

## IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

### Ag Inspections Division

#### 02.02.15 – Rules Governing the Seed Indemnity Fund

##### **Who does this rule apply to?**

*Any person having a commercial operation, its agents and employees, together with its elevators, mills, buildings, or other structures who owes or has any financial obligation to an Idaho producer for seed crop grown by that producer and transferred to the seed buyer.*

##### **What is the purpose of this rule?**

*Help support and provide further guidance and clarification related to this industry driven indemnity fund program. This rule clarifies definitions, the licensing procedure, recordkeeping requirements, collection and remittance to the Seed Indemnity Fund, claim processes with the Seed Indemnity Fund, and remedies of the Department for non-compliance.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statute passed by the Idaho Legislature:*

- [22-5129, Idaho Code](#) – Rules of Seed Indemnity Fund Law

##### **Who do I contact for more information on this rule?**

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## 02.02.15 – RULES GOVERNING THE SEED INDEMNITY FUND

### 000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-5129, Idaho Code. (3-15-22)

### 001. TITLE AND SCOPE.

**01. Title.** The title of this chapter is IDAPA 02.02.15, “Rules Governing the Seed Indemnity Fund.” (3-15-22)

**02. Scope.** These rules clarify the procedure for licensing, collection and remittance of assessments, determining claim value, maintaining electronic records, use of electronic scales and remedies of the ISDA for non-compliance. (3-15-22)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

The Idaho State Department of Agriculture adopts the definitions set forth in Section 22-5102, Idaho Code. In addition, as used in this chapter, “type” means the class of seed (i.e. foundation, certified, registered, noncertified). (3-15-22)

### 011. ABBREVIATIONS.

**01. GAAP.** Generally Accepted Accounting Principles. (3-15-22)

**02. ISDA.** Idaho State Department of Agriculture. (3-15-22)

**03. SIF.** The Idaho Seed Indemnity Fund. (3-15-22)

**04. USPS.** United States Postal Service. (3-15-22)

### 012. DELIVERY VOUCHER.

If there are no receipts or scale weight tickets issued at the time of seed crop delivery, a delivery voucher may be issued. A delivery voucher is a document that may be used as written evidence of transfer in accordance with Section 22-5102(16), Idaho Code, evidencing delivery of producer's seed crop to seed buyer and includes, but is not limited to: (3-15-22)

**01. Producer.** The full name, address and phone number of the producer. (3-15-22)

**02. Seed Buyer.** The full name, address and phone number of the seed buyer. (3-15-22)

**03. Ship To.** The full name, address and phone number of the seed facility that the seed crop is to be transferred. (3-15-22)

**04. Transportation Company.** The name, address and phone number of the transportation company delivering the seed crop to the seed facility. The truck, trailer and seal number, if applicable, driver name (printed), signature and date of transfer. (3-15-22)

**05. Seed Crop Shipped.** For each seed crop delivery, the type, kind, variety, estimated volume or weight and date of shipment and container identification markings. (3-15-22)

### 013. WAREHOUSE RECEIPTS.

The following information is required on each warehouse receipt: (3-15-22)

**01. Name of Producer.** (3-15-22)

**02. Name and Address of Seed Buyer.** (3-15-22)

**03. Kind of Seed Crop.** (3-15-22)

**04. Date of Delivery.** (3-15-22)

**05. Weight of Seed Crop Delivered.** (3-15-22)

**06. Lot Identification.** (3-15-22)

**014. SCALE WEIGHT TICKETS.**

Scale weight tickets for electronic scales that are recorded and maintained electronically are exempt from the sequentially numbered and in triplicate requirement. (3-15-22)

**01. Pre-Numbered Scale Tickets.** If a seed buyer has access to a scale that can be used for weighing seed, the seed buyer is to use pre-numbered scale tickets. (3-15-22)

**02. Numerical Order Requirement.** A copy of each ticket must be maintained in numerical order. (3-15-22)

**03. Custom Scale Requirement.** If a seed buyer does not have access to a scale and has seed crop custom weighed at various locations, the seed buyer must maintain a copy of the scale ticket in chronological order as part of the seed crop records. (3-15-22)

**015. -- 025. (RESERVED)**

**026. LICENSE.**

**01. Posting of License.** Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 22, Chapter 51, Idaho Code, the licensed seed buyer must post the license in a conspicuous place in each place of business or in any other place as the director may determine. The ISDA will issue a duplicate license for each additional seed facility. (3-15-22)

**02. License Fee.** If an applicant is not licensed pursuant to the "Pure Seed Law," Title 22, Chapter 4, Idaho Code, the license fee is equal to the out-of-state license fees, pursuant to Title 22, Chapter 4, and will be deposited to the state treasury and credited to the SIF. (3-15-22)

**03. Return of Suspended or Terminated License.** If a license issued to a seed buyer has lapsed or is suspended, revoked or canceled by the director, the license and all duplicates shall be returned to the ISDA. At the expiration of any period of suspension, revocation or cancellation, the license will be returned to the seed buyer to whom it was originally issued and be posted as prescribed by these rules. (3-15-22)

**04. Loss of License.** Upon satisfactory proof of the loss or destruction of a license issued to a seed buyer, a duplicate may be issued under the same number or a new number at the discretion of the director. (3-15-22)

**05. License Reinstatement Fee.** If license renewal material is received by the ISDA after the current license has expired, but no later than thirty (30) days past due, a reinstatement fee of one hundred dollars (\$100) will be assessed. If license renewal material is received after the thirty (30) day late period it will be considered an original license application and will be assessed a license fee equal to the requirements of Section 026. The exemption for license fees in Section 22-5103(3)(a), Idaho Code, will not apply to license renewals that have been received by the ISDA later than thirty (30) days. Fees collected by this subsection will be deposited in the state treasury and credited to the SIF account. (3-15-22)

**06. Additional License Application Information.** The ISDA may request additional license information including, but not limited to: (3-15-22)

**a.** Names of officers of corporations or limited liability companies. (3-15-22)

**b.** Company information as required in the application form. (3-15-22)

**c.** Outstanding producer financial obligations. (3-15-22)

**d.** Name and address of banks that handle business accounts. (3-15-22)

**07. License Duration.** Licenses issued under the provisions of Title 22, Chapter 51, Idaho Code, expire on the 30th day of June of each year. (3-15-22)

**027. -- 035. (RESERVED)**

**036. AMOUNT OF BOND FOR SEED STORED FOR WITHDRAWAL.**

For the purpose of calculating the bond required pursuant to Section 22-5105, Idaho Code, the value for seed stored for withdrawal is calculated by either using the commonly accepted market price of similar seed crops within the same geographic location or equal to the average value of the same kind of seed crop owned by the seed buyer, whichever is greater, as determined by ISDA. (3-15-22)

**037. AMOUNT OF BOND, IRREVOCABLE LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SINGLE BOND.**

**01. Bonding Requirement.** The amount of bond to be furnished will be fixed at a rate pursuant to Section 22-5105, Idaho Code. (3-15-22)

**02. Single Bond, Irrevocable Letter of Credit or Certificate of Deposit.** For the purposes of licensing as a seed buyer pursuant to Title 22, Chapter 51, Idaho Code, and as a warehouseman pursuant to Title 69, Chapter 2, Idaho Code, or as a commodity dealer pursuant to Title 69, Chapter 5, Idaho Code, a single bond, irrevocable letter of credit or certificate of deposit will be fixed at whichever of the following amounts is greater: (3-15-22)

**a.** Combined total indebtedness paid and owed to producers for seed crop and agricultural commodity, without any deductions, for the previous license year; or (3-15-22)

**b.** The indebtedness owed and estimated to be owed to producers for seed crop and agricultural commodity, without any deductions, for the current license year. (3-15-22)

**038. -- 046. (RESERVED)**

**047. MAINTENANCE OF RECORDS.**

All records and accounts required under Title 22, Chapter 51, Idaho Code, are kept separate and distinct from all records and accounts of any other business of the seed buyer and be subject to inspection by the Director at any reasonable time. Electronic records may be maintained outside of Idaho provided they are available for examination by the ISDA within the state at any reasonable time. (3-15-22)

**048. -- 049. (RESERVED)**

**050. INSURANCE REQUIREMENTS.**

**01. Insurance Coverage.** Pursuant to Section 22-5114, Idaho Code, the seed buyer must maintain a commercial property policy for loss against, but not limited to: (3-15-22)

**a.** Loss from fire; (3-15-22)

**b.** Loss from internal explosion; (3-15-22)

**c.** Loss from lightning; (3-15-22)

**d.** Loss from tornado. (3-15-22)

**02. Insurance Deductible.** The maximum deductible allowed for insurance required by Section 22-5114, Idaho Code, is fifty thousand dollars (\$50,000). However, a larger deductible may be allowed at the discretion of the director. The request must be submitted in writing and kept on file. (3-15-22)

**03. Seed Stored for Withdrawal.** The amount of insurance coverage must be sufficient to cover the

full replacement value of similar or better kind and quality of seed crop. (3-15-22)

**04. Self-Insurance.** A request for self-insurance must be submitted to the ISDA in writing and signed by the seed buyer or his representative. Supporting evidence of ability to pay seed crop obligations, in the event of a loss due to fire, internal explosions, lightning, or tornadoes, must be attached to the self-insurance request. (3-15-22)

**a.** The director may accept or reject the self-insurance request. The director's findings will be in writing and kept on file. (3-15-22)

**b.** If a seed buyer is self-insured and the seed crop within the licensed seed buyer's facility has been damaged or destroyed, the seed buyer must make complete settlement to all producers within thirty (30) days of the loss. Failure of the seed buyer to make such settlement is cause to revoke the seed buyer's license. If the seed buyer and producer agree to other terms, set out in writing, the settlement does not need to be made within the thirty (30) day time period. If only a portion of the seed crop is damaged, settlement may be made on a pro-rata basis to the producer. (3-15-22)

**05. Insurance Settlement.** When the seed crop within a licensed seed buyer's facility has been damaged or destroyed, the seed buyer must make complete settlement to all producers having seed crops transferred to the seed buyer or stored for withdrawal within ten (10) days after settlement with the insurance company. Failure of the seed buyer to make such settlement is cause to revoke the seed buyer's license. If the seed buyer and producer agree to other terms, set out in writing, the settlement does not need to be made within the ten (10) day time period. If only a portion of the seed crop is damaged, settlement may be made on a pro-rata basis to the producer. (3-15-22)

**051. -- 059. (RESERVED)**

**060. NONCOMPLIANCE -- REQUIREMENTS.**

If a seed buyer is not meeting its obligations to producers, does not have the ability to pay producers, or refuses to submit records and papers for lawful inspection, the ISDA will give written notice to the seed buyer and direct the seed buyer to comply with all of the following requirements within ten (10) working days or as agreed to by the ISDA. (3-15-22)

**01. Additional Security Requirements.** If it appears the licensee does not have the ability to pay producers for seed crops transferred, or when it appears the licensee does not have a sufficient net worth to outstanding financial obligations ratio, the ISDA may require the licensee 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. (3-15-22)

**02. Provide an Audited or Reviewed Financial Statement.** The ISDA may require the licensee to submit an audited or reviewed financial statement prepared for the current financial accounting year by an independent certified public accountant or licensed public accountant. The audited or reviewed financial statement is to be prepared in accordance with GAAP. The ISDA may request a follow-up review of the submitted financial statement. (3-15-22)

**061. -- 069. (RESERVED)**

**070. HOW ASSESSMENTS ARE TO BE CALCULATED.**

Pursuant to Section 22-5121, Idaho Code, all seed buyers must collect assessments from producers who transfer seed crop or store for withdrawal. Assessments are calculated as follows: (3-15-22)

**01. Contract.** Assessments are collected on the gross dollar amount, without any deduction, owed to, or paid, or to be paid, on behalf of the producer of the seed crop. (3-15-22)

**02. Seed Stored for Withdrawal.** On the clean or estimated clean weight at the time the seed crop is withdrawn from the seed facility: (3-15-22)

**a.** The initial rate of assessment for cereal grain, lentil, pea, and dry edible bean and oil seed stored for withdrawal is not to exceed one hundredth (1/100) cent per pound. (3-15-22)

b. The initial rate of assessment for all seed crops stored for withdrawal other than seed crops pursuant to Section 070, is not to exceed one half (1/2) cent per pound. (3-15-22)

c. The SIF advisory board will review the assessment rate annually and make recommendations for change, as necessary, to the director. (3-15-22)

d. If the amount of assessment for a producer on all seed stored for withdrawal made in a calendar year is calculated to be less than fifty cents (\$.50), no assessment will be collected. (3-15-22)

**03. Incidental Costs and Expenses.** All incidental costs and expenses including, but not limited to, transportation, cleaning, in and out charges, insurance, taxes and additional services or charges are not be included in the calculation to determine the assessment. (3-15-22)

**04. Unpaid Assessments.** If any assessment is unpaid and a failure occurs, the amount of the unpaid assessment will be deducted from any SIF recovery paid to the producer. (3-15-22)

**071. -- 079. (RESERVED)**

**080. COLLECTION AND REMITTANCE OF SIF ASSESSMENTS.**

SIF assessments are collected from obligations owed to the producer or at the time of withdrawal by the seed buyer and remitted to the ISDA. If assessment is paid by mail the payment must be postmarked no later than the twentieth day of the month following the close of the quarter to avoid interest and penalty charges. (3-15-22)

**081. -- 089. (RESERVED)**

**090. CLAIM FORMS AND PAYMENT FROM THE FUND.**

**01. Claim Forms.** Claim forms will be provided either via the USPS, by electronic transfer by the ISDA, or other commercial means. (3-15-22)

**02. Contract.** If the seed crop is contracted, the value of the contract price of the seed crop, at the time of payment, may be used to determine payment from the SIF. (3-15-22)

**03. Not Contracted or Stored for Withdrawal.** If the seed crop is not contracted or stored for withdrawal, the value for payment from the SIF will be determined by a survey of prices, for similar seed crops and similar seed facilities, within the same geographic location as the failed seed buyer. (3-15-22)

**091. -- 099. (RESERVED)**

**100. EXEMPTIONS.**

Producers are not eligible to participate in SIF and no assessments will be collected from: (3-15-22)

**01. Producers With a Financial or Management Interest.** Producers that have a financial or management interest in a seed facility, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code. (3-15-22)

**02. Producers That Sell or Transfer to Another Producer.** Producers that sell to another producer, none of which are seed buyers. (3-15-22)

**03. Deliveries or Transfers to Unlicensed Seed Facilities.** Producers that deliver or transfer seed crops to an unlicensed facility. (3-15-22)

**101. -- 999. (RESERVED)**