

21—91.15(203) Claims against bonds or letters of credit.

91.15(1) *Persons who may file claims—time of filing.* These rules are applicable only in those instances where a bond or letter of credit has been filed to satisfy Iowa Code section 203.3 or subrule 91.12(3). If a bond or irrevocable letter of credit is on file with the department, a seller may file a claim with the bureau for satisfaction of a loss under the grain dealer's bond or irrevocable letter of credit pursuant to Iowa Code section 203.12. A claim must not be filed prior to the incurrence date, which is the earlier of the following:

- a. The revocation, termination, or cancellation of the license of the grain dealer; or
- b. The filing of a petition in bankruptcy by a grain dealer.

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

91.15(2) *Failure to make timely claim.* 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 and relieves the department from liability to the claimant.

91.15(3) *Determination of eligible claims.* The bureau will determine a claim to be eligible for payment if the bureau finds all of the following:

- a. The claim was timely filed;
- b. The claimant qualifies as a seller; and
- c. There is adequate documentation to establish the existence of a claim and to determine the amount of the loss.

91.15(4) *Value of loss.* The dollar value of a claim incurred by a seller who has sold and delivered grain and who is a creditor of the licensed grain dealer for all or part of the value of the grain 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. The department may adjust the price of the grain if necessary to better account for the condition of the grain when it is stored. If the sold grain was unpriced, 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 dealer, 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 seller. All sellers 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.

91.15(5) *Procedure—appeal.* The bureau will provide for notice to each seller upon the bureau's determination of eligibility and value of loss. Within 20 days of the notice, the seller may file a petition for hearing for review of either determination with the district court in the county in which the seller resides or in Polk County.

91.15(6) *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 91.15(5), the bureau will make payment either in full or pro rata in the event the value of claims is greater than the amount of the bonds or irrevocable letter of credit.

91.15(7) *Claims made by sellers.* Claims made by sellers 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.

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