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**IDAPA 02
TITLE 02
Chapter 13**

02.02.13 - COMMODITY DEALERS' RULES

000. -- 009. (RESERVED).

010. LICENSING.

01. Posting Of License. Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 69, Chapter 5, Idaho Code, the licensed commodity dealer shall post the license in a conspicuous place in the business office. (7-1-93)

02. Return Of Suspended Or Terminated License. If a license issued to a commodity dealer has lapsed or is suspended, revoked or cancelled by the Director of the Department of Agriculture, the license shall be returned to the Department. At the expiration of any period of suspension, revocation or cancellation the license shall be returned to the commodity dealer to whom it was originally issued and shall be posted as prescribed by Subsection 010.01 of these rules. (7-1-93)

03. Loss Of License. Upon satisfactory proof of the loss or destruction of a license issued to a commodity dealer, a duplicate may be issued under the same number or a new number at the discretion of the Director. (7-1-93)

011. -- 099. (RESERVED).

100. OFFICE RECORDS.

A commodity dealer shall maintain complete and sufficient records to show all purchases and sales, including all contracts relating to these transactions. A warehouse licensed under Title 69, Chapter 5, Idaho Code, shall maintain complete and sufficient records to show all deposits, purchases, sales contracts, storage obligations and loadouts of the warehouse. Office records as set forth in Section 69-514, Idaho Code, shall include, but not be limited to, the following: (7-1-93)

01. Daily Position Record. This shall show the total quantity of each kind and class of agricultural commodity received and loaded out, the amount remaining in storage at the close of each business day and the warehouseman's total storage obligation for each kind and class of agricultural commodity at the close of each business day. (7-1-93)

02. Settlement Sheets/Storage Ledgers. Every commodity dealer shall use settlement sheets showing the dealer's name and location in making settlement with the seller, unless otherwise approved by the Director. All settlement sheets/storage ledgers shall include, but not be limited to, the following: (7-1-93)

- a.** The seller's name and address. (7-1-93)
- b.** The date of deliveries. (7-1-93)
- c.** The scale ticket numbers. (7-1-93)
- d.** The amount, kind and grade of commodity delivered. (7-1-93)
- e.** The price per bushel or unit. (7-1-93)
- f.** The date and amount of payment. (7-1-93)
- g.** The contract number if a deferred payment, deferred pricing or other sale contract is used. A copy of each settlement sheet shall be maintained in alphabetical order by the commodity dealer as part of the pay records. (7-1-93)

03. Scale Weight Tickets. These shall be pre-numbered and show the time when the commodities were delivered, the quantities delivered, who delivered the commodities, the ownership of the commodities and the condition of the commodities upon delivery. (7-1-93)

- a. Tickets in his possession which have not been issued. (7-1-93)
- b. Tickets issued by him. (7-1-93)
- c. Tickets returned to and cancelled by him. (7-1-93)

101. -- 149. (RESERVED).

150. INSPECTION.

For the purpose of inspection the hours of 8 a.m. to 5 p.m., Monday through Friday, except holidays, shall be considered as ordinary business hours. All financial records, commodity records and payment records shall be available for inspection by the Department during ordinary business hours and any other reasonable time specified by the Department in writing. All records shall be made available within the state of Idaho upon request. (7-1-93)

151. -- 199. (RESERVED).

200. LICENSING APPLICATION FORMAT.

01. License-Application. Application for a license to operate as a commodity dealer under the provisions of Title 69, Chapter 5, Idaho Code, shall be on a form prescribed by the department and shall include: (7-1-93)

- a. The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation or other entity. (7-1-93)
- b. The full name of each member of the firm or partnership, or the names of the officers and directors of the company, association, or corporation. (7-1-93)
- c. The address of the principal place of business. (7-1-93)
- d. The names of any businesses previously owned or operated by the applicant or any members, officers or directors if the applicant is a corporation, partnership or association. (7-1-93)
- e. Information relating to any prior adjudication of bankruptcy relating to the business or any members, officers or directors thereof. (7-1-93)
- f. Information relating to any judgments against the applicants. (7-1-93)
- g. The location of each office the applicant intends to operate. (7-1-93)
- h. Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 5, Idaho Code. (7-1-93)

02. License Conditions Of Issuance. An application for license under Title 69, Chapter 5, Idaho Code, shall include: (7-1-93)

- a. Application on a form prescribed by the Director. (7-1-93)
- b. A current financial statement as specified by Section 69-503, Idaho Code. (7-1-93)
- c. A bond or bonds as required by Section 69-503, Idaho Code. (7-1-93)
- d. The license fee as prescribed by Section 69-508, Idaho Code. (7-1-93)

e. Compliance with all rules and regulations adopted pursuant to Title 69, Chapter 5, Idaho Code. (7-1-93)

f. Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 5, Idaho Code. (7-1-93)

03. License Modification. At the request of the license holder a license may be modified to change existing license classification, providing all requirements of Section 69-508, Idaho Code, are met. (7-1-93)

201. -- 249. (RESERVED).

250. RECORDS - SEPARATE.

All records and accounts required under Title 69, Chapter 5, Idaho Code, shall be kept separate and distinct from all records and accounts of any other business and shall be subject to inspection by the Director at any reasonable time. (7-1-93)

251. -- 299. (RESERVED).

300. FINANCIAL STATEMENT STIPULATIONS.

01. Financial Statements. In order to obtain a commodity dealer's license, the applicant shall submit a current financial statement. This statement shall have been prepared not more than ninety (90) days prior to the date of application and shall conform to the applicable requirements of Title 69, Chapter 5, Idaho Code, as to annual financial statements. (7-1-93)

02. Compliance. Each licensed commodity dealer shall submit to the Department an annual financial statement which shall have been audited or reviewed by an independent certified public accountant. The statement shall be submitted to the Department no later than ninety (90) days after the end of the commodity dealer's fiscal year. The bureau may grant an extension of time for filing the financial statement, but in no case shall the extension exceed sixty (60) days provided that the application for the extension is made by a certified public accountant prior to the date the financial statement is due. The commodity dealer license shall be suspended or revoked for failure to comply with licensing requirements stated in Subsection 300.01 of these rules and Section(s) 69-503(6) and 69-521, Idaho Code. (7-1-93)

03. Statement Content. The statement shall include: (7-1-93)

a. A balance sheet. (7-1-93)

b. An income statement which includes annual gross sales of commodities purchased from producers covered under the act. (7-1-93)

c. A statement of cash flows. (7-1-93)

d. All accompanying notes to the financial statement. (7-1-93)

301. -- 349. (RESERVED).

350. SHIPPING RECORDS.

Every dealer who ships by truck shall maintain a truck shipping record and every dealer who ships by rail shall maintain a rail or car shipping record. Each shipping record shall include, but not be limited to, the following: (7-1-93)

01. Name And Address. The name and address of the seller or shipper. (7-1-93)

02. Buyer And Destination. The buyer and destination of the commodity shipped. (7-1-93)

03. Date. The date the agricultural commodities were shipped. (7-1-93)

04. Amount And Type. The amount and type of agricultural commodities shipped. (7-1-93)

05. Identification Number. The truck identification or car number. (7-1-93)

351. -- 399. (RESERVED).

400. SCALE TICKETS.

If a dealer has access to a scale which can be used for weighing commodity, he shall use pre-numbered scale tickets showing the dealer's name and location. A copy of each ticket shall be maintained in numerical order as part of the commodity records. If a dealer does not have access to a scale and purchases commodity by having it custom weighed at various locations or at destination, the dealer shall maintain a copy of the scale ticket in chronological order as part of the commodity records. If agricultural commodities are settled on destination weights, copies of the destination weights are to be kept as part of the records. (7-1-93)

401. -- 449. (RESERVED).

450. AGENT REGISTRATION.

Agents representing licensed commodity dealers may register with the Department by making application with the Department upon a proper form. All agents so registered will receive an identification card showing the name of the agent, the name of the commodity dealer and the licensing period. (7-1-93)

451. AMOUNT OF BOND.

01. Bonding Requirement. The amount of bond to be furnished for each class 1 dealer shall be fixed at a rate of twenty-five thousand dollars (\$25,000). For each class 2 dealer shall be fixed at a rate of fifteen thousand dollars (\$15,000). (3-15-02)

02. Additional Bonding Requirements. If it appears the licensee does not have the ability to pay producers for commodities purchased, or when it appears the licensee does not have a sufficient net worth to outstanding financial obligations ratio, the licensee may be required to post a bond or other additional acceptable security in the amount of two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or fraction thereof of deficiency. (3-15-02)

452. -- 499. (RESERVED).

500. COMMODITY INDEMNITY FUND PROGRAM.

The Commodity Indemnity Fund Program shall apply to entities governed by Chapter 2, Title 69, Idaho Code, and Chapter 5, Title 69, Idaho Code, warehouses and dealers, respectively, unless otherwise specified. (3-15-02)

01. Rate Of Assessment. The rate of assessment shall be two-tenths of one percent (.2%) of the total value at the time of sale of the commodities pursuant to Idaho Code 69-257(2). The maximum rate of assessment shall not exceed two-tenths of one percent (.2%) of the total value at the time of sale of the commodities. The Director may establish a lower rate of assessment whenever he deems it advisable or as recommended by the advisory committee established by Idaho Code 69-261. (3-15-02)

02. Exemptions To Assessment. Non-producers and persons depositing commodities under arrangements excluded from participation in the CIF pursuant to Section 69-256, Idaho Code do not pay assessments. (3-15-02)

501. DEFINITIONS.

Words that are defined in Chapter 5, Title 69, Idaho Code, and that are used in Section 501, will have the same meaning when used in Section 501 except when specifically redefined by these rules. (3-15-02)

01. Warehouse. Is limited to warehouses licensed by the state of Idaho. (3-15-02)

02. Dealer. Is limited to dealers licensed by the state of Idaho. (3-15-02)

03. Commodity Indemnity Fund. Commodity Indemnity Fund is a trust fund and will be referred to herein as CIF. (3-15-02)

04. Cash Sale. Payment to the producer by the warehouse or dealer contemporaneously with the transfer of commodity to the warehouse or dealer. (3-15-02)

05. Credit-Sale Contract. An agreement in writing containing the provisions of Section 69-514 Idaho Code, and where the producer transfers a specific quantity of commodity to a warehouse or dealer with a price or payment to the producer by the warehouse or dealer to be made at a later date or on the occurrence of a specific event expressed in the agreement. (3-15-02)

502. HOW ASSESSMENTS ARE TO BE CALCULATED.

Assessments shall be collected by all warehouses and dealers from all producers who deposit commodities for storage or sale. Assessments are calculated as follows: (3-15-02)

01. Cash Sale Or Credit Sale Contract. In a cash sale or credit sale contract on the contract price of the commodity at the time of sale. (3-15-02)

02. Unpaid Assessments. If any assessment is unpaid and a failure occurs, the amount of the unpaid assessment will be deducted from any CIF recovery paid to the producer. (3-15-02)

03. Incidental Costs And Expenses. All incidental costs and expenses including, but not limited to transportation, cleaning, in and out charges, insurance, taxes or additional services or charges are not included in the calculation to determine the assessment. (3-15-02)

503. RECORDKEEPING AND PAYMENT SCHEDULE.

01. Permanent Record. Each warehouse and dealer shall maintain a permanent record showing producer's name and address, lot or identification number, date assessment collected, amount of assessment, commodity assessed, quantity of commodity, gross dollars of settlement and check number issued to producer. (3-15-02)

02. Payment Due Dates. On or before the twentieth day of the month following the close of the quarter, on a form prescribed by the Department, the assessments imposed by Chapters 2 and 5 of Title 69, Idaho Code, collected by warehouses and dealers, are due and payable to the Department. A quarter (1/4) will consist of three (3) months beginning on the first day of January, April, July, and October. (3-15-02)

03. Notice. The notice and rate of assessment or a copy of the official notice of suspension of assessment shall be posted in a conspicuous place in the warehouse or dealer facility. (3-15-02)

504. TRUST FUNDS.

All assessments collected by warehouses and dealers in compliance with Chapters 2 and 5, Title 69, Idaho Code, shall, immediately upon payment to and collection by the warehouse or dealer, be trust fund money and held for payment to the Department for the CIF. Such money shall not, for any purpose, be considered to be a part of the proceeds of any transaction between a depositor and warehouse or dealer for which the collection and payment of the assessment was related and shall not be subject to an encumbrance, security interest, execution or seizure on account of any debt owed by the warehouse or dealer to any of their creditors. (3-15-02)

505. PENALTIES FOR FAILURE TO COLLECT, ACCOUNT FOR, OR REMIT ASSESSMENTS.

Failure to collect, account for, or remit assessments, or to violate in any way the statutory requirements of Chapters 2 and 5, Title 69, Idaho Code, as it relates to the CIF are grounds for the immediate call on the warehouse or dealer bond and the undertaking by the Director of any other remedy provided by law. (3-15-02)

506. RETURN OF COMMODITY DUE TO FAILURE.

In the event of failure the Department may: (3-15-02)

01. Identifiable Commodity. Return specifically identifiable commodity or as much as is available to its producer in full or partial satisfaction of indebtedness; or (3-15-02)

02. Fungible Commodity. If the commodity is fungible, an amount equal to the producer's original deposit or if insufficient fungible commodity is available, a pro-rata share to all producers of the commodity; and (3-15-02)

03. Shortfall In Commodity Distribution. Any shortfall in commodity distribution may be submitted as a claim against the CIF. (3-15-02)

507. -- 599. (RESERVED).

600. UNLAWFUL PRACTICES.

It shall be unlawful for a commodity dealer to alter, falsify or withhold records from the warehouse examiner. (7-1-93)

601. -- 999. (RESERVED).

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