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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)

000. LEGAL AUTHORITY.

In accordance with Section 22-3309, Idaho Code, the Idaho Wheat Commission has promulgated rules implementing the provisions of Title 22, Chapter 33, Idaho Code. (3-14-16)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 42.01.01, "Rules of the Idaho Wheat Commission," IDAPA 42, Title 01, Chapter 01. (3-14-16)

02. Scope. Pursuant to Section 22-3301, Idaho Code, the rules of the Idaho Wheat Commission 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. (3-14-16)

002. WRITTEN INTERPRETATIONS.

The Commission may have written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection at the Commission office. (3-14-16)

003. ADMINISTRATIVE APPEALS.

The Idaho Rules of Administrative Procedure of the Attorney General on contested cases, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure," Section 100, et seq., shall apply. (3-14-16)

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. (3-14-16)

005. OFFICE INFORMATION.

01. Street Address. The office is located at 821 W. State Street, Boise, Idaho 83702. (3-14-16)

02. Mailing Address. The mailing address is P. O. Box 83720, Boise, Idaho 83720-0099. (3-14-16)

03. Telephone Number. The telephone number is (208) 334-2353. (3-14-16)

04. Facsimile Number. The fax number is (208) 334-2505. (3-14-16)

05. Website Address. The website address is www.idahowheat.org. (3-14-16)

06. Office Hours. The office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. (3-14-16)

006. PUBLIC RECORDS ACT COMPLIANCE.

Commission records are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (3-14-16)

007. - 009. (RESERVED)

010. DEFINITIONS.

The definitions set forth in Section 22-3303, Idaho Code, shall apply to this chapter. (3-14-16)

011 -- 099. (RESERVED)

100. WHEAT TAX RETURN FORM.

01. Form. Wheat Tax Return forms are available at the Commission office for use by the first purchaser (buyer) of Idaho grown wheat in transmitting the Idaho wheat tax to the Commission. (3-14-16)

02. Procedures. At the end of each quarter, buyers shall execute the Wheat Tax Return (form. 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 of the Commission 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 the Wheat Tax Return form declaring that no wheat has been purchased, shall be signed and mailed to the Executive Director of the Commission. (3-14-16)

101. MIXTURES.

When the grain is purchased as wheat, the tax must be collected on the full net weight of the grain purchased. The tax must also be collected on any mixtures containing fifty percent (50%) or more of wheat. (3-14-16)

102. NET WEIGHT.

The tax must be collected on the net weight of the wheat after deduction of dockage and smut, and not upon the gross weight. (3-14-16)

103. TRUCKERS.

When a trucker purchases 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 purchased the wheat from a grower and is not the person who produced the wheat. (3-14-16)

104. 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)

105. 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. (3-14-16)

106. -- 199. (RESERVED)

200. PENALTY FOR LATE PAYMENT OF WHEAT TAX.

01. Interest Penalties. Any person or firm who makes payment of wheat tax collections to the 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 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. (3-14-16)

02. Additional Penalties. The 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. (3-14-16)

201. -- 299. (RESERVED)

300. WHEAT UNDER COMMODITY CREDIT CORPORATION LOANS.

01. Payee. The Commission will be named as payee to receive three and one half cents (\$.3½) per bushel when the producer's note and loan agreement is executed by the Farm Service Agency (FSA). In such cases, the lending agency will send the tax directly to the Commission. When the producer's note and loan agreement shows that the tax has been deducted and sent to the Commission, it will not be necessary for the buyer to deduct the tax when the wheat is purchased. (3-14-16)

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 Commission. (3-14-16)

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. -- 999. (RESERVED)

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