

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

Ag Inspections Division

2.02.13 – Commodity Dealers' Rules

Who does this rule apply to?

Any person who solicits, contracts for, or obtains from an Idaho producer or producers, title, possession, or control of any agricultural commodity through their place of business located in the state of Idaho or through their place of business located outside the state of Idaho for the purpose of sale or resale or who buys, during any calendar year, at least ten thousand dollars (\$10,000) worth of agricultural commodities from an Idaho producer or producers of the commodities. Commodity dealer or dealer shall not mean any person who purchases agricultural commodities for their own use as seed or feed within their own operation.

What is the purpose of this rule?

This rule clarifies definitions, the licensing procedure, record keeping requirements, collection and remittance to the Commodity Indemnity Fund, claim processes with the Commodity Indemnity Fund, and remedies of the Department for non-compliance for this industry driven indemnity fund program.

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

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

- [69-524, Idaho Code](#) – Rules of Commodity Dealer Law

Who do I contact for more information on this rule?

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02.02.13 – COMMODITY DEALERS' RULES

000. LEGAL AUTHORITY.

Section 69-524, Idaho Code.

(7-1-24)

001. 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 Department for non-compliance. (7-1-24)

002. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions set forth in Section 69-502, Idaho Code, the following definitions apply to the interpretation and enforcement of this chapter. (7-1-24)

01. Cash Sale. Payment to the producer by the warehouse or dealer contemporaneously with the transfer of commodity to the warehouse or dealer. (7-1-24)

02. Commodity Indemnity Fund. Commodity Indemnity Fund is a trust fund. (7-1-24)

03. Seed Crops. Means any seed crop regulated by Title 22, Chapter 4, Idaho Code. (7-1-24)

04. NPE. (No price established contract) A contract containing no readily calculable sale value of the commodity for the producer. (7-1-24)

011. ABBREVIATIONS.

01. CIF. Commodity Indemnity Fund. (7-1-24)

02. NPE. No price established contract. (7-1-24)

03. SIF. Seed Indemnity Fund. (7-1-24)

012. LICENSING.

01. 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, the license shall be returned to the Department. At the expiration of any period of suspension, revocation or cancellation the license will be returned to the commodity dealer to whom it was originally issued and be posted as prescribed by these rules. (7-1-24)

02. 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. (7-1-24)

013. -- 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 as a commodity dealer under Title 69, Chapter 5, Idaho Code, must maintain complete and sufficient records to show all deposits, purchases, sales contracts, storage obligations and loadouts of the warehouse in this State. Office records as set forth in Title 69, Chapter 5, Idaho Code, include, but not be limited to, the following: (7-1-24)

01. Daily Position Record. Record which shows 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. (7-1-24)

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 include, but are not limited to, the following information: (7-1-24)

a. The seller's name and address. (7-1-24)

- b. The date of deliveries. (7-1-24)
- c. The scale ticket numbers. (7-1-24)
- d. The amount, kind and grade of commodity delivered. (7-1-24)
- e. The price per bushel or unit. (7-1-24)
- f. The date and amount of payment. (7-1-24)
- 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. (7-1-24)
- h. Electronic Records. If any electronic records are maintained outside of the state of Idaho, the Department must be allowed to examine them at any reasonable time and place as determined by the Department. (7-1-24)

03. Scale Weight Tickets. Scale weight tickets, except tickets for electronic scales that are recorded and maintained electronically, shall be pre-numbered with one (1) copy of each ticket maintained in numerical order. All scale weight tickets shall 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. (7-1-24)

- a. Tickets in the commodity dealer's possession that have not been issued. (7-1-24)
- b. Tickets issued by the commodity dealer. (7-1-24)
- c. Tickets returned to and canceled by the commodity dealer. (7-1-24)

04. Separate Records. 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 are subject to inspection by the Director at any time. (7-1-24)

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, are 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. (7-1-24)

151. -- 199. (RESERVED)

200. LICENSING 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. (7-1-24)

201. -- 299. (RESERVED)

300. FINANCIAL STATEMENT EXTENSION.

01. Extension Request. The Department may grant an extension of no more than sixty (60) days, provided cause of an exceptional nature is provided, in writing, to the Department. (7-1-24)

- a. The request must be made by a certified public accountant or a licensed public accountant. (7-1-24)

b. The request is made prior to the date the financial statement is due. If the request is not received before the financial statement due date, suspension or revocation of license may occur. (7-1-24)

c. The director may make exceptions to the financial statement requirements provided sufficient cause is provided and to do so would be in the best interest of the state. (7-1-24)

02. Statement Content. The statement shall include: (7-1-24)

a. A balance sheet. (7-1-24)

b. An income statement that includes annual gross sales of commodities purchased from producers covered under the act. (7-1-24)

c. A statement of cash flows. (7-1-24)

d. All accompanying notes to the financial statement. (7-1-24)

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 must maintain a rail or car shipping record. Each shipping record includes, but is not limited to, the following: (7-1-24)

01. Name and Address. The name and address of the seller or shipper. (7-1-24)

02. Buyer and Destination. The buyer and destination of the commodity shipped. (7-1-24)

03. Date. The date the agricultural commodities were shipped. (7-1-24)

04. Amount and Type. The amount and type of agricultural commodities shipped. (7-1-24)

05. Identification Number. The truck identification or car number. (7-1-24)

351. -- 399. (RESERVED)

400. SCALE TICKETS.

If a dealer has access to a scale that can be used for weighing commodity, that dealer 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. (7-1-24)

401. -- 450. (RESERVED)

451. ADDITIONAL BONDING REQUIREMENTS.

In addition to Section 69-506, Idaho Code, 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. (7-1-24)

452. -- 499. (RESERVED)

500. COMMODITY INDEMNITY FUND ASSESSMENTS.

01. Rate of Assessment. The rate of assessment is two-tenths of one percent (.2%) gross dollar

amount, without deductions, due the producer pursuant to Section 69-257(2), Idaho Code. The Director may establish a lower rate of assessment whenever he deems it advisable or as recommended by the advisory committee established by Section 69-261, Idaho Code. (7-1-24)

02. Exemptions to Assessment. Producers are not eligible to participate in CIF and no assessments will be collected according to Idaho Code and in the following cases. (7-1-24)

a. Non-producers or producers delivering commodity that was grown on land not situated within the borders of the state of Idaho are exempt from paying assessments. (7-1-24)

501. NPE CONTRACT CLAIMS ON THE FUND.
NPE contracts shall be executed in writing, dated, and signed by all parties to the contract. (7-1-24)

01. NPE Clause. An NPE contract shall have the following statement: "No claim shall be paid from the CIF pursuant to Section 69-263, Idaho Code, if a producer files his claim more than one hundred eighty (180) days from the date the contract is executed." (7-1-24)

02. NPE Contract List. A commodity dealer shall maintain a list of all NPE contracts written in a calendar year that reflects the producers name, contract number, agricultural commodity and date of the contract. (7-1-24)

03. NPE Contract Renewal Period. A producer may renew an NPE contract; but no claim shall be paid from the CIF if a producer files his claim more than three hundred sixty-five (365) days from the date the original NPE contract was executed. (7-1-24)

502. HOW ASSESSMENTS ARE TO BE CALCULATED.
Assessments shall be collected by all warehouses licensed as commodity dealers from all producers who deposit commodities for storage or sale. Assessments are calculated as follows: (7-1-24)

01. Cash Sale or Credit Sale Contract. Contract on the contract price of the commodity at the time of sale. (7-1-24)

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. (7-1-24)

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. (7-1-24)

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. (7-1-24)

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 Title 69, Chapters 2 and 5, Idaho Code, collected by warehouses and dealers, are due and payable to the Department. A quarter will consist of three (3) months beginning on the first day of January, April, July, and October. If assessment is paid by mail the payment must be postmarked not later than the twentieth day of the month following the close of the quarter to avoid interest and penalty charges. (7-1-24)

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. (7-1-24)

504. TRUST FUNDS.

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. (7-1-24)

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

Failure to collect, account for, or remit assessments, or violations of the statutory requirements of Title 69, Chapters 2 and 5, Idaho Code, as it relates to the CIF are grounds for the immediate demand on the warehouse, dealer bond, or certificate of deposit, and the undertaking by the Director of any other remedy provided by law. (7-1-24)

506. RETURN OF COMMODITY DUE TO FAILURE.

In the event of failure the Department may: (7-1-24)

01. Identifiable Commodity. Return specifically identifiable commodity or as much as is available to its producer in full or partial satisfaction of indebtedness; or (7-1-24)

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 (7-1-24)

03. Shortfall in Commodity Distribution. Any shortfall in commodity distribution may be submitted as a claim against the CIF. (7-1-24)

507. -- 999. (RESERVED)