

**21—90.8(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 warehouse as described in the particular license issued to a warehouse operator.

**90.8(1)** *Agricultural products other than bulk grain.* When the net worth of a licensee is less than that 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.

**90.8(2)** *Inadequate net worth—storage of bulk grain.* When the net worth of a licensee authorized to store bulk grain is less than that 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.

**90.8(3)** *Bond or irrevocable letters of credit as department may require.* 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, the bureau chief may require a bond or an irrevocable letter of credit to be filed in an amount determined by the department for any of the following reasons:

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

**90.8(4)** *Minimum amount of indemnification.* The amount of bond, additional bond, or irrevocable letter of credit prescribed under subrule 90.8(1), 90.8(2) or 90.8(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.

**90.8(5)** *Quality and quantity deficiency bonds.* Quality and quantity deficiency bonds shall be for a minimum of 45 days.

**90.8(6)** *Replacement bond or irrevocable letter of credit.* The bureau shall send a written notice and information and forms for filing the required replacement bond or irrevocable letter of credit, unless the bond or irrevocable letter of credit is no longer necessary. When the licensee's failure to file a replacement bond or irrevocable letter of credit causes revocation of the warehouse operator license, the bureau chief shall give notice of such revocation to each holder of an outstanding warehouse receipt and all persons known to have grain retained in open storage.

**90.8(7)** *Cancellation of bond or irrevocable letter of credit.* The issuer shall send the cancellation notice to the bureau by ordinary or certified mail. The 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 on the date when the bureau receives 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.

**90.8(8)** *Claims against bonds or letters of credit.*

a. Persons who may file claims—time of filing. These rules are applicable only in those instances where a bond or irrevocable letter of credit has been filed to satisfy Iowa Code section 203C.6, 203C.11 or 203C.13. If a bond or irrevocable letter of credit is on file with the department, a depositor may file a claim with the bureau for satisfaction of a loss under the warehouse operator's bond or irrevocable letter of credit pursuant to Iowa Code section 203C.14.

(1) A claim must not be filed prior to the incurrence date, which is the earlier of the following:

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

(2) To be timely, a claim must be filed within 120 days of the incurrence date.

b. The failure to make a timely claim relieves the issuer and the grain depositors and sellers indemnity fund provided in Iowa Code chapter 203D of all obligations to the claimant.

c. Determination of eligible claims. The bureau will determine a claim to be eligible for payment if the bureau finds all of the following:

- (1) The claim was timely filed;
- (2) The claimant qualifies as a depositor; and
- (3) There is adequate documentation to establish the existence of a claim and to determine the amount of the loss.

*d.* Value of loss. The dollar value of a claim incurred by a depositor shall not exceed the price of that grain if the grain were U.S. No. 2 grain according to standards adopted by the Federal Grain Inspection Service of the USDA. The price of the grain shall be determined in accordance with the relevant date used to determine the price described in paragraph 90.8(8)“*a.*” The department may adjust the price of the grain if necessary to better account for the condition of the grain when it is stored. The value of the claim shall be presumed to be based upon the fair market price, free on board from the site of the grain warehouse that is being paid to producers for grain by the grain terminal operator or grain processor nearest the grain dealer on the date of the license revocation or cancellation or the filing of a petition in bankruptcy. If more than one date applies to a claim, the bureau may choose between the two. However, the bureau may accept an alternative valuation of a claim upon a showing of just cause by the depositor. All depositors filing claims under this rule will be bound by the value determined by the bureau. The value of the loss is the outstanding balance on the validated claim at the time of payment.

*e.* Procedure—appeal. The bureau will provide for notice to each depositor upon the bureau’s determination of eligibility and value of loss. Within 20 days of the notice, the depositor may file a petition for hearing for review of either determination with the district court in the county in which the depositor resides or in Polk County.

*f.* Payment of claims. Upon a determination of the status of all claims, and after the filing period has run, the bureau will provide a report to all valid, timely filed claimants. If there are no appeals filed pursuant to subrule 90.8(5), the bureau will make payment either in full or pro rata in the event the value of the is greater than the amount of the bonds or irrevocable letter of credit. If an appeal is filed, the bureau will make payment upon conclusion of those proceedings.

*g.* Claims made by depositor under this rule are separate from any claim filed for indemnification from the grain depositors and sellers indemnity fund pursuant to Iowa Code chapter 203D and shall not be calculated within the indemnification limit, except to determine eligible claims under the fund.

[ARC 9455C, IAB 8/6/25, effective 7/10/25]