing grain by credit-sale contract. Failure to cease purchasing grain by credit-sale contract shall result in the suspension of the grain dealer license. Bonds or irrevocable letters of credit filed to correct the deficiency shall be on the forms prescribed and furnished by the bureau. The procedure for the filing of a deficiency bond or irrevocable letter of credit shall be the same as set forth in Iowa Code section 203.3. Bonds or irrevocable letters of credit shall be written so as to provide a source of funds to protect sellers who have sold grain by means of a credit-sale contract to the licensed grain dealer. Advances to sellers on grain purchased by credit-sale contract will be considered when the 50 cents per bushel net worth requirement is calculated. 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 advance.

**91.17(3) *Suspension of authorization to issue credit-sale contracts.*** The department may suspend the right of a grain dealer to purchase grain by credit-sale contract based on any of the following conditions:

*a.* The grain dealer holding a federal or state warehouse operator license does not have a sufficient quantity or quality of grain to satisfy the warehouse operator’s obligation based on an examination by the department or the United States Department of Agriculture.

*b.* 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.

*c.* A grain dealer shall not purchase grain on credit-sale contracts during any time period in which the grain dealer’s current assets are less than 100 percent of current liabilities, or in which the grain dealer’s net worth is less than \$75,000.

*d.* The grain dealer violates Iowa Code section 203.15.

*e.* The grain dealer’s total liabilities are greater than 75 percent of the grain dealer’s total assets. The valuation of fixed assets as stated by an approved appraisal on file with the bureau pursuant to subrule 91.8(8) will not be used to determine this percentage.

*f.* The grain dealer has made payment by use of an electronic funds transfer or a financial instrument which is a check, share draft, draft, or written order on a financial institution, and a financial institution refuses payment on the electronic funds transfer or on the financial instrument because of insufficient funds in a grain dealer’s account.

*g.* The department discovers that a grain dealer has delayed payment for grain purchased since the department last inspected the grain dealer pursuant to Iowa Code section 203.9.

This rule is intended to implement Iowa Code section 203.15.