

Nebraska Public Service Commission

COMMISSIONERS:

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FRANK E. LANDIS
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EXECUTIVE DIRECTOR:

JEFFREY L. PURSLEY

February 9, 2016

TO ALL INTERESTED PARTIES:

RE: RULE AND REGULATION #195: In the Matter of the Commission, on its own motion, seeking to amend Title 291, Chapter 8 Grain Warehouse Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 183 [2015] and clarify provisions regarding in-store transfer notices.

CERTIFICATION

I, Jeffrey L. Pursley, Executive Director of the Nebraska Public Service Commission, hereby certify that the enclosed is a true and correct copy of the original order made and entered in the proceeding docketed Rule and Regulation No. 195 on the 9th day of February, 2016. The original order is filed and recorded in the official records of the Commission.

Please direct any questions concerning this order to Nichole Mulcahy, Legal Counsel, 402-471-0234.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the Nebraska Public Service Commission, Lincoln, Nebraska, this 9th day of February, 2016.

Sincerely,

A handwritten signature in cursive script that reads "Jeffrey L. Pursley".

Jeffrey L. Pursley
Executive Director



cc: Distribution List (attached)
Ms. Bess Boesiger, Secretary of State, Room 2300, State Capitol, Lincoln, NE 68509
Ms. Erin Northwall, Governor's Policy Research Office, Room 1319, State Capitol, Lincoln, NE 68509
Mr. Bob Krist, Chairman, Executive Board, District #10, State Capitol, Lincoln, NE 68509 (*Electronically Filed*)

CNMNAM	CNMAD1	CNMAD2	CNMCTY	CNMSTA	CNMZP1	CNMZP2
81-20 GRAIN LLC	86524 - HWY 81		RANDOLPH	NE	68771	
ABLE LLC	PO BOX 394		AUBURN	NE	68305	0394
ADM GRAIN CO	ATTN LAUREN KIERRE	8000 W 110TH ST SUITE 220	OVERLAND PARK	KS	66210	2315
AG EXCHANGE LLC	123 N COLLEGE AVE STE 214		FORT COLLINS	CO	80524	
AG VALLEY COOP NS	PO BOX 68		EDISON	NE	68936	0068
AGFINITY INC	P O BOX 338		EATON	CO	80615	
AGP GRAIN MARKETING LLC	PO BOX 2047		OMAHA	NE	68103	2047
AGREX INC	10975 GRANDVIEW DR BLDG 27 200		OVERLAND PARK	KS	66213	
ALL POINTS COOPERATIVE	PO BOX 80		GOTHENBURG	NE	69138	0080
AMERICAN POP CORN COMPANY	PO BOX 178		SIOUX CITY	IA	51102	
AURORA COOP ELEVATOR CO	2225 Q Street		AURORA	NE	68818	
BANCROFT GRAIN LLC	PO BOX 305		BANCROFT	NE	68004	0305
BARTLETT GRAIN COMPANY LP	4900 MAIN ST SUITE 1200		KANSAS CITY	MO	64112	
BATTLE CREEK FARMERS COOP	PO BOX 10		BATTLE CREEK	NE	68715	0010
BAUER ELEVATOR INC	56182 SHOLES DR		RANDOLPH	NE	68771	
BEEMER GRAIN LLC	PO BOX 190		BEEMER	NE	68716	0190
BELDEN GRAIN & FEED INC	PO BOX 66		BELDEN	NE	68717	0066
BOSSEN LIVESTOCK CO	PO BOX 185		ARCADIA	NE	68805	0185
BRUNING GRAIN & FEED CO INC	PO BOX 67		BRUNING	NE	68322	0067
BRUNO COOP ASSN	PO BOX 135		BRUNO	NE	68014	0135
BT AG LLC	2516 ROKEBY RD		LINCOLN	NE	68512	
BUNGE NORTH AMERICA INC	ATTN SHANA CARPENTER	11720 BORMAN DR	SAINT LOUIS	MO	63146	
BUTTE FARM SUPPLY INC	PO BOX 257		BUTTE	NE	68722	0257
CARGILL INCORPORATED	PO BOX 5606	% K A SUEDEMEYER	MINNEAPOLIS	MN	55440	5606
CARROLL FEED & GRAIN CO	PO BOX 204		CARROLL	NE	68723	0204
CENTRAL AG NS MARKET COOP		PO BOX 37	SHELBY	NE	68662	
CENTRAL VALLEY AG COOPERATIVE	Box 429		YORK	NE	68467	
CHS INC	5500 CENEX DRIVE	JODI MONTGOMERY MS 370	INVERGROVE HTS	MN	55077	
CLARK GRAIN CO	PO BOX 218	1ST & MAIN ST	JOHNSON	NE	68378	0218
CLARK SPECIALTY GRAINS LLC	22530 SOUTH BANNER ROAD		GOTHENBURG	NE	69138	
CLARKSON GRAIN COMPANY	PO BOX 80		CERRO GORDO	IL	61818	0080
COLON ELEVATOR CO	PO BOX 36		COLON	NE	68018	0036
COLORADO AGRI PRODUCTS LLC	PO BOX 1846		STERLING	CO	80751	
COMMERCE BROKERAGE INC	4161 N BROADWAY		WICHITA	KS	67219	
COMMODITY MARKETING COMPANY	8480 HOLCOMB BRIDGE ROAD D200	ATTN BARBARA TURNER	ALPHARETTA	GA	30022	
COMMODITY SOLUTIONS INC	3202 KOENIGSTEIN		NORFOLK	NE	68701	
CONSOLIDATED GRAIN AND BARGE CO	10650 MILL ROAD		MOUNT CARROLL	IL	61053	
COOPERATIVE PRODUCERS INC	PO BOX 1008		HASTINGS	NE	68902	1008
COOPERATIVE SUPPLY INC	PO BOX 278		DODGE	NE	68633	0278
CPI LANSING LLC	10975 BENSON DR STE 400		OVERLAND PARK	KS	66210	
CROFTON ELEVATOR INC	PO BOX 155		CROFTON	NE	68730	0155
CROSSROADS COOP ASSN	PO BOX 153		SIDNEY	NE	69162	0153
CST GRAIN	70581 AVE 335A		BENKELMAN	NE	69021	
DALLAS LANGLEY TRUCKING	2214 13TH AVE		SIDNEY	NE	69162	

CNMNAM	CNMAD1	CNMAD2	CNMCTY	CNMSTA	CNMZP1	CNMZP2
DAN HASTINGS	410 SE RD		GILTNER	NE	68841	
DAWSON AG CENTER	PO BOX 38		DAWSON	NE	68337	0038
DENNIS COMMODITIES LLC	49574 871 RD		O'NEILL	NE	68763	
DIXON ELEVATOR CO	PO BOX 8		DIXON	NE	68732	0008
DOUBLE T GRAIN LLC	PO BOX 304		ROFF	OK	74865	0304
DUANE HARRIS	4306 NORTH 1ST		NORFOLK	NE	68701	
ELYS INC	PO BOX 185		GUIDE ROCK	NE	68942	0185
FARMERS COOP		325 W 1ST ST	PILGER	NE	68768	0326
FARMERS COOP ASSN	PO BOX 170	35885 RAVENNA RD	RAVENNA	NE	68869	0170
FARMERS COOP ASSN	PO BOX 38		LINDSAY	NE	68644	0038
FARMERS COOP ASSN	PO BOX 69		CEDAR BLUFFS	NE	68015	0069
FARMERS COOP CO	PO BOX 226		TALMAGE	NE	68448	0226
FARMERS COOP ELEVATOR CO	PO BOX 155	317 OSBORN ST	HEMINGFORD	NE	69348	0155
FARMERS COOP GRAIN & SUPPLY CO	PO BOX 337		TRENTON	NE	69044	0337
FARMERS COOPERATIVE	PO BOX 263		DORCHESTER	NE	68343	0263
FARMERS GRAIN & LIVESTOCK CO	PO BOX 230		HADAR	NE	68738	0230
FARMERS UNION COOP ASSN	PO BOX 68		LYNCH	NE	68746	0068
FARMERS UNION COOP ASSN	PO BOX 499		GRETNA	NE	68028	0499
FARMERS UNION COOP CO	508 N PARK ST		SPENCER	NE	68777	
FARMERS UNION COOP CO	PO BOX 135		FRIEND	NE	68359	0135
FARMERS UNION COOP SUPPLY CO	PO BOX 276		CLARKSON	NE	68629	0276
FARMERS/RANCHERS COOP ASSN	224 SOUTH MAIN		AINSWORTH	NE	69210	1358
FC STONE MERCHANT SERVICES LLC	2829 WESTOWN PARKWAY SUITE 100		WEST DES MOINES	IA	50266	
FISCHER FEED & SUPPLY	503 N ROBINSON AVE		HARTINGTON	NE	68739	5134
FLINT HILLS RESOURCES GRAIN LLC	ATTN TAX SERVICES	P O BOX 3755	WICHITA	KS	67201	
FORDYCE FARMERS N/S COOP	PO BOX 187		FORDYCE	NE	68736	0187
FRENCHMAN VALLEY FARMERS COOP INC	PO BOX 578		IMPERIAL	NE	69033	0578
FRONTIER AG INC	PO BOX 998	ATTN Brad Cowan	GOODLAND	KS	67735	0998
FRONTIER COOP CO	PO BOX 37		BRAINARD	NE	68626	0037
GARRYS FARM SERVICE INC	88111 545 AVE		BLOOMFIELD	NE	68718	4034
GAVILON GRAIN LLC	1331 CAPITOL AVE		OMAHA	NE	68102	1106
GBB GRAIN CO	84606 US HWY 81		NORFOLK	NE	68701	
GENEVA MILLING CO INC	P O BOX 146		GENEVA	NE	68361	0146
GRAIN MILLERS INC	10400 VIKING DR STE 301		EDEN PRAIRIE	MN	55344	7232
GRAIN PLACE FOODS INC	1904 NORTH HWY 14		MARQUETTE	NE	68854	2516
GRAIN STATES SOYA INC	PO BOX 157		WEST POINT	NE	68788	0157
GREEN PLAINS ST EDWARD LLC	450 REGENCY PARKWAY STE 400		OMAHA	NE	68114	
GREEN PLAINS TRADE GROUP LLC	450 REGENCY PARKWAY STE 400		OMAHA	NE	68114	
GROVIJOHN FEED & SEED	PO BOX 381		HOWELLS	NE	68641	0381
HALLVIN INC	101 S 1ST STREET		BLOOMFIELD	NE	68718	
HANNEBAUM GRAIN CO INC	PO BOX 1157		SALINA	KS	67402	1157
HANSEN MUELLER CO	12231 EMMET ST STE 1		OMAHA	NE	68164	
HARROLD TERMINAL LLC	PO BOX 64		HARROLD	SD	57536	
HARTINGTON FEED & CHICK STORE	PO BOX 158		HARTINGTON	NE	68739	0158

CNMNAM	CNMAD1	CNMAD2	CNMCTY	CNMSTA	CNMZP1	CNMZP2
HAWKEYE COMMODITIES CO	1050 SW BROOKSIDE CIR STE 100		GRIMES	IA	50111	4950
HELENA CHEMICAL COMPANY	PO BOX 120		PETERSBURG	NE	68652	0120
HERBERT FEED & GRAIN CO	PO BOX 290		VERDIGRE	NE	68783	0290
HESCO GRAINS LLC	500 19TH STREET SW		WATERTOWN	SD	57201	
HINRICHS TRADING LLC	155 SE KAMIAKEN ST		PULLMAN	WA	99163	
INTERSTATE COMMODITIES	3803 153RD ST STE 101		OMAHA	NE	68116	4501
J D HEISKEL HOLDINGS LLC	20010 MANDERSON ST SUITE A		ELKHORN	NE	68022	
J E MEURET GRAIN CO INC	PO BOX 146		BRUNSWICK	NE	68720	0146
JEFF BECHARD	AGMARK LLC	PO BOX 444	BELOIT	KS	67420	0444
K & C GRAIN INC	55403 State Highway 13		Norfolk	NE	68701	1001
KAAPA ETHANOL LLC	P O BOX 238		MINDEN	NE	68959	0238
KANSAS ORGANIC PRODUCERS ASSN	1890 88TH RD		GOFF	KS	66428	
KANZA COOPERATIVE ASSOCIATION	PO BOX 175		IUKA	KS	67066	0175
KASSIK MILLING CO INC	PO BOX 128		MILLIGAN	NE	68406	0128
KNABE AG ENTERPRISES, LLC	48413 S 66TH RD		WYMORE	NE	68466	
KROEKER GRAIN & LUMBER CO INC	PO BOX 157		HENDERSON	NE	68371	0157
KRUMEL GRAIN & STORAGE INC	PO BOX 205		WAHOO	NE	68066	0205
LACKAWANNA PRODUCTS CORP	PO BOX 660	ATTN JASON HAYWOOD	CLARENCE	NY	14031	0660
LANSING TRADE GROUP LLC	10975 BENSON DR #400		OVERLAND PARK	KS	66210	
LORENSEN LUMBER & GRAIN LLC	PO BOX 220		PENDER	NE	68047	0220
LOUIS DREYFUS COMMODITIES LLC	PO BOX 810		WILTON	CT	06897	0810
LOUIS DREYFUS NORFOLK LLC	4800 MAIN ST STE 600		KANSAS CITY	MO	64112	
MANNING GRAIN COMPANY	4 BURRESS RD		FAIRMONT	NE	68354	
MATHIESEN GRAIN CO	1550 NEBRASKA ST		BLAIR	NE	68008	
MEL & JOY PRICE INC	1352 COUNTY RD 68		HEMINGFORD	NE	69348	2048
MID PLAINS GRAIN LLC	PO BOX 146		BRUNSWICK	NE	68720	
MIDWEST FARMERS COOP	PO BOX 40	304 S 3RD ST	ELMWOOD	NE	68349	0070
NEBRASKA BEAN INC	85824 519TH AVE		CLEARWATER	NE	68726	
NEBRASKA CORN PROCESSING LLC	PO BOX 39		ZEELAND	MI	49464	0039
NEBRASKA POPCORN INC	85824 519TH AVE		CLEARWATER	NE	68726	
NEBRASKA SALT & GRAIN CO	PO BOX 489		GOTHENBURG	NE	69138	0489
NORDER SUPPLY INC	PO BOX 143		HEBRON	NE	68370	0143
NORTH SIDE GRAIN CO	203 N HWY 20 N		LAUREL	NE	68745	0516
OCHSNER GRAIN CO INC	PO BOX 547		MADISON	NE	68748	0547
ORGANIC PRODUCERS IA NE SD COOP	130 EAST 10TH		NORTH BEND	NE	68649	
OSHKOSH GRAIN INC	PO BOX 572		OSHKOSH	NE	69154	0572
OSMOND FARM SUPPLY CENTER INC	PO BOX 480	1ST & STATE	OSMOND	NE	68765	0480
PEEWEE GRAIN LLC	410 Walnut ST		HUMPHREY	NE	68642	
PENDER GRAIN ELEVATOR INC	PO BOX 28		PENDER	NE	68047	0028
PENNINGTON SEED INC	PO BOX 443	ATTN DAN PENNINGTON	SIDNEY	NE	69162	0443
PREFERRED POPCORN LLC	1132 9TH ROAD		CHAPMAN	NE	68827	
PRIDE ENTERPRISES INC	DBA PRIDE GRAIN	44075 US HWY 20	LONG PINE	NE	69217	5214
PRINZ GRAIN & FEED INC	PO BOX 265		WEST POINT	NE	68788	0265
PROGRESSIVE AG PARTNERS LLC	PO BOX 38		BRADSHAW	NE	68319	0038

CNMNAM	CNMAD1	CNMAD2	CNMCTY	CNMSTA	CNMZP1	CNMZP2
RED RIVER COMMODITIES INC	PO BOX 3022		FARGO	ND	58108	
RIADA TRADING CO INC	PO BOX 771107		WICHITA	KS	67277	1107
RICHARDSON INTL US LIMITED	2800 ONE LOMBARD PLACE		WINNIPEG	MB	R3B	0X8
ROVEY SPECIALTY GRAINS LLC	1157 ROVEY AVE		FARMERSVILLE	IL	62533	
SALEM GRAIN CO INC	64594 707 LN		SALEM	NE	68433	0182
SCHAEFER GRAIN CO	PO BOX 267		PLAINVIEW	NE	68769	0267
SEVEN VALLEYS GRAIN CO	PO BOX 145		CALLAWAY	NE	68825	0145
SHAW GRAIN LLC	30460 ROAD Q		EDGAR	NE	68935	3121
SHICKLEY GRAIN CO	PO BOX 138		SHICKLEY	NE	68436	0138
SPALDING COOP ELEVATOR	PO BOX B		SPALDING	NE	68665	
ST PAUL COOP GRAIN ASSN	P O BOX 187		ST PAUL	NE	68873	0187
STATE LINE GRAIN	PO BOX 230		VALENTINE	NE	69201	0230
SUPERIOR FEED INGREDIENTS	9358 OAK AVE		WACONIA	MN	55387	
TEN X CAPITAL INC	PO BOX 1000		ATKINSON	NE	68713	
THE A R C GROUP LLC	8555 EXECUTIVE WOODS DR #400		LINCOLN	NE	68512	
THE ANDERSONS INC	ATTN JUDY BALDWIN	P O BOX 119	MAUMEE	OH	43537	
THE DELONG CO INC	PO BOX 522		CLINTON	WI	53525	0522
THE SCOLAR COMPANY	2027 DODGE ST		OMAHA	NE	68102	
TROTTER INC	PO BOX 158		ARCADIA	NE	68815	0158
TYSONS INC	200 NORTH 10		BLAIR	NE	68008	
U.S.ENERGY PARTNERS, L.L.C.	DBA WHITE ENERGY	1030 E 15TH STREET	Russell	KS	67665	
UNION GRAIN COMPANY	PO BOX 8		ST LIBORY	NE	68872	0008
URWIN TRUCKING LLC	PO BOX 515		HAY SPRINGS	NE	69347	0515
WELLINGTON TECHNOLOGIES LLC	1119 W SCOTT ST		BEATRICE	NE	68310	
WEST PLAINS LLC	11500 AMBASSADOR DR STE 250		KANSAS CITY	MO	64153	3212
WILES BROS INC	606 WILES RD		PLATTSMOUTH	NE	68048	9384
WRIGHTS TRUCKING & HARVESTING LLC	8400 RD 105		BRIDGEPORT	NE	69336	

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) RULE AND REGULATION NO. 195
on its own motion, seeking to)
amend Title 291, Chapter 8, Grain)
Warehouse Rules and Regulations,) ORDER RELEASING SECOND SET OF
to adopt rules in accordance with) RULES, SEEKING COMMENT, AND
Nebraska Legislative Bill 183) NOTICE OF HEARING
[2015] and clarify provisions)
regarding in-store transfer)
notices.) Entered: February 9, 2016

BY THE COMMISSION:

O P I N I O N A N D F I N D I N G S

The Nebraska Public Service Commission (Commission) opened this proceeding to amend Title 291, Chapter 8, Grain Warehouse Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 183 passed in 2015 by the Nebraska Legislature and relating to in-store transfer notices.

The Commission released a first set of proposed rules and requested comments from interested parties. Comments were timely received from the Nebraska Cooperative Council (Coop Council) and the Nebraska Grain and Feed Association (Association). Based upon the comments received, revisions to the proposed rules have been made and a Second Set of Proposed Rules and Regulations attached hereto as Appendix A is released for comment.

Changes made to the first set of proposed rules and regulations, originally released on November 17, 2015, include additional language and changes to Rule 003.05A7 consistent with the comments from the Coop Council. Language regarding the warehouse security was removed from the same section and additional language from Neb. Rev. Stat § 75-905(2) and the definition of producer was added to the rule. Additionally, the requirement that the warning be on the face of the receipt was removed to allow more flexibility, but maintains the requirement a minimum of 8 point font be utilized.

The Association also requested further terms be defined in the rules. We clarify that there are currently thirty-three (33) defined terms in the rules, including the terms suggested by the Association. The proposed rule only reprinted the sections of the rules with proposed changes, therefore all other definitions contained in the rules would remain as currently written.

Accordingly, the Commission releases a second set of proposed rules, which are set forth in Appendix A, incorporated herein by reference.

Comments on the proposed rules as amended shall be filed by interested parties on or before **3:00 p.m., March 18, 2016**. Parties filing comments should file one original with five (5) paper copies and one (1)

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

RULE AND REGULATION NO. 195

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electronic copy in Word format emailed to terri.fritz@nebraska.gov and nichole.mulcahy@nebraska.gov.

The Commission finds that this matter should be set for hearing on **Tuesday, March 29, 2016, at 1:30 p.m.** in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Commission at (402) 471-0213 (TDD) or the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven days is needed when requesting an interpreter.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a second set of proposed rules are released for comment, interested parties shall file comments on or before **3:00 p.m., March 18, 2016**. Parties filing comments should file one original with five (5) paper copies and one (1) electronic copy in Word format emailed to terri.fritz@nebraska.gov and nichole.mulcahy@nebraska.gov.

IT IS FURTHER ORDERED that this matter be set for hearing on, **Tuesday, March 29, 2016, at 1:30 p.m.** in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 9th day of February, 2016.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Gould L. Vop
Crystal Luvader
Dee Johnson

Tim Schram
Chairman

ATTEST:
Jerry L. Paly
Executive Director

//s//Frank E. Landis
//s//Tim Schram

APPENDIX A

Amendments to Nebraska Administrative Code, Title 291, Chapter 8, Grain Warehouse Rules and Regulations.

MAKE THE FOLLOWING CHANGES TO SECTION 001:

001 GENERAL:

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

001.01J Grain Dealer: Any person, other than a feeder or custom feeder of livestock or poultry or a grain warehouse licensed under the Grain Warehouse Act or located in Nebraska and licensed under the United States Warehouse Act that does not buy, sell, or transport grain other than grain that is received at its licensed warehouse facilities, who (a) buys grain from ~~its owner or the~~ producer within this state for purposes of selling such grain, ~~(b) transports grain into this state for purposes of selling such grain,~~ or (eb) acts as an employee or agent of a buyer or seller for purposes of collective bargaining in the marketing of grain.

MAKE THE FOLLOWING CHANGES TO SECTION 002:

002 PUBLIC GRAIN WAREHOUSES:

002.04F Additional Financial Requirements: In addition to the reviewed fiscal year-end financial statement required by Section 88-528 and to detect noncompliance with financial requirements established by the Commission pursuant to Section 88-530, the Commission shall, for good cause shown as determined by considering the criteria set forth below, require (1) a verified report of the total grain inventory or (2) an audited financial statement. A verified report of grain inventory or audited financial statement shall be prepared in accordance with generally accepted accounting principles ~~generally accepted in the United States~~ by a person or firm which holds a permit granted by the Nebraska State Board of Public Accountancy.

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:

002.07I In-Store Transfer Notice: ~~An in-store transfer notices shall be prima facie evidence of a valid operates to transfer warehouse-owned ownership interest of grain physically stored in the warehouse by a warehouse licensee, to a person in satisfaction of a direct delivery obligation and the grain remains in the warehouse. for purposes of warehouse security protection and any other protections afforded by the Warehouse Act or Commission rules and regulations. To be considered a valid in-store transfer notice, proper documentation must be issued pursuant to Neb. Rev. Stat. Section 88-543(1)(b). An in-~~

store transfer notice shall contain the following information and be filed in numerical order:

002.07I1 Be Pre-numbered.

002.07I2 Name of the warehouse.

002.07I3 Name of the ~~owner~~ producer.

002.07I4 Commodity and quantity.

002.07I5 Be signed and dated by the warehouseman.

002.07I6 A statement that ~~title~~ title to the grain stored in the warehouse passes from the warehouseman licensee to the person with the direct delivery obligation ~~owner~~ upon execution of the in-store transfer notice in satisfaction of the direct delivery obligation.

MAKE THE FOLLOWING CHANGES TO SECTION 003.02:

003. GRAIN DEALERS:

003.02 License Application Requirements:

003.02A Form: All applications for a grain dealer license shall be submitted on the form prescribed by the Commission, incorporated herein at the end of the chapter and labeled as Attachment 14 (new form).

~~003.02B Vehicle Registration: Each grain dealer or applicant shall register with the Commission each motor vehicle to be used by the licensee for transporting grain.~~

003.02CB Determining Volume of Business for New Applicant: A new applicant may obtain a license on the basis of an estimate of the volume of business the applicant expects to do during the term of the license for which the application is made. When a first year applicant obtains a license on the basis of an estimate of its purchases for the year, and the licensee, in fact, buys an amount of grain equal to or more than the initial estimate, the licensee shall revise the estimate and immediately furnish sufficient additional security to cover the additional projected purchases.

003.02BC Background Check: All applications for a grain dealer license shall include the primary party. Such primary party shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol: (1) If the applicant is not an individual, the chief executive officer, president, or general manager; or (2) if the applicant is an individual, the individual. If the primary party has been subject to a check of his or her criminal history record information pursuant to this section on a prior application, he or she is not subject to another such check upon a subsequent application. If a primary party has been subject to a check of his or her criminal history record

information pursuant to another law, the Commission may waive such requirement. A primary party shall furnish to the Nebraska State Patrol a full set of fingerprints to enable a criminal background investigation to be conducted. The primary party (1) may be fingerprinted at a Nebraska State Patrol office, or (2) may request a fingerprint card from the Commission. If a primary party is fingerprinted at a county sheriff's office or a local police department, the primary party shall send the completed fingerprint card to the Nebraska State Patrol, c/o/ Criminal Records & Identification, P.O. Box 94907, Lincoln, Nebraska, 68509-4907. The primary party shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The primary party shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The primary party shall authorize release of the national criminal history record check to the Commission. The criminal history record information check shall be completed within ninety (90) days after the date the application for a license is received in the Commission's office, and if not, the application shall be returned to the applicant. The Commission shall deny a dealer license to any applicant whose primary party has been convicted of a felony financial crime.

~~003.02ED Application Fees: 003.02ED1 Application Fee:~~ All applications for license will include a fee as set by Neb. Rev. Stat. Section 75-903 (1997). Any application fees paid will be non-refundable should the applicant withdraw the application or be unable to meet all licensing requirements within one (1) year from the date of application.

~~003.02E2 Registration Fee:~~ A registration fee, as set forth in Neb. Rev. Stat. Section 75-903 (Reissue of 1996) will be paid for each vehicle registered as a part of the grain dealer application.

~~003.02F Commercial License Plates:~~ Each vehicle used by a grain dealer, licensed under the provisions of Section 003, shall be equipped with a commercial license plate as registered with the Department of Motor Vehicles, except that a grain dealer who resides in another state shall license the vehicles according to the laws of the grain dealer's state of residence. The number of the commercial license shall be submitted to the Commission on the application for license.

~~003.02GE Term of License:~~ A grain dealer license shall expire at midnight on the following March 31, June 30, September 30, or December 31.

MAKE THE FOLLOWING CHANGES TO SECTION 003.03:

003.03 Financial Requirements: Each grain dealer or applicant shall submit a reviewed or audited level fiscal year-end financial statement prepared by an independent certified public accounting firm, accountant or independent public accountant. The independent public accountant shall hold a permit granted by the Nebraska State Board of Public Accountancy. If licensing as an individual, the financial statement shall be prepared in accordance with Other Comprehensive Basis of

Accountancy for a personal financial statement, using historical cost and accrual basis of accounting. If licensing as a partnership, corporation, or limited liability company, the financial statement must be prepared in accordance with generally accepted accounting principles generally accepted in the United States. If an applicant for a grain dealer license is a wholly owned subsidiary of a parent company and such a financial statement is not prepared for the subsidiary, the parent company shall submit its reviewed or audited fiscal year-end financial statement and shall execute an unconditional guarantee agreement as prescribed by the Commission. The financial statement shall include, but is not limited to, the following:

003.03A Statement of income (Profit and Loss)

003.03B Balance sheet

003.03C Statement of cash flows

003.03D Statement of proprietor's capital or retained earnings.

003.03E The volume and dollar value of grain dealer purchases the licensee made in Nebraska during the fiscal year. If the volume and dollar value of the grain purchases is not reported, the grain dealer shall file the maximum grain dealer security as required by the Grain Dealer Act.

003.03F This section applies to all licensees who hold both a warehouse and dealer license. The volume and dollar value of transactions in which direct delivery grain is exchanged for a post-direct delivery storage position and the post-direct delivery storage position is not created by an in-store transfer on the same date as the delivery of the direct delivery grain.

003.03F1 The value shall be calculated as set forth in Section 003.04A1.

003.03F2 The statement shall specifically show:

003.03F2a The total volume and dollar value of the direct delivery grain exchanged for a post-direct delivery storage position,

003.03F2b The total volume and dollar value of the direct delivery grain exchanged for a post-direct delivery storage position created by an in-store transfer on the same date as the delivery of the direct delivery grain, and

003.03F2c The net volume and dollar value of the direct delivery grain exchanged for a post-direct delivery storage position that will be used for calculation of the grain dealer security as set forth in Section 3.04.

003.03G The accounting firm's accountant's certification, assurances, opinions, and comments and the notes with respect to the financial statement.

003.03H Net Worth: Each grain dealer or applicant shall demonstrate and maintain a minimum allowable net worth of \$10,000 to obtain and maintain a license.

003.03I Working Capital: Each grain dealer or applicant shall demonstrate and maintain a working capital ratio (current liabilities to allowable current assets) of not less than 1 to 1. Applicants or licensees who fail to meet this requirement shall provide additional data sufficient to satisfy the Commission that additional operating capital can be obtained to meet the requirement.

003.03J For purposes of determining whether an applicant or grain dealer meets financial requirements, the following shall apply unless waived by the Commission. In addition to those listed in this section, items may be disallowed, in whole or in part, depending upon the individual circumstances of the grain dealer or applicant:

003.03J1 Physical Assets:

~~003.03J1a Depreciable assets not covered by insurance are disallowed.~~

~~003.03J1ab~~ Personal assets, including but not limited to residences, household items, recreational items, restricted retirement accounts and vehicles, are disallowed, net of debt on each asset.

~~003.03J1be~~ Other assets that are not itemized are disallowed.

~~003.03J1cd~~ Appraised valuations of assets not substantiated by a satisfactory appraisal are disallowed. An applicant or licensee may submit a valuation of assets by competent appraisal to the Commission for inclusion in computing net worth. If a valuation of assets is submitted and satisfies Commission requirements, no more than seventy percent (70%) of appraised value over book value of the assets may be used in determining compliance with net worth requirements. Acceptance of an appraisal is subject to the following:

~~003.03J1cd(1)~~ The appraisal must be prepared by an independent certified appraiser.

~~003.03J1cd(2)~~ The appraisal must be prepared on market, income, and cost approaches.

003.03J1cd(3) A one to one working capital ratio must be maintained.

~~003.03J1cd(4) Any value claimed over the insured value will be disallowed.~~

003.03JH1cd(45) Appraisals will only be allowed for three (3) years following the date of the appraisal.

MAKE THE FOLLOWING CHANGES TO SECTION 003.04:

003.04 Grain Dealer Security Requirements: A grain dealer applicant shall file security which may be a bond issued by a corporate surety company and payable to the Commission, an irrevocable letter of credit, or a certificate of deposit, subject to approval of the Commission for the benefit of any producer persons doing business with the grain dealer who files a valid claim arising from a sale to the grain dealer. The security shall be furnished on the condition that the licensee will pay for any grain purchased upon demand, not later than fifteen (15) thirty ~~(30)~~ days after taking possession of the grain purchased. The liability of the surety shall cover purchases ~~and sales made or arranged~~ by the grain dealer during the time the bond is in force.

003.04A Amount: The security shall be in the amount of the greater of \$35,000 or seven percent (7%) of grain purchases and exchanges by the applicant, in the preceding license year or as reported in the fiscal year-end financial statement, not to exceed \$300,000. For purposes of calculating the security, grain purchases and exchanges do not include in-store purchases by a warehouse, or grain that passes title at the time of delivery.

003.04A1 Amounts used in the calculation of the security shall include the net volume and dollar value of the direct delivery grain exchanged for a post-direct delivery storage position valued on the date delivery is made.

003.04A2 Amounts used in the calculation of the security shall not include any transactions in which direct delivery grain is exchanged for a post-direct delivery storage position and the post-direct delivery storage position is created by an in-store transfer on the same date as the delivery of the direct delivery grain.

003.04E The grain dealer security shall provide security for direct delivery grain until any post-direct delivery storage position is created for a period not to exceed fifteen (15) thirty ~~(30)~~ days after the date of the last shipment of the contract.

003.04F No seller shall have recourse to the grain dealer's security unless the seller:

003.04F1 Demands payment from the grain dealer within fifteen (15) ~~thirty (30)~~ days after the date of the last shipment of any contract;

003.04F2 Negotiates any negotiable instrument issued as payment for grain by the grain dealer within fifteen (15) ~~thirty (30)~~ days after its issuance; and

003.04F3 Notifies the Commission within fifteen (15) ~~thirty (30)~~ days after any apparent loss to be covered under the terms of the grain dealer's security.

~~003.05 Issuance: Upon review of all required documents, the Commission shall issue the following:~~

~~003.05A Grain dealer license.~~

~~003.05B Grain dealer truck registration and plate for each vehicle registered with the Commission as a part of the license application.~~

~~003.05B1 Plate Requirement: Each grain dealer plate shall be affixed on the front of the vehicle to which it is assigned, in close proximity to the commercial plate.~~

~~003.05B2 Registration Requirement: The registration for each truck shall be carried in the cab of the vehicle to which it is assigned.~~

MAKE THE FOLLOWING CHANGES TO SECTION 003.06:

003.065 Records Requirements: Each grain dealer shall maintain, at its place of business, accounts of each transaction conducted under its license. The records shall be subject to inspection by the Commission and must include, but are not limited to, the following:

003.065A Receipts: Each grain dealer, upon taking possession of grain from a seller, shall issue a writing, in the form of a receipt, contract, bill of lading or other written communication(s) to the seller, or its agent, that includes, but is not necessarily limited to, the following:

003.065A1 The date the grain dealer or its agent took possession of the seller's grain.

003.065A2 The name and address of the buyer.

003.065A3 The name of the seller.

003.065A4 The name of the agent of the buyer.

003.065A5 The kind of grain delivered to the buyer.

003.065A6 The approximate quantity of grain delivered to the buyer.

003.065A7 The following ~~provisions~~warning shall be printed on the ~~face of a~~ receipt in eight point type or larger:

"WARNING TO SELLER: You will have no recourse to the grain dealer's security posted with the Nebraska Public Service Commission (NPSC) unless you are a Nebraska producer and you: (1) demand payment from the grain dealer within fifteen (15) ~~thirty (30)~~ days after the date of the last shipment of any contract; and, (2) ~~cash any check or draft~~ negotiate any negotiable instrument issued as payment for your grain by the grain dealer within fifteen (15) ~~thirty (30)~~ days after its issuance; and, (3) notify the ~~Nebraska Public Service Commission~~NPSC, PO Box 94927, Lincoln, NE 68509-4927, within fifteen (15) ~~thirty (30)~~ days ~~if a check or draft is returned unpaid~~after an apparent loss. The grain dealer's security shall provide security for direct delivery grain until a post-direct delivery storage position is created for a period not to exceed fifteen (15) days after date of the last shipment of grain. You will have no recourse to the grain warehouseman's security posted with the NPSC unless you have secured a post direct delivery storage position within fifteen (15) ~~thirty (30)~~ days after the last shipment of any contract. Direct delivery of grain may affect the eligibility of the grain for participation in federal price support programs."

Nebraska Law defines a producer as the owner, tenant, or operator of land in this state who has an interest in and receives all or part of the proceeds from the sale of grain produced on that land.

003.06A8 All receipts, contracts, bills of lading or other written communications shall be pre-numbered and copies shall be maintained in numeric order.

003.065B Checks issued as payment for grain.

003.065C Contracts issued for grain purchases ~~or sales~~ in Nebraska.

003.065D Retention: Each grain dealer shall, unless otherwise authorized by the Commission, maintain the required records for not less than five (5) year(s).

Renumber the remaining sections accordingly.