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**IDAPA 42
TITLE 01
CHAPTER 01**

IDAPA 42 - IDAHO WHEAT COMMISSION

42.01.01 - RULES OF THE IDAHO WHEAT COMMISSION

000. LEGAL AUTHORITY.

These rules are authorized by Title 22, Chapter 33, Idaho Code.

(7-1-93)

001. TITLE AND SCOPE.

These rules shall be known as IDAPA 42.01.01, "Rules of the Idaho Wheat Commission." It shall be the policy of the Idaho Wheat Commission to promote the public health and welfare of the citizens of our state by providing means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho wheat. To implement this policy, the Idaho Wheat Commission will utilize all existing information and all agencies, private, state, or federal, having to do with protection, marketing or utilization of wheat. It will not duplicate nor usurp the functions of other agencies, but will rather assist and coordinate their activities. It will attempt to develop additional functions not now included in the work of other agencies.

(7-1-93)

002. -- 099. (RESERVED).

100. TIME OF FILING RETURNS.

01. Forms. Wheat assessment forms will be available at the Idaho Wheat Commission office for use by the first purchaser (buyer) of Idaho grown wheat in transmitting the Idaho wheat assessment to the Idaho Wheat Commission.

(7-1-93)

02. Procedures. At the end of each quarter, buyers, shall execute the Wheat Tax Return (Form Number 1). One (1) copy of the form and a check covering the entire amount of all wheat tax collections made during the quarter shall be mailed to the Executive Director, Idaho Wheat Commission, 821 W. State St., Boise, Idaho, 83702, not later than the fifteenth day of the month at the end of each quarter (October 15, January 15, April 15, and July 15, respectively) of each calendar year. If no wheat has been purchased during any quarter, one (1) copy of Form Number 1 declaring that no wheat has been purchased, shall be signed and mailed to the Executive Director of the Idaho Wheat Commission.

(7-1-93)

101. -- 199. (RESERVED).

200. PENALTY FOR LATE PAYMENT.

01. Penalties. Any person or firm who makes payment of wheat tax collections to the Idaho Wheat Commission at a date later than the fifteenth day of the month at the end of each quarter as prescribed in Subsection 100.02 of these rules, shall be subject to a late payment penalty of fifteen percent (15%) per annum on the amount due, unless that person or firm, within fifteen (15) days of the date, notifies the Idaho Wheat Commission in writing of any delay in payment and submits the payment of wheat tax collections within thirty (30) days of the prescribed due date.

(7-1-93)

02. Additional Penalties. The Idaho Wheat Commission shall be entitled, in addition to the penalty of fifteen percent (15%) per annum, to recover from the buyer, all costs, fees, and reasonable attorney's fees incurred in collecting the wheat tax collections and penalty as prescribed in Section 22-3315, Idaho Code.

(7-1-93)

201. -- 299. (RESERVED).

300. WHEAT UNDER COMMODITY CREDIT CORPORATION LOANS.

01. Payee. The Wheat Commission will be named as payee to receive two cents (\$.02) per bushel when the producer's note and loan agreement is executed by the County Agricultural Stabilization and Conservation

Service office. In such cases, the leading agency will send the tax direct to the Wheat Commission. When the producer's note and loan agreement shows that the tax has been deducted and sent to the Wheat Commission, it will not be necessary for the buyer to deduct the tax when the wheat is purchased. (7-1-93)

02. Tax. Since the legislature has made the tax a lien prior to all other liens and encumbrances of the wheat, it is necessary for the grain buyer to make sure the tax has been paid in order to obtain clear title to the wheat. The tax should be deducted in all cases where there is not evidence that the tax was previously paid by a lending agency. In case errors occur and the tax is deducted by a lending agency and again deducted by a grain buyer, refund will be made by the Idaho Wheat Commission. (7-1-93)

301. INVOICES AND RECORDS.

01. Invoices. Section 22-3316, Idaho Code, provides for invoices to be delivered to the grower for each purchase. The Wheat Commission is not providing a special form for this purpose and suggests that buyers use the final settlement vouchers of accounts of sale commonly used in Idaho. The amount of the Idaho state wheat tax deducted must be shown on each settlement voucher. (7-1-93)

02. Vouchers. Buyers are not required to send the Commission copies of their settlement vouchers issued to individual growers but should keep copies available for examination by representatives of the Commission at a later date. Where it is not the practice to issue settlement vouchers of accounts of sale, buyers should be sure that they have accurate records of all wheat bought from growers and the amount of wheat bought from each grower. (7-1-93)

302. WHEAT COMMISSION FORM NUMBER 1.

Form Number 1 shall be used to file quarterly returns required by these rules. One (1) copy to be sent to the Commission at the end of each quarter. (7-1-93)

303. MIXTURES.

When the grain is bought as wheat, the tax must be collected on the full net weight of the grain bought. The tax must also be collected on any mixtures containing fifty percent (50%) or more of wheat. (7-1-93)

304. NET WEIGHT.

The tax is to be collected on the net weight of the wheat after deduction of dockage and smut, and not upon the gross weight. (7-1-93)

305. TRUCKERS.

When a trucker buys wheat from a grower, it is his responsibility under the law to deduct the tax and remit the amount to the Commission. The trucker in such instances is liable for the deduction of tax. Those who purchase wheat from such truckers are not directly liable for the deduction of tax, but buyers should make sure that the trucker has in fact bought the wheat from a grower and is not the person who produced the wheat. (7-1-93)

306. WHEAT DELIVERED ON ACCOUNT OR EXCHANGED FOR OTHER WHEAT.

When wheat is delivered and credited to the account of a grower who is purchasing mixed feeds and other commodities, such transactions are really sales of the wheat delivered. In these cases, the buyer must deduct the tax from the amount credited to the grower and remit to the Commission just as though the sale had been made for cash. On the other hand, if the grower delivers the wheat in exchange for other wheat and no sale of the wheat is involved, the tax should not be deducted. (7-1-93)

307. END USE.

Idaho wheat is subject to tax when it is first sold or contracted into "commercial channels." Beside traditional uses of wheat for flour milling, domestic and export, commercial channels include sale of wheat for use as feed, or any industrial or chemurgic use. (7-1-93)

308. -- 999. (RESERVED).

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