

# SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on ) Rule and Regulation No. 200  
its own motion, seeking to amend )  
Title 291, Chapter 8, Grain )  
Warehouse Rules and Regulations, to ) ORDER ADOPTING PROPOSED RULES  
adopt rules in accordance with ) AND ISSUING CERTIFICATE OF  
Nebraska Legislative Bill 730 ) ADOPTION  
[2016], clarify security coverage )  
for sellers of grain, and correct )  
time for sellers to make a claim. ) Entered: September 19, 2017

### BY THE COMMISSION:

On July 5, 2017, the Commission, on its own motion, opened this proceeding seeking to amend Title 291, Chapter 8, Grain Warehouse Rules and Regulations, to update rules regarding qualified sellers of stored grain.

The Commission proposed to amend Title 291, Chapter 8, Grain Warehouse Rules and Regulations, as set forth in the attached Appendix, incorporated herein by this reference. The proposed rules modify provisions related to qualified sellers of stored grain. The changes also correct one item which was not changed after a previous rulemaking altering the time allowed for a seller to demand payment.

No written comments were received. A hearing was held on August 22, 2017. Attorneys Nichole Mulcahy and Ellie Rohr appeared on behalf of Commission staff. No other parties offered testimony at the hearing.

### EVIDENCE

Ellie Rohr explained to the Commission that the rule change was simply to bring the Commission's rules into compliance with recent statutory changes. In response to questioning by Commissioner Landis, Nichole Mulcahy explained the statutory change had been prompted by a Grain Warehouse closure in Pierce. The language in the statute regarding issuance of checks, had been found to be unclear. The legislature clarified the language and the proposed rules make the corresponding changes to Commission rules and regulations.

Ellie Rohr explained the change from 30 days to 15 days for a seller to demand payment was enacted in 2015 but that when the rule change was adopted in 2016, one entry was missed.

### OPINION AND FINDINGS

Based upon the evidence received, the Commission finds that the proposed rules attached hereto as Appendix A and incorporated herein by this reference should be adopted.

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ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a certificate of adoption for the proposed rules as set forth in the Appendix be and is hereby, issued.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 19th day of September, 2017.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Mary Redd*

*Crystal Luvader*

*Frank E. Landis*

//s//Frank E. Landis

//s//Tim Schram

*Tim Schram*

Chairman

ATTEST:

*Neil S. Hyl*

Executive Director

APPENDIX A

1. Make the following revisions to Title 291, Chapter 8, Sections 001.01W, 002.05B, 002.07C, 002.18C(5), 002.18(9)(A) and (C), and 002.18(C)(12)

001 GENERAL:

001.01: DEFINITIONS: As used in Chapter 8 unless the context otherwise requires:

001.01W Qualified Seller of Stored Grain: Any person who, not more than five (5) business days prior to the date the Commission officially closes the warehouse, owned and sold grain stored in the warehouse and had not received payment from the warehouse licensee for such grain, but shall not include grain sold by signed contract or priced scale ticket.

002.05 Security Requirements

002.05B Persons Entitled to Security: The security shall be payable to the Nebraska Public Service Commission for the benefit of all depositors, storers and/or owners and qualified sellers of stored grain.

002.07 Records and Filing Requirements: Each warehouseman shall maintain at a place of business accurate, complete, and current records of all grain handled by the warehouse. The required records shall include, but are not limited to, the following:

002.07C Direct Delivery Ticket: Direct delivery ticket is the means by which a dealer/warehouseman shall maintain records of direct delivery grain. A direct delivery ticket shall be issued no later than fifteen (15) days after the date of the last shipment of the contract, be filed numerically, and shall contain the following information:

002.18 Warehouse Surveillance; Closure of a Warehouse:

002.18C The Commission may take one or more of the following actions in determining whether to close a warehouse or revoke a license:

002.18C5 Take title to all grain stored in the warehouse in trust, for all valid depositors, storers and/or owners and qualified sellers of stored grain.

002.18C9 Make redelivery of the grain on a pro rata basis to all valid depositors, storers and/or owners, or,

- A) Sell the grain using a broker hired by the Commission, through a bidding procedure, auction or any other means which in the Commission's judgment would be best for the depositors, storers and/or owners of grain in the warehouse and qualified sellers of stored grain.
- C) Deposit money from the sale of grain in an interest-bearing trust account for the benefit of the valid depositors, storers and/or owners and qualified sellers of stored grain.

002.18C12 Review the records to determine apparently valid claims of depositors, storers and/or owners and qualified sellers of stored grain.