

**21—91.23 (203) Electronic grain contract providers and provider agreements.** A provider shall be independent of any outside influence or bias in action or appearance. A provider shall enter into a provider agreement with the department prior to being approved by the department. A provider shall issue and maintain electronic grain contracts only on behalf of licensees who contract with the provider for those services. The provider agreement shall be subject to, but not be limited to, the provisions of subrules 91.23(1) through 91.23(7).

**91.23(1) *Provider to be approved by the USDA.*** No provider shall be approved by the department unless the provider is first approved as a provider of “other electronic documents” by the USDA pursuant to the provisions of 7 CFR Part 735. Upon department request, a provider shall provide a copy of the provider’s executed USDA Form WA-490 and any addenda, and any other documentation requested by the department to confirm that the provider is a USDA-approved provider in good standing.

**91.23(2) *USDA action against providers.*** In the event that the USDA shall take action to deny, withdraw, suspend, reinstate or terminate a USDA provider agreement, the department shall automatically take the same action and the provider shall be subject to such action by the department. A provider shall notify the department of any such actions taken by the USDA.

**91.23(3) *Notice requirements for providers.***

*a.* When entering into a new user agreement, a provider shall provide written notice to the department.

*b.* All notices to the USDA required by 7 CFR Part 735 and by the USDA provider agreement shall also be served upon the department except as specifically exempted in the provider agreement.

*c.* In the user agreement, a provider shall include a notice to the licensee that the data on the provider’s central filing system is subject to disclosure to the department and the USDA.

**91.23(4) *Provisions to cease issuing electronic grain contracts.*** Upon notice by the department that a grain dealer license issued under Iowa Code chapter 203 has expired or has been canceled, suspended or revoked, a provider shall prohibit the licensee from entering into any electronic grain contracts until further notice from the department. Upon notice by the department that a licensee has had its right to purchase grain by credit-sale contract suspended or denied under rule 21—91.17(203), a provider shall prohibit the licensee from entering into any electronic credit-sale grain contracts until further notice from the department.

**91.23(5) *Department access to electronic grain contract data.*** A provider shall allow the department unrestricted access to the central filing system for electronic grain contracts issued on behalf of licensees. The electronic grain contract data shall be maintained for six years after a contract has been canceled. Access shall be made available in a manner that allows interaction with department examinations. Access shall be free of any charge or costs to the department.

**91.23(6) *Termination of provider agreement.*** The department or provider may terminate the provider agreement upon 60 days’ written notice to the other party. The department shall terminate a provider agreement on less than 60 days’ notice in accordance with subrule 91.23(2). Upon termination of the provider agreement, the provider shall immediately surrender to the department copies of the electronic data and paper records for any electronic grain contracts contained within the central filing system. Such data and paper record copies, however, are limited to electronic grain contracts issued by licensees.

**91.23(7) *Authorization, jurisdiction and liability.*** A provider shall be authorized to transact business in the state of Iowa and shall consent to jurisdiction in the state of Iowa and venue in Polk County, Iowa. A provider shall be liable to the department for costs incurred by the department as a result of action taken in the event of a failure of the central filing system or any inability to provide the access required in subrule 91.23(5).

This rule is intended to implement Iowa Code sections 203.2, 203.15, and 203.17.