

ITEM 1: Rescind and adopt new Chapter 91

CHAPTER 91
LICENSED GRAIN DEALERS
[Prior to 7/30/86, Commerce Commission [250], Ch 13]
[Prior to 7/27/88, 21—Ch 61]

21—91.1(203) Definitions. For this chapter, the following definitions apply:

“*Bureau*” means the grain warehouse bureau of the department of agriculture and land stewardship.

“*Generally accepted accounting principles*” means accounting principles generally accepted in the United States of America, in accordance with the U.S. Financial Accounting Standards Board, or international financial reporting standards, in accordance with the International Accounting Standards Board.

“*Indemnity fund*” means the Iowa grain depositors and sellers indemnity fund created in Iowa Code chapter 203D.

“*Licensee*” means a licensed grain dealer.

“*Ordinary cash sale*” means a sale of grain in which the seller is entitled to payment upon delivery to the grain dealer or later upon demand of the seller. Ordinary cash sale does not include a credit-sale contract.

“*Provider*” means a person approved by the department to maintain a secure electronic central filing system of electronic grain contract records.

“*Provider agreement*” means an agreement regarding electronic grain contracts which is entered into between the department and a provider.

“*Received*” means the earliest of the following:

1. The date a state warehouse examiner acknowledges receipt.
2. The date stamped “received” in the grain warehouse bureau.
3. The date postmarked, if the item is properly addressed, to the Grain Warehouse Bureau, Iowa Department of Agriculture and Land Stewardship, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319.

“*USDA*” means the United States Department of Agriculture and its divisions and agencies, including, but not limited to, the Farm Service Agency.

“*USDA Provider Agreement*” means the agreement entered into between the USDA and a provider and which is printed on USDA Form WA-490 and any addenda thereto.

“*User agreement*” means an agreement regarding electronic grain contracts which is entered into between a provider and a licensee.

[ARC 7553B, IAB 2/11/09, effective 3/18/09; ARC 9388B, IAB 2/23/11, effective 3/30/11]

21—91.2(203) Grain dealer change. A grain dealer license may be amended to cover a name change of the same legal entity. The licensee must give the bureau notice of a proposed name change. The bureau will confirm the name change with the secretary of state or other governmental agency prior to amending the license.

21—91.3(203) Posting of license. A license certificate must be posted in each location where grain is purchased or delivered.

[ARC 7553B, IAB 2/11/09, effective 3/18/09]

21—91.4(203) Surrender of license. The grain dealer license and all unused credit-sale contracts must be forwarded to the bureau immediately upon cancellation, suspension, or revocation of such license. A grain dealer’s letter requesting cancellation of the grain dealer license must also state whether or not there are any unpaid obligations.

[ARC 9388B, IAB 2/23/11, effective 3/30/11]

21—91.(203) Renewal, expiration and reinstatement of license—payment of license and indemnity fund fees.

91.5(1) Renewals. The bureau will send to each licensed grain dealer written notice that the application, the license fee and the indemnity fund fee for annual renewal of the grain dealer license must be received in accordance with Iowa Code section 203.5. If the bureau does not receive the application and fees by the due date, the license will expire.

91.5(2) Fees for license periods of less than one year shall be prorated on a month-to-month basis. Fees for license periods of less than one year will be applicable only under the following circumstances:

- a. When an application for a new license is filed; or
- b. When the fiscal year end of a license holder is changed.

[ARC 9388B, IAB 2/23/11, effective 3/30/11]

21—91.6(203) Financial statements.

91.6(1) New license applicants. To obtain a grain dealer license, an applicant must submit a financial statement that must:

- a. Be prepared within three months from the date of filing and comply with subrule 91.6(2), paragraph "a" or "b"; or
- b. Be prepared as of the applicant's usual fiscal year and comply with subrule 91.6(2), paragraph "a" or "b," and the applicant has continuously been in business for one year or more and the applicant has submitted any additional financial information required by the bureau; or
- c. Be a forecasted financial statement prepared by a certified public accountant licensed in this state and the applicant is a new business entity that is in the process of transferring funds into the business entity. An applicant who files a forecasted financial statement pursuant to this paragraph must file a financial statement which complies with subrule 91.6(2), paragraph "a" or "b," within one month after the date the license is issued by the bureau.

91.6(3) Sole proprietorship financial statements. An individual licensed as a sole proprietorship must file a financial statement which conforms with the provisions of subrules 91.6(2) and 91.6(4) on the proprietorship business. The individual must also file a personal statement of financial condition which conforms with the provisions of subrules 91.6(2) and 91.6(4). The personal statement of financial condition must also disclose the historical cost basis for assets as provided in Iowa Code section 203.3.

91.6(4) Filing date of annual statements. Every licensee must prepare financial statements at the close of the licensee's designated fiscal year and must file the statements and the bureau's financial information form with the bureau not later than three months thereafter. These financial statements must be prepared in accordance with generally accepted accounting principles and must consist, at a minimum, of a balance sheet, statement of income, statement of cash flow, and accompanying notes to the financial statements. The bureau will notify every licensee during the month after the close of the licensee's fiscal year that the licensee's financial statements are due three months from the close of the licensee's fiscal year.

91.6(5) Additional disclosures required in the financial statements. Unless the following information is disclosed in the fiscal year end financial statements, the licensee's certified public accountant must file with the financial statements a separate letter disclosing the information:

- a. A reconciliation of differences in the grain obligations as shown in the financial statement and the daily position record.
- b. Amount and kind of grain on collateral warehouse receipts.
- c. Amount and kind of company-owned grain which is being stored in unlicensed facilities or which has been transferred to another warehouse.

- d. Bushel and dollar amounts of all outstanding grain payables, including a breakdown of the bushels and dollars of each type of deferred-payment contract and deferred-price contract.
- e. Gross grain sales for the fiscal year.
- f. Gross nongrain sales for the fiscal year.
- g. Cost of all goods sold for the fiscal year.
- h. Depreciation expense for the fiscal year.
- i. Interest expense for the fiscal year.
- j. Number of bushels of grain purchased under each grain dealer's license. For purposes of this paragraph, "purchases" will mean all grain to which the grain dealer has obtained title during the grain dealer's fiscal year.

91.6(6) Filing extension.

a. An extension of one month may be granted by the bureau chief for the filing of financial statements upon receipt of the following:

(1) A letter from the grain dealer's certified public accountant stating the reason for filing the extension request and that work has been done on preparing the financial statements.

(2) An affidavit from the grain dealer stating that the grain dealer meets the financial responsibility requirements of Iowa Code sections 203.3 and 203.15, or that the licensee will file additional bond in an amount to cover any net worth or current ratio deficiency as provided in Iowa Code sections 203.3 and 203.15, based upon the licensee's certified public accountant's best estimate of the licensee's financial position.

b. Grain dealers who file false affidavits under this rule may be prosecuted under Iowa Code section 203.11. Subrule 91.6(6) does not apply to the filing of financial statements required under the provisions of subrules 91.6(10), 91.6(11) and 91.6(12).

91.6(7) Asset valuation. The licensee may submit to the bureau a written request for asset valuation. The written request must be accompanied by the appraisal and must have been prepared by a licensed appraiser in this state and must list the appraiser's credentials. Before an appraisal will be accepted by the bureau, the licensee must show a positive net worth. All appraisals are subject to approval by the bureau chief. The bureau chief will notify the licensee within five working days if the appraisal is unacceptable. Any approved asset valuation may be used in any financial statements prepared by or for the licensee in accordance with subrule 91.6(2).

91.6(8) Appraisals. Competent appraisals on file with the bureau will be valid for use in determining asset value for a maximum period of three years. Thereafter, a new appraisal for asset valuation will be required and must be used for a like period of time. In the event the certified public accountant expresses doubt as to the licensee's ability to continue as a going concern, the bureau will not allow an appraisal to be used to meet net worth requirements. The bureau will not allow an appraisal to be used to determine the percentage of total liabilities to total assets as it relates to subrule 91.13(3), paragraph "e," concerning the suspension of a licensee's authorization to use credit-sale contracts. All assets included in the appraisal shall be depreciated by the bureau using the following schedule:

- a. Buildings and attached equipment—15 years.
- b. Rolling stock (trucks)—5 years.
- c. Equipment—5 years.

91.6(9) Assets allowed in meeting financial requirements.

a. *Corporations, limited liability companies and partnerships.* When the bureau determines the net worth, current assets to current liabilities ratio and total debts to total assets ratio requirements for corporations, limited liability companies and partnerships, related party assets that require financial disclosure per financial accounting standards shall will be disallowed. These assets shall will be excluded unless the licensee can show the bureau sufficient documentation to assure the bureau that the assets are collectible. If assets are classified as current in the financial statements, the documentation shall must also assure that the assets are collectible within one year.

b. *Sole proprietors.* When the bureau determines the net worth and current assets to current

liabilities ratio requirements for sole proprietors, related party assets shall will be excluded unless the licensee can show the department sufficient documentation to explain why these assets should be included. Only that part of the value of an asset which is subject to execution will be allowed by the bureau in determining net worth and current assets to current liabilities ratio requirements. When a liability associated with an exempt asset (whether the asset is included or not) exceeds the original cost (or fair market value after an appraisal approved by the bureau), such excess must be shown as a liability with appropriate footnotes to the financial statement. An applicant or a licensed warehouse operator must complete the bureau's financial information form regarding this matter and submit the form with the financial statements.

91.6(10) *Net worth and current ratio deficiency monthly financial statements.* Every licensee who has a net worth or current ratio deficiency and who has filed additional bond must file monthly financial statements with the bureau by the end of the next month until the licensee's net worth or current ratio meets the requirements of Iowa Code section 203.3 for a minimum of three consecutive months. These financial statements must contain a minimum of a balance sheet and statement of income and will be prepared in accordance with generally accepted accounting principles.

91.6(11) *Financial statement.* The bureau chief may require a licensee to submit financial statements on a monthly or quarterly basis to verify the grain dealer's financial status, compliance with Iowa Code section 203.3 or any one of the following occurs :

- a. Payment is made by use of a check or electronic funds transfer and a financial institution refuses payment because of insufficient moneys in the licensee's account;
- b. Evidence of licensee requesting or delaying payment for grain without the use of a credit-sale contract for grain;
- c. Other documented evidence which indicates that the licensee's financial condition has deteriorated since the filing of the licensee's last financial statement;
- d. A high risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the grain dealer based on a statistical model provided in Iowa Code section 203.22; or
- e. Record-keeping violations.

These financial statements must be filed with the bureau by the end of the next month and by the end of every month thereafter until no longer required by the bureau. These financial statements must contain a minimum of a balance sheet and statement of income and must be prepared in accordance with generally accepted accounting principles.

91.6(12) *Additional information.* The bureau chief may require an applicant or licensee to provide the bureau with any other information reasonably related to the business of a grain dealer and work papers supporting the financial statements.

91.6(13) *Filing extensions during transition.*

a. Between July 1, 2025 and June 30, 2026, an extension of up to twelve months may be granted by the bureau chief for the filing of the unqualified opinion upon receipt of the following:

(1) A financial statement accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant.

(2) An affidavit from the grain dealer stating that the grain dealer meets the financial responsibility requirements of Iowa Code sections 203.3 and 203.15, or that the licensee shall file additional bond in an amount to cover any net worth or current ratio deficiency as provided in Iowa Code sections 203.3 and 203.15, based upon the licensee's certified public accountant's best estimate of the licensee's financial position.

b. While an extension is active, the grain dealer shall file monthly financial statements with the bureau by the end of each month to verify the grain dealer's financial status or compliance with Iowa Code sections 203.3 and 203C.6. These financial statements shall contain a minimum of a balance sheet and statement of income and shall be prepared in accordance with generally accepted

accounting principles.

c. Grain dealers who file false affidavits under this rule may be prosecuted under Iowa Code section 203.11. Subrule 91.6(13) does not apply to the filing of financial statements required under the provisions of subrules 91.6(10), 91.6(11) and 91.6(12).

91.6(14) *Penalty for failure to timely supply financial statements.* The department may suspend the license of any grain dealer who fails to provide the required financial statements within the time limits prescribed by these rules.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11; **ARC 1381C**, IAB 3/19/14, effective 4/23/14]

21—91.7(203) Bonds and irrevocable letters of credit. Bonds filed with the bureau must be on forms prescribed by the bureau. Irrevocable letters of credit issued to the bureau must be on the form prescribed by the bureau. Bonds and irrevocable letters of credit must be written so as to provide funds to protect producers who have sold grain to the licensed grain dealer.

91.7(1) *Deficiency bond or irrevocable letter of credit.* When the net worth or current ratio of a licensee is less than that required by Iowa Code section 203.3, the grain dealer may file a bond or an irrevocable letter of credit with the bureau to cover the deficiency as provided by and within the time prescribed in Iowa Code section 203.3. Bonds filed with the bureau must be on the form prescribed and furnished by the bureau. Irrevocable letters of credit must be on the form prescribed by the bureau. Bonds or irrevocable letters of credit must be written so as to provide a source of funds to protect producers who have sold grain to the licensed grain dealer. Unless the licensee files the bond or irrevocable letter of credit within the prescribed time period, the grain dealer license will be suspended. The licensee's failure to provide the bond or irrevocable letter of credit within ten days of suspension shall cause the license to be revoked.

91.7(2) *Time period to correct deficiency.* If a grain dealer has current assets equal to less than 50 percent of current liabilities and files a deficiency bond or irrevocable letter of credit as provided in Iowa Code section 203.3(5) within the 30-day period after the notice by the bureau, the grain dealer must correct the deficiency other than by the use of a deficiency bond or irrevocable letter of credit within 30 days after the filing of the deficiency bond or irrevocable letter of credit. Failure to cure the deficiency other than by the use of a deficiency bond or irrevocable letter of credit within the 30 days will cause the license to be suspended.

91.7(3) *Replacement bond or irrevocable letter of credit.* The bureau will send written notice to the licensee notifying the licensee that the bond or irrevocable letter of credit will be canceled on the date specified by the surety or issuer in its notice to the bureau. The bureau will send a written notice and information and forms for filing the required replacement bond or irrevocable letter of credit. Replacement bond or irrevocable letter of credit must be on file with the bureau prior to the time of cancellation of the bond or irrevocable letter of credit. The department will suspend any grain dealer license from the time the grain dealer's bond or irrevocable letter of credit is canceled until the replacement bond or irrevocable letter of credit is on file with the department. Unless the bond or irrevocable letter of credit is no longer necessary, the department will revoke the grain dealer's license if a replacement bond or irrevocable letter of credit is not received from the licensee within 30 days of suspension of the license.

91.7(4) *Cancellation of the bond or irrevocable letter of credit.* The issuer must send a cancellation notice to the bureau by ordinary or certified mail. The notice must be in accordance with the provisions stated in 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 will send written acknowledgment of notice of the cancellation of the bond or irrevocable letter of credit to the issuer and the principal.

21—91.8(203) Payment.

91.8(1) *Grain dealer's standard business operation.* "Standard business operation" means the licensed grain dealer's standard written procedures and schedule for issuing payments to sellers for

delivered grain. However, standard business operation does not include the payment for delivered grain later than thirty calendar days after delivery by the seller.

91.8(2) Payments. Payment does not include a check or electronic funds transfer refused or failed by a financial institution because of insufficient moneys in a grain dealer's account. When a dealer has failed to make payment on demand of the seller and the failure has come to the attention of the bureau, the bureau chief will request the dealer to make payment within 24 hours. The bureau chief may require the dealer to make payment with a cashier's check or money order if there is any evidence of financial instability. The request may be made verbally and confirmed by ordinary mail. Absent a dispute between buyer and seller, the license may be suspended if the dealer fails to make timely payment as requested by the bureau chief. An insufficient funds check or failed electronic funds transfer will not constitute payment under this rule.

21—91.9(203) Books and records.

91.9(1) General records. A grain dealer must maintain complete and sufficient records to show all purchases, sales, and payments for grain purchased.

91.9(2) Daily position record. Unless otherwise approved by the bureau, every grain dealer must keep and maintain on a daily basis a grain position record on a form approved by the bureau. The daily position record shall summarize one month's activity in a format approved by the bureau. The daily position record will indicate at least the increases and decreases and ending balances on a daily basis for each ordinary cash sales, deferred-payment contracts and deferred-pricing contracts. The daily position record will reflect the obligations in the appropriate columns.

A separate daily position record must be maintained for each kind and class of grain and each type of commodity that is identity-preserved. All daily entries to the daily position record will reflect transactions made through that day's close of business unless another time of day is elected by the licensee and applied by the licensee on a consistent basis.

91.9(3) Inspection. For the purpose of inspection, the hours of 8 a.m. to 5 p.m., except Saturday, Sunday and holidays, will be considered as ordinary business hours. All financial records, grain records and payment records must be available for inspection by the bureau during ordinary business hours, and any other time specified by the bureau in writing. All records will be made available within the state of Iowa upon request. Any records requested by the Bureau may be required to be available to the Bureau within 72 hours. Unless the bureau has been notified that the records would not be available for inspection, an examination fee may be assessed to the grain dealer if an examiner arrives at the licensee's location and the records are not available for inspection.

91.9(4) Settlement sheets. Unless the grain dealer utilizes a computer system which sequentially numbers settlement sheets as generated, every grain dealer must have prenumbered settlement sheets. All settlement sheets will show, at a minimum, the following:

- a. The grain dealer's name and address;
- b. Seller's name and address;
- c. Date of deliveries;
- d. Scale ticket numbers;
- e. Amount, kind and grade factors of the grain; and
- f. Method of settlement:
 - (1) If priced, the price per bushel, the quantity of grain priced and the date of pricing.
 - (2) If paid for, the date, price per bushel, the quantity of grain paid for, the amount of payment and check number or electronic funds transfer number, or a computer generated report that includes all of the same information and includes a settlement sheet reference number within the report.
 - (3) If credit-sale contract, the contract type, contract number date and number and the quantity of grain transferred to the contract, or computer generated report that includes all of the same information and includes a settlement sheet reference number within the report.

(4) If warehouse receipt, the receipt number, date and quantity of grain transferred to the receipt, or computer generated report that includes all of the same information and includes a settlement sheet reference number within the report.

(5) If removed from the warehouse, the delivery document numbers, dates and amounts of the shipments.

Copies of all settlement sheets must be maintained in alphabetical or numerical order by the dealer as part of the records, unless the dealer uses a computer system approved in writing by the bureau which sequentially numbers and prints settlement sheets and the settlement sheets can be retrieved on and reprinted by the computer system. A copy of the settlement sheet will be given to the seller upon demand, upon payment or upon the issuance of a credit-sale contract. Any settlement sheet used in the pricing of grain for the purpose of sale to the grain dealer must have the price shown on all copies of such settlement sheet. Deliveries and settlement transactions must be posted to the settlement sheet on a daily basis unless a computer system is utilized which can generate a scale ticket summary sheet for each depositor.

91.9(5) Scale tickets.

(a) If the dealer has a scale or regular access to a scale which can be used for weighing grain, the dealer will use prenumbered scale tickets showing, at a minimum, the following:

- (1) Date.
- (2) The dealer's name and location.
- (3) Seller's name.
- (4) Gross weight, tare weight, and delivered weight.
- (5) Type of product or commodity.

An indication of whether the commodity is being received or loaded out.(b) One copy of each ticket will be maintained in numerical order, unless the grain dealer uses a computer system approved in writing by the warehouse bureau which sequentially numbers and prints scale tickets and the scale ticket information and can be retrieved on and reprinted by the computer system. However, a ticket printed at the time of weighing will be the document of record.

(c) All copies of reprinted scale tickets must be marked "duplicate" "reprint". All scale ticket forms in the possession of a grain dealer shall will have been permanently and consecutively numbered at the time of printing. The licensee will be responsible for providing a list of all scale tickets used at each location. Any scale ticket used in pricing grain for the purpose of sale to the grain dealer must have the price shown on all copies of such ticket if priced at the time of delivery. If the dealer does not have a scale or regular access to a scale and purchases grain by having the grain custom weighed at various locations or at destination, the dealer will maintain one copy of the scale ticket in daily order as part of the grain records.

91.9(6) Direct shipment records. When grain is delivered by a producer or the producer's agent to a third party in accordance with an agreement between the producer and the grain dealer and the grain is weighed at the destination or is custom weighed, the direct shipment is to be considered an obligation of the grain dealer on the date stated on the destination scale ticket, and the direct shipment will be reflected in the daily position record on the date when the grain dealer is able to obtain the load weights. A grain dealer who also holds a warehouse operator license may maintain a separate daily position record for each kind of direct shipment grain. The grain dealer will notify the bureau in writing if the grain dealer elects to maintain such a daily position record.

91.9(7) Credit-sale contracts. One copy of every outstanding credit-sale contract must be maintained in numerical order as part of the records.

a. Required content. A credit-sale contract shall contain a minimum of the following:

- (1) Buyer's name and location;
- (2) Seller's name and address;
- (3) The conditions of delivery;
- (4) Amount and kind of grain delivered;
- (5) Price per bushel or basis of value;

- (6) The date payment is to be made;
- (7) The wording “Credit-Sale Contract” and whether the credit-sale contract is a deferred-payment contract or deferred-pricing contract,” which must appear in the title or subtitle of the contract;
- (8) Consecutive numbering at the time of printing; and
- (9) Signature and date by both parties.

b. Notice of credit-sale contract acknowledgment. A licensed grain dealer who purchases grain by credit-sale contract must obtain from the seller an acknowledgment form signed by the seller that provides written notice to the seller regarding the coverage limits of the grain depositors and sellers indemnification fund as it relates to credit-sale contracts.

- (1) The written acknowledgment form must include the following language:

“Notice of Grain Depositors and Sellers Indemnity Fund Coverage Risk:

The Grain Depositors and Sellers Indemnity Fund helps to protect farmers in the event of a failure of a licensed grain dealer. When a person sells grain to a licensed grain dealer, the sale may be protected by the Fund. If the grain dealer fails and the seller does not receive payment for the grain, the Fund may help indemnify the loss by filing a claim with the Grain Depositors and Sellers Indemnity Fund Board. For ordinary cash sales, the Fund may indemnify a loss up to 90 percent to a maximum amount of \$400,000.

However, credit-sale contracts, including deferred-payment contract and deferred-price contracts, are not protected to the same levels as ordinary cash sales.

Deferred-pricing contracts are offered reduced coverage of 75 percent indemnification of a loss by the Fund.

Deferred-payment contracts do not have any loss indemnification by the Fund.

By entering into a credit sale contract, the undersigned acknowledges that the sale of grain through a deferred-pricing contract has reduced protection through the Fund and that that the sale of grain through a deferred-payment contract has no protection through the Fund.”

- (2) a. For credit-sale contracts executed prior to July 1, 2026, the acknowledgement form may be executed on a separate form from the credit-sale contract. A separate acknowledgement form must be completed for each credit-sale contract and signed and dated by the seller. The acknowledgement form must be printed in a legible font that is easy to read and reasonably sized for clear visibility. A copy of the acknowledgement form must be attached to the grain dealer’s copy and seller’s copy of the credit-sale contract.

- b. For credit-sale contracts executed on or after September 1, 2025 and before July 1, 2026, the acknowledgement form must be signed by the seller prior to signing the credit-sale contract.

- (3) For credit-sale contracts executed on or after July 1, 2026, the grain dealer must incorporate the acknowledgement form into the credit-sale contract directly above the signature of the buyer and seller in bold print of equal size or larger than the body of the contract.

- (4) Failure of the grain dealer to obtain the acknowledgment form from the seller is a violation of Iowa Code section 203.15. Failure of the grain dealer to obtain the acknowledgment form does not alter the grain depositors and sellers indemnity fund indemnification limits for a credit-sale contract.

c. If someone other than the seller indicated on a credit-sale contract signs the contract or acknowledgement form, the grain dealer must be able to provide the bureau with proof of business relationship between the indicated seller and the person who signed the contract. This document must be signed by the person who produced the grain or caused the grain to be produced. The document is required for but not limited to contracts signed by the following:

- (1) Landlord or tenant.
- (2) Parent or child.
- (3) Spouse.
- (4) Siblings.
- (5) Farm managers (may use a copy of the management agreement).
- (6) Executors, trustees, administrators, etc. (may use a copy of court document of appointment).
- (7) Corporate officers (other than the president), partners and members or officers of other legal entities. If a contract is issued to two or more sellers, all must sign the contract and acknowledgement form.

d. A licensee's purchases of grain by credit-sale contract from a person licensed as a grain dealer in any jurisdiction are not subject to the requirements of 91.9(7). Any grain purchased from a grain dealer is not eligible for recovery from the grain depositors and sellers indemnity fund.

91.9(8) Cancellation procedures for credit-sale contracts.

a. One copy of each canceled credit-sale contract must be maintained in separate numerical order from the outstanding credit-sale contracts as part of the records. The grain dealer will either mark the face of the credit-sale contract with the word "Canceled," the check number, and date of payment or will provide a numerically ordered listing that shows the contract numbers, check numbers and payment dates. Credit-sale contracts may only be marked "void" if errors are made on the day of issue; otherwise they are to be considered "canceled."

b. Partial payments. Advances and partial payments must be noted on the face of the outstanding credit-sale contracts or by other method of documentation that shows the net balance and is approved by the bureau. The following information must be noted:

- (1) Amount of bushels paid;
- (2) Date paid;
- (3) Check number; and
- (4) Remaining balance of the contract.

91.9(9) Retention of records. Such records shall be kept as required under Iowa Code section 203.9 for the stated time period even if a license has been canceled.

[ARC 9388B, IAB 2/23/11, effective 3/30/11; ARC 0538C, IAB 12/26/12, effective 1/30/13]

21—91.10(203) Filing of monthly grain statement and reports. A grain statement must be prepared at the close of business at the end of each calendar month and filed with the bureau by the tenth of the following month. The grain statement must be on a form or in a format prescribed by the bureau. The bureau will furnish forms to the dealer upon request. A grain statement must be filed for each calendar month regardless of whether or not the dealer has conducted any business during that period.

The bureau may require the dealer to file other types of reports, and the dealer must file with the bureau any such report requested by the bureau within the time period as is specified by the bureau.

[ARC 9388B, IAB 2/23/11, effective 3/30/11]

21—91.11(203) Notice to the warehouse bureau.

91.11(1) The bureau must be notified in writing prior to:

- a. Change of ownership of the grain dealer.

- b. Change of name or business address of the grain dealer.
- c. Change of the grain dealer's fiscal year end.
- d. The ceasing of operations.

91.11(2) The licensee must notify the bureau within 24 hours after the licensee knows or should have known any of the following:

- a. Licensee's net worth falling below the amount required by Iowa Code section 203.3 and if the amount of the deficiency is not covered by a net worth deficiency bond.
- b. Licensee's current assets falling below the amount required by Iowa Code section 203.3 and the deficiency is not covered by a current ratio deficiency bond.
- c. Class 2 licensee's grain purchases from producers exceed \$500,000 during the licensee's fiscal year.

91.11(3) The licensee must notify the bureau in writing within ten days after the licensee knows or should have known either of the following:

- a. Change in management.
- b. The death of an individual or member of a partnership licensed as a grain dealer.

21—91.12(203) Requirements for licensees authorized to issue credit-sale contracts.

91.12(1) *Financial statements—audit or bond or irrevocable letter of credit.* A grain dealer must 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 must also comply with rule 21—91.6(203).

a. Financial statements filed pursuant to this rule must be accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state.. A sole proprietor who desires to be authorized to issue credit-sale contracts must 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 must file a personal financial statement which conforms with the provisions of subrule 91.6(3).

91.13(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 must immediately cease purchasing grain by credit-sale contract. Failure to cease purchasing grain by credit-sale contract will result in the suspension of the grain dealer license. Bonds or irrevocable letters of credit filed to correct the deficiency must be on the forms prescribed and furnished by the bureau. The procedure for the filing of a deficiency bond or irrevocable letter of credit will be the same as set forth in Iowa Code section 203.3. Bonds or irrevocable letters of credit must 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 must be shown on the face of the credit-sale contract or on a listing which identifies the contracts and the amount of the advance.

91.13(3) *Suspension of authorization to issue credit-sale contracts.* Between July 1, 2025 and June 30, 2026, in lieu of the department suspending the right of a grain dealer to purchase grain by credit-sale contract pursuant to Iowa Code section 203.15(5)(e), the department may allow the grain dealer to issue credit-sale contracts if the grain dealer files a bond with the department in the amount of one hundred thousand dollars payable to the department.

(a) The bond filed with the department under this paragraph shall be used to indemnify sellers for losses resulting from a breach of a credit-sale contract as provided by rules adopted by the department. The rules shall include but are not limited to procedures and criteria for providing notice, filing claims, valuing losses, and paying claims. The bond provided in this paragraph shall be in addition to any other bond required in this chapter.

(b) The bond shall not be canceled by the issuer on less than ninety days' notice by certified mail to the department and the principal. However, if an adequate replacement bond is filed with the department, the department may authorize the cancellation of the original bond before the end of the ninety-day period.

(c) If an adequate replacement bond is not received by the department within sixty days of the issuance of the notice of cancellation, the department shall suspend the grain dealer's license. The department shall cause an inspection of the licensed grain dealer immediately at the end of the sixty-day period. If a replacement bond is not filed within another thirty days following the suspension, the department shall revoke the grain dealer's license.

21—91.14(203) Department of agriculture and land stewardship enforcement procedures.

The bureau shall will follow a step-by-step enforcement policy to ensure consistent compliance with and application of this chapter. The department recognizes that violations of certain rules may have more serious ramifications; thus, the enforcement of those rules requires stricter policies. The enforcement policies apply to any violation of this chapter unless enforcement provisions are specifically addressed in a particular rule or subrule.

91.14(1) If it is necessary to establish proof of a violation of statute or rule, the bureau will conduct a special investigation of the licensee. The bureau may contact the licensed grain dealer, the grain dealer's employees, or any other interested party to gain information for the investigation. The bureau, in its investigation of a licensee, may cause a special examination to occur if evidence of at least one of the following conditions is present:

- a. Insufficient funds check, or failed electronic funds transfer.
- b. Stalled payment for grain.
- c. Quantity deficiency.
- d. Quality deficiency.
- e. Incomplete or inaccurate records as specified in rule 21—91.9(203).

The expense of such special examination will be based on actual costs incurred by the bureau and may be assessed to the licensee. The costs will include the labor, travel and any other additional costs incurred by the bureau. Payment must be made as directed by the bureau.

91.14(2) Upon establishment by the bureau of a violation of statute or rule, the bureau will notify the licensee in writing that the licensee must be in compliance with the department's rules within a period of time to be established by the bureau. The bureau will consider the following elements in determining the proper period of time within which to require a licensee to comply with the rules:

- a. Likelihood of producer loss;
- b. Gravity of the offense; and
- c. Length of time within which a reasonable licensee in a similar circumstance should be able to comply with the rules.

91.14(3) The bureau chief may initiate license suspension or revocation proceedings against the licensee for any violation of these rules. The bureau chief will consider the following factors in making the determination to initiate the suspension or revocation proceedings:

- a. Likelihood of producer loss.
- b. Gravity of the offense.
- c. Licensee's intent to violate the rule.
- d. Licensee's record of violations of statute or rule.
- e. Number of violations in the particular report.

91.14(4) The bureau chief may cause charges to be filed against the licensee for any violation of these rules. The bureau chief will consider the following factors in making the determination to file charges:

- a. Likelihood of producer loss.
- b. Gravity of the offense.

- c. Licensee's intent to violate the rule.
- d. Licensee's record of violations of statute or rule.
- e. Number of violations in the particular report.

91.14(5) The bureau chief may initiate the assessment of civil penalties against the licensee for any violation of these rules. The bureau chief will consider the following factors in making the determination to initiate the assessment of civil penalties:

- a. Likelihood of producer loss.
- b. Gravity of the offense.
- c. Licensee's intent to violate the rule.
- d. Licensee's record of violations of statute or rule.
- e. Number of violations in the particular report.

21—91.15(203) Prioritization of inspections of grain dealers. Licensees with a probability of failure factor greater than 40 percent, as calculated by the statistical model, may be examined at least twice in an 18-month period.

21—91.16(203) Claims against bonds or letters of credit.

91.16(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 21-91.13(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.

91.16(2) The failure to make a timely claim relieves the issuer and the grain depositors and sellers indemnity fund provided in chapter 203D of all obligations to the claimant. relieves the department from liability to the claimant.

91.16(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.

91.16(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 United States department of agriculture. 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 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.

91.16(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.

91.16(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 91.16(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.

91.16(7) Claims made by sellers under this section 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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21—91.17(203) Electronic grain contracts. Subject to the provisions of this chapter, a licensee may issue electronic grain contracts using its own computer system or may contract with an independent provider to issue electronic grain contracts. If the licensee contracts with an independent provider, rules 21—91.22(203) through 21—91.26(203) shall apply. If the licensee issues electronic grain contracts using its own computer system, rules 21—91.22(203), 21—91.20(203) and 21—91.26(203) will apply.

[ARC 7553B, IAB 2/11/09, effective 3/18/09]

21—91.18(203) Electronic grain contract providers and provider agreements. A provider must be independent of any outside influence or bias in action or appearance. A provider must enter into a provider agreement with the department prior to being approved by the department. A provider shall must issue and maintain electronic grain contracts only on behalf of licensees who contract with the provider for those services. The provider agreement will be subject to, but not be limited to, the provisions of subrules 91.18(1) through 91.18(7).

91.18(1) Provider to be approved by the USDA. No provider will 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 must 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.

91.18(2) USDA action against providers. In the event that the USDA must take action to deny, withdraw, suspend, reinstate or terminate a USDA provider agreement, the department will automatically take the same action and the provider will be subject to such action by the department. A provider must notify the department of any such actions taken by the USDA.

91.18(3) Notice requirements for providers.

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

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

c. In the user agreement, a provider must 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.

91.18(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 must 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—

91.13(203), a provider will prohibit the licensee from entering into any electronic credit-sale grain contracts until further notice from the department.

91.18(5) *Department access to electronic grain contract data.* A provider must allow the department unrestricted access to the central filing system for electronic grain contracts issued on behalf of licensees. The electronic grain contract data will be maintained for six years after a contract has been canceled. Access will be made available in a manner that allows interaction with department examinations. Access will be free of any charge or costs to the department.

91.18(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 will terminate a provider agreement on less than 60 days' notice in accordance with subrule 91.18(2). Upon termination of the provider agreement, the provider will 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.

91.18(7) *Authorization, jurisdiction and liability.* A provider must be authorized to transact business in the state of Iowa and will consent to jurisdiction in the state of Iowa and venue in Polk County, Iowa. A provider will 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 91.18(5).

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21—91.19(203) *Electronic grain contract users and user agreements.* Prior to engaging in the issuance of electronic grain contracts, a licensee must enter into a user agreement with a provider approved by the department. All electronic grain contracts issued by the licensee will be issued through and filed in the provider's electronic central filing system. The use of electronic grain contracts is subject to the provisions of subrules 91.18(1) through 91.18(5).

91.19(1) *Licensee to use only one provider.* A licensee will issue electronic grain contracts through only one provider.

91.19(2) *Changing providers.* Subject to the provisions of a user agreement in effect, a licensee may change providers once per year. The provider will follow the transfer terms specified in USDA Form WA-490 and any addenda pursuant to subrule 91.18(1). The licensee must notify the department of a change in provider.

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21—91.20(203) *Electronic grain contracts—issuance and form.* Electronic grain contracts must comply with the provisions of Iowa Code chapters 203 and 554D.

91.20(1) *Agreement to conduct electronic transactions.* A licensee or the licensee's provider shall must maintain complete and sufficient records to show agreement between the grain seller and the licensee to conduct electronic grain contract transactions. The records must be presented to the department for inspection upon request. An electronic grain contract must be capable of being printed or stored by both the licensee and the grain seller.

91.20(2) *Electronic signatures.* Sufficient security procedures must be used by a licensee or the licensee's provider to reasonably ascertain that the electronic grain contract signature is the act of the grain seller. The security procedures must be subject to the review of and approval by the department. A seller must be allowed to sign an electronic grain contract only at the conclusion of all electronic grain contract terms and conditions.

91.20(3) *Numbering of electronic contracts—no duplication.* Electronic grain contracts must be consecutively numbered as issued. A licensee will not at any time have an electronic grain contract and a paper grain contract outstanding for the same lot of grain.

91.20(4) *Seller power of attorney.* A licensee or a third party may not handle electronic grain

contracts on behalf of a seller unless a written power of attorney to do so has been provided by the seller. Such power of attorney must be provided to the department for inspection and verification upon the department's request.

91.20(5) *Issuance, form, cancellation, and assignment of electronic credit-sale contracts.* The provisions for issuance, cancellation, and assignment of credit-sale contracts found in rules 21—91.9(203) and 21—91.12(203) will apply to electronic credit-sale contracts except to the extent that the rules are not applicable to paperless credit-sale contracts.

91.20(6) *Authorization to issue electronic credit-sale contracts.* A licensee who issues electronic credit-sale contracts must comply with all requirements of rule 21—91.13(203).

91.20(7) *Nonexclusive use.* A licensee will not be required to issue grain contracts in electronic form.

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21—91.21(203) Security of a provider's electronic central filing system or a licensee's electronic database. Only authorized employees of the licensee will have access to the provider's central filing system or the licensee's electronic database. A provider must prevent unauthorized persons from gaining access to its central filing system. If a licensee uses its own computer database, the licensee will maintain a backup of the database to ensure electronic grain contracts are not inadvertently lost.

These rules are intended to implement Iowa Code chapter 203.

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